

Before the  
**COPYRIGHT ROYALTY JUDGES**  
The Library of Congress

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<b>In the Matter of</b>	)	
	)	
<b>Distribution of the 2000-2003</b>	)	<b>Docket No. 2008-2</b>
<b>Cable Royalty Funds</b>	)	<b>CRB CD 2000-2003 (Phase II)</b>
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**JOINT SPORTS CLAIMANTS’ RESPONSE TO ORDER GRANTING MPA-  
REPRESENTED PROGRAM SUPPLIERS AND JOINT SPORTS CLAIMANTS LEAVE  
TO FILE SUPPLEMENTAL RESPONSES TO AUGUST 28 ORDER**

The Joint Sports Claimants (“JSC”) hereby respond to the Copyright Royalty Judges’ (“Judges”) September 24, 2020 *Order Granting MPA-Represented Program Suppliers and Joint Sports Claimants Leave to File Supplemental Responses to August 28 Order* (“Order”). JSC submits these comments in order to address the Settling Devotional Claimants’ (“SDC”) proposal that the Judges “perform a full accounting of all amounts distributed to all claimant categories, recoup payments from parties have received excess amounts, and redistribute as necessary.”<sup>1</sup> For the reasons set forth below, SDC’s proposal is unwarranted and unnecessary to address the issues before the Judges and is likely to cause significant burden to the Judges, the Licensing Division, and the parties. Indeed, SDC itself acknowledges that the Judges should deny its proposal if any of the interested parties objects. The Judges should therefore deny SDC’s proposal for a full accounting.

JSC is not a party to the above-captioned Phase II distribution proceeding, which concerns only the distribution of 2000-03 cable royalties allocated to the Devotional category. In fact, JSC’s share of the 2000-03 cable royalties has been settled for years. The Judges published their final

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<sup>1</sup> Settling Devotional Claimants’ Notice in Response to Judges’ Order Directing Parties to Review Calculations of Apportionment of Interest, at 3 (May 14, 2020) (“SDC Notice”). JSC only has access to the public redacted version of the SDC Notice.

determination addressing 2000-03 cable Allocation Phase controversies approximately ten years ago. *See* Distribution of 2000-2003 Cable Royalty Funds, 75 Fed. Reg. 26798 (May 12, 2010). Seven years ago, the Judges resolved all Distribution Phase issues concerning the Joint Sports category, and the D.C. Circuit affirmed the Judges' ruling in 2015. *Independent Producers Grp. v. Librarian of Congress*, 792 F.3d 132 (D.C. Cir. 2015). These decisions are final, all rights to seek reconsideration or to file an appeal have been exhausted or have long since lapsed, and JSC has received final distributions of all 2000-03 cable royalties to which it is entitled.

Notwithstanding the foregoing, SDC's proposal for a "full accounting" implicates JSC's interests and the interests of all Allocation Phase parties who would be required to participate in the highly burdensome effort to excavate the history of the many distributions of 2000-03 cable royalties made over the course of nearly two decades. Such a burdensome process is not warranted on the record before the Judges. JSC has reviewed the Appendix to the Judges' Order Directing parties to Review Calculations of Apportionment of Accrued Interest (May 1, 2020) ("Restricted Appendix") and compared it to assignments of error in the SDC Notice. For at least the following two reasons, the SDC Notice fails to explain how the alleged errors in the Restricted Appendix warrant a "full accounting":

*First*, the errors SDC alleges that the Licensing Division made in the Restricted Appendix only concern royalties attributable to the Program Supplier and Devotional categories. Specifically, the first two of these errors appear to relate to the calculation of interest owed to IPG, and therefore would only affect the relative allocation of shares as between SDC and IPG. SDC Notice at 1-4. The Judges have already ordered the Licensing Division to address these errors.<sup>2</sup>

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<sup>2</sup> Order Directing Recalculation of Royalty Allocations in the Devotional Category and Seeking Additional Guidance (Aug. 28, 2020).

The only other error SDC asserts—“[a]pparent discrepancies in final distributions to Program Suppliers, resulting in surplus and shortfall amounts remaining for distribution”—expressly relates to the distribution of royalties allocated to the Devotional and Program Supplier categories. *See* SDC Notice at 4. As SDC itself explains, these alleged discrepancies originate “from the calculations of final distributions in the Program Suppliers category on April 14, 2016,” and those calculations were made *after* JSC, along with every other Allocation Phase party, advised the Judges in late 2015 that the 2000-03 cable royalties remaining on deposit with the Copyright Office were attributable solely to the Devotional and Program Supplier claimant categories. *Id.* at 3-5.

*Second*, SDC’s proposed “full accounting” would be unduly burdensome, especially in light of SDC’s failure to connect its assignments of error to the purpose of the accounting. As the Restricted Appendix indicates, the Licensing Division has made *nine* previous distributions of 2000-03 cable royalties, the oldest of which occurred on October 24, 2002. Recovering the records necessary to review these distributions would be immensely burdensome and potentially infeasible in light of personnel turnover, updates to document management systems, and routine data disposition over the course of nearly two decades. The burden of the proposal is likely to be further compounded by the possibility that the Allocation Phase parties would be required to disclose confidential settlement shares to the Licensing Division or the Judges. Indeed, SDC appears to recognize the burden that its proposal would impose, stating in its September 18 filing that “if . . . any other interested parties would prefer not to undertake the administrative burdens of such an accounting” SDC agrees that it would be best not to do so.<sup>3</sup>

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<sup>3</sup> Settling Devotional Claimants’ Response to Order Directing Recalculation of Royalty Allocation in the Devotional Category and Seeking Additional Guidance, at 2 (Sept. 18, 2020).

For the foregoing reasons, JSC requests that the Judges reject SDC's proposal for a full accounting.<sup>4</sup>

Dated: October 9, 2020

Respectfully submitted,

**JOINT SPORTS CLAIMANTS**

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<sup>4</sup> JSC has reviewed MPA-Represented Program Suppliers' response to the Judges' Order and does not oppose the relief sought therein. *See* MPA Supplemental Response to Order Directing Recalculation of Royalty Allocations In the Devotional Category and Seeking Additional Guidance (Oct. 9, 2020).

# Proof of Delivery

I hereby certify that on Friday, October 09, 2020, I provided a true and correct copy of the Joint Sports Claimants' Response to Order Granting MPA-Represented Program Suppliers and Joint Sports Claimants Leave to File Supplemental Responses to August 28 Order.pdf to the following:

Independent Producers Group (IPG), represented by Brian D Boydston, served via ESERVICE at brianb@ix.netcom.com

Settling Devotional Claimants (SDC), represented by Benjamin S Sternberg, served via ESERVICE at ben@lutzker.com

Signed: /s/ Michael E Kientzle