

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

<i>In re</i> DISTRIBUTION OF CABLE ROYALTY FUNDS	CONSOLIDATED DOCKET NO. 14-CRB-0010-CD/SD (2010-13)
<i>In re</i> DISTRIBUTION OF SATELLITE ROYALTY FUNDS	
<i>In re</i> DISTRIBUTION OF CABLE ROYALTY FUNDS	CONSOLIDATED DOCKET NO. 14-CRB-001)-CD (2010-13)

**MPA-REPRESENTED PROGRAM SUPPLIERS' NOTICE OPPOSING THE
LICENSING DIVISION'S FINAL DISTRIBUTION CALCULATIONS**

On October 14, 2020, the Copyright Royalty Judges (“Judges”) issued their *Order Directing Parties To Review Calculations Of Final Distribution Shares* (“October 14 Order”) in the captioned dockets, which directed the parties to review the Licensing Division’s final distribution calculations set forth in Appendix A to the October 14 Order (“Appendix A”) and file a notice with the Judges “stating whether or not they believe any clarifications to the calculations are necessary and, if so, providing an explanation of all proposed clarifications.” October 14 Order at 2. In compliance with the October 14 Order, MPA-represented Program Suppliers (“MPA”) hereby notifies the Judges that they believe that the Licensing Division’s calculations contained in Appendix A are incorrect, and need to be recalculated in order to implement the 2010-13 Cable final distribution share awards ordered by the Judges in the Allocation and Distribution Phases of these proceedings.

I. The Judges' Directive To The Licensing Division

As the Judges explained, “[t]he purpose of [the 2010-13 Cable Allocation Phase proceeding] is to determine the allocation of shares of the 2010–2013 cable royalty funds among six claimant groups: The Joint Sports Claimants, Commercial Television Claimants, Public Television Claimants, Canadian Claimants Group, Settling Devotional Claimants, and Program Suppliers.” 84 Fed. Reg. 3552, 3552 (February 12, 2019) (“Final Determination”) (footnote omitted). Based on their Final Determination in that proceeding, and in the concurrent Distribution Phase proceeding, the Judges ordered the Licensing Division to calculate the dollar amounts of the 2010-13 Cable funds due each party to the proceedings according to Appendix 3 of their October 2, 2020 *Order Directing Calculation Of Final Distribution Shares* (“Calculation Order”), “net of the allocations of royalties paid to the Music Claimants and NPR” and “account[ing] for partial distributions of the 2010-2013 cable royalties previously ordered by the Judges.” Calculation Order at 2 (footnotes omitted).

To comply with the Final Determination and the Calculation Order - that is, allocate to each party, in dollars, its share of the total 2010-13 Cable royalty funds available for distribution - the Licensing Division was simply required to complete the following four steps for each royalty year:

(1) Determine the gross royalty amount available for distribution from the inception of the royalty fund, net of administration expenses and other costs withdrawn from the fund;

(2) Reduce the amount derived in (1) by the partial and final distributions received by National Public Radio (“NPR”) and the Music Claimants, respectively;

(3) Multiply the resulting total amount in (2) by each party's percentage share awarded by the Judges as set forth in the Calculation Order; and

(4) Reduce each party's resulting amount in (3) by the partial distribution amount(s) it received.

However, the Licensing Division did not follow these steps. Instead, apparently in response to language at the conclusion of the Calculation Order stating that increases or decreases in the 2010-13 Cable funds should be apportioned to "rebalance" the funds after partial distributions, *see* Calculation Order at 2, the Licensing Division calculated "Adjusted Percentage" shares for each Allocation and Distribution Phase participant, and applied those adjusted shares to both the principal and the growth in the 2010-13 Cable funds as of the date of the partial distributions. The Licensing Division's approach is inconsistent with the Final Determination.

II. The Problem With Licensing Division's Calculations

Upon review of Appendix A, MPA determined that the Licensing Division's final distribution calculations do not comply with the Final Determination because the apportionment of principal and growth in the 2010-13 Cable funds pursuant to calculated "Adjusted Percentage" shares following the partial distributions made to the Allocation Phase Parties ("Rebalancing") is (1) inconsistent with the partial distribution agreements that the Allocation Phase Parties executed with the Library of Congress as a prerequisite to receiving partial distributions ("Partial Distribution Agreements"); and (2) will cause MPA, the Commercial Television Claimants ("CTV"), and the Joint Sports Claimants ("JSC") to receive *substantially less* in total 2010-13 Cable royalties in final distribution than is warranted by the percentage shares they were awarded by the Judges in the Final Determination, while the Settling Devotional Claimants ("SDC"), Public Television Claimants ("PTV"), Canadian Claimants Group ("CCG"), and Multigroup

Claimants (“MGC”) will each receive *substantially more* in total 2010-13 Cable royalties than the dollar equivalent of its awarded shares. Accordingly, MPA respectfully requests that the Judges direct the Licensing Division to recalculate its final distribution calculations to remedy these errors. As requested in the October 14 Order, MPA provides an explanation of these errors and how they can be clarified below.

First, Rebalancing is inconsistent with the Partial Distribution Agreements signed by the Allocation Phase Parties because those agreements conditioned receipt of partial distribution funds only on each party’s agreement to return any funds determined to be in excess of the dollar equivalent of its awarded shares of the 2010-13 Cable funds as those shares are ordered in the Final Determination because mathematically the funds remaining on reserve for the Copyright Office would be insufficient to satisfy the ultimate distribution awards ordered by the Judges.¹ MPA has attached hereto as Exhibit A the Partial Distribution Agreements that were executed by counsel for Program Suppliers in connection with each of the 2010-13 Cable partial distributions, all of which are nearly identical. Looking at the 2013 Cable Partial Distribution Agreement as an example, the agreement provides, in pertinent part, as follows:

- (1) On or after June 18, 2015, the Copyright Office will make a partial distribution of 60 percent of 2013 Cable Royalty Funds, approximately \$135,376,610.47 to the Phase I Claimants in the manner specified in the Partial Distribution Order; and
- (2) The Copyright Office will withhold the remaining 2013 Cable Royalty Funds to settle all outstanding Phase I and Phase II claims.
- (3) In the event that the cost of any proceeding convened for the purpose of determining the distribution of the 2013 Cable

¹ The repayment condition addressed by the Partial Distribution Agreements only exists in these proceedings with regard to the 2013 Cable royalty year, where Program Suppliers received a partial distribution of the Basic Fund in excess of their final distribution share of that fund, causing a deficiency in the total royalties remaining on reserve required to satisfy the Judges’ final distribution awards for the 2013 Cable year. *See* Appendix A. However, the repayment condition set forth in the Partial Distribution Agreements does not apply to any other of the royalty years at issue in these proceedings, as all of the Allocation and Distribution Phase Parties are owed undistributed royalties from each of the 2010-12 Cable royalty funds, and adequate funds remain on reserve at the Copyright Office to satisfy all outstanding final distributions ordered by the Judges.

Royalty Funds, including any award or awards to a Phase I or Phase II claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the 2013 Cable Royalty Funds withheld in accordance with the Partial Distribution Order, the Phase I Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a Phase I or Phase II claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

Exhibit A, 2013 Cable Partial Distribution Agreement at 2.

The plain language of the agreement clearly does not require, as a condition to receiving funds in partial distribution, an adjustment to both the remaining principal and growth in the 2010-13 Cable royalties retroactive to the date of the initial partial distributions in connection with final distributions. Nor does it contemplate Rebalancing which, by application of the “Adjusted Percentage” shares, effectively retroactively redistributes the principal and growth of the funds as if the parties’ Final Determination shares were in effect at the date of the initial partial distributions,² when in fact those awards became final only following issuance of the D.C. Circuit’s mandate in this proceeding on June 8, 2020, for the Allocation Phase, and February 18, 2020, for the Distribution Phase.

Moreover, the Rebalancing approach has not been followed in past Allocation Phase proceedings. For example, in calculating the 2010-13 Satellite final distributions that the Licensing Division recently made to MPA, CTV, JSC, and SDC only a few months ago,³ the

² The dates of the 2010-13 Cable initial partial distributions to the Allocation Phase Parties were as follows: 2010 Cable, October 25, 2012; 2011 Cable, April 25, 2013; 2012 Cable, January 15, 2015; 2013 Cable, June 18, 2015.

³ See *Order Granting MPA’s Motion For Final Distribution Of 2010-13 Satellite Royalty Funds*, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (January 13, 2020); *Order Granting Settling*

Licensing Division did not apply a Rebalancing approach, and instead followed the four-step approach outlined above.⁴ There is no discernible reason why the satellite and the cable funds for these same years should be treated differently. Also, Copyright Royalty Tribunal (“CRT”) precedent establishes exactly the opposite of the Licensing Division’s Rebalancing approach. *See* 63 Fed. Reg. 20428, 20433 (April 24, 1998) (noting that “Under Tribunal precedent, copyright owners were not entitled to a distribution of royalties, or any interest that had accrued on those royalties, until the Tribunal affirmatively determined their entitlement.”) *citing* 50 Fed. Reg. 6027, 6028 (February 13, 1985) (Tribunal not “responsible for time value lost on an allocation which had not yet been determined”). The Judges are required to act “on the basis” of prior determinations and interpretations of the CRT, *see* 17 U.S.C. § 803(a)(1), and should direct the Licensing Division to revise its calculations in accordance with this precedent here.

Moreover, while the Judges have previously awarded retroactive interest on one occasion in the Distribution Phase context where the affected party had never received a partial distribution of royalties in the proceeding at all,⁵ the facts here are different. Here, all of the Allocation Phase Parties jointly sought and received specific shares of the 2010-13 Cable royalties in partial distribution pursuant to agreement. *See* Exhibit A, 2010-13 Cable Partial Distribution Agreements at 1 (recognizing that the Phase I Parties had “agree[d] to the proposed

Devotional Claimants’ Motion For Final Distribution Of 2010-13 Satellite Royalty Funds, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (January 13, 2020); *Order Granting JSC And CTV’s Motion For Final Distribution Of 2010-13 Satellite Royalty Funds*, Docket Nos. 14-CRB-0010-CD/SD (2010-13) and 14-CRB-0011-SD (2010-13) (February 24, 2020).

⁴ *See* text at 2-3, *supra*. MPA has reviewed the Restricted worksheet that the Licensing Division provided to MPA in connection with its 2010-13 Satellite final distribution, and the only difference in the Licensing Division’s 2010-13 Satellite final distribution calculations from the approach outlined by MPA on pages 2-3 of this Notice was that no royalties needed to be deducted for a final distribution to NPR, as NPR does not participate in satellite royalty distributions.

⁵ *See Restricted Order Directing Accounting of 2000-2003 Cable Royalties Disbursed To The Program Suppliers Category*, Docket No. 2008-2 CRB CD 2000-2003 (Phase II) at 4 (November 25, 2015).

partial distribution,” as required under 17 U.S.C. § 803(b)(3)(C)). The Rebalancing improperly injects terms into the Partial Distribution Agreements that were never addressed or agreed to by the Allocation Phase Parties at the time the partial distributions took place, and, if followed here, would negatively impact partial distributions among the Allocation Phase Parties going forward.

Second, the Licensing Division’s approach improperly overcompensates certain parties while undercompensating others. MPA has calculated the dollar amounts that should be due each of the Allocation Phase and Distribution Phase Parties in this proceeding using the four steps laid out above. *See text, supra*, at 2-3. Copies of MPA’s worksheets showing these calculations are attached hereto as Exhibit B.⁶ As those worksheets demonstrate, comparing MPA’s calculated final distribution dollar shares with the Licensing Division’s final distribution dollar shares results in the following net overpayments (and underpayments) to the Allocation and Distribution Phase Parties, in excess or less than the royalty shares that were awarded by the Judges:

⁶ MPA will provide the Judges and the parties a Microsoft Excel version of Exhibit B via electronic mail as a courtesy following the filing of this Notice.

2010-13 Cable Total To Be Distributed Per Allocation Phase Party, 2010-13 Cable			
	MPA Final Distribution Calculations	Per LD Methodology	Difference
CCG	\$ 35,772,613.12	\$ 36,651,086.12	\$ 878,473.00
CTV	\$ 64,001,800.11	\$ 63,929,064.99	\$ (72,735.12)
Devotional	\$ 25,627,828.08	\$ 25,986,654.34	\$ 358,826.26
Program Suppliers	\$ 35,971,508.26	\$ 32,770,368.22	\$ (3,201,140.04)
PTV	\$ 101,088,058.32	\$ 103,397,604.75	\$ 2,309,546.43
JSC	\$ 127,659,383.23	\$ 127,386,412.70	\$ (272,970.53)
2010-13 Cable Total To Be Distributed Within Categories With Distribution Phase Controversies			
	MPA Final Distribution Calculations	Per LD Methodology	Difference
Program Suppliers			
MPA	\$ 34,882,986.53	\$ 31,626,000.76	\$ (3,256,985.77)
MGC	\$ 1,088,521.74	\$ 1,144,367.46	\$ 55,845.72
Devotional			
SDC	\$ 18,825,094.14	\$ 18,955,525.11	\$ 130,430.97
MGC	\$ 6,802,733.94	\$ 7,031,129.23	\$ 228,395.29

See Exhibit B at 1.⁷

As can be seen in the table above, when MPA's 2010-13 Cable final distribution calculations are compared with the Licensing Division's calculations there are significant differences for each of the Allocation and Distribution Phase Parties. MPA, CTV, and JSC each receive significantly less in final distribution for 2010-13 Cable than the royalty share awards ordered by the Judges, while SDC, PTV, CCG, and MGC receive significantly more in final distribution than the royalty share awards ordered by the Judges. The difference is most stark in the case of MPA, who will be deprived of more than \$3.2 million dollars in royalties ordered by the Judges across the 2010-13 Cable royalty years under the Licensing Division's approach.

⁷ These totals add together the royalties due to each party in the aggregate for each of the 2010-13 Cable funds. In the 2013 cable royalty year, Program Suppliers received royalties in partial distribution in excess of its 2013 cable final distribution share. MPA would propose that this partial distribution overpayment be recouped via an offset against the funds due to MPA in final distribution for the 2010-12 cable royalty years, and the totals reflected above reflect such an offset. The overpayment and underpayment calculations are set forth on a yearly basis for each of the 2010-13 cable royalty years in Exhibit B.

The problem with Rebalancing is further illuminated by examining the resulting allocation shares based on the total dollars each party would have received under the Licensing Division's approach compared to the shares awarded by the Judges. For example, for the 2013 royalty year, the Judges awarded PTV 19.5% of the Basic Fund in their Final Determination. *See* 84 Fed. Reg. at 3552. However, based on the Rebalancing, the total dollar share PTV is set to receive, for 2013, \$39,036,403.21, constitutes 19.9% of the 2013 Cable Basic Fund.⁸ In the 2012 royalty year, based on the Rebalancing, PTV would receive funds amounting to 18.2% of the Basic Fund, while it was only awarded 17.9% of the Basic Fund for the 2012 in the Final Determination.⁹ Across the four royalty years, with the Rebalancing, PTV is set to be overpaid by more than \$2.3 million. Similarly, CCG will be overpaid across the four years in the amount of \$878,473.00, SDC will be overpaid by \$130,430.97, and MGC will be overpaid by \$55,845.72 in the Program Suppliers category, and \$228,395.29 in the Devotional category. *See supra* at 8; *see also* Exhibit B. In summary, the net effect of the Rebalancing is to overpay certain parties and underpay others, producing inequitable results that are inconsistent with the Final Determination, and which should not be applied in these proceedings.

⁸ PTV received \$8,674,330.24 Basic Fund royalties in partial distribution for 2013 Cable, and per Appendix A, would receive \$30,362,072.97 in Basic Fund royalties for 2013 Cable in final distribution. Added together, this means PTV's total dollar share of Basic Fund royalties for 2013 Cable is \$39,036,403.21 using the methodology in Appendix A. This amount constitutes 19.9% of the total Basic Fund royalties available for distribution to the Allocation Phase Parties for 2013 Cable, net of the partial and final distributions made to NPR and Music Claimants, rather than the 19.5% share of the 2013 Cable Basic Fund awarded by the Judges in the Final Determination.

⁹ PTV received \$8,363,842.48 Basic Fund royalties in partial distribution for 2012 Cable, and per Appendix A, would receive \$25,894,739.86 in Basic Fund royalties for 2012 Cable in final distribution. Added together, this means PTV's total dollar share of Basic Fund royalties for 2012 Cable is \$34,258,852.34 using the methodology in Appendix A. This amount constitutes 18.2% of the total Basic Fund royalties available for distribution to the Allocation Phase Parties for 2012 Cable, net of the partial and final distributions made to NPR and Music Claimants, rather than the 17.9% share of the 2012 Cable Basic Fund awarded by the Judges in the Final Determination.

CONCLUSION

Accordingly, for all the reasons set forth herein, MPA hereby notifies the Judges that the Licensing Division calculations in Appendix A are incorrect, and respectfully requests that the Judges direct the Licensing Division to revise their calculations so that they are consistent with the 2010-13 Cable royalty Allocation and Distribution shares that were ordered by the Judges in these proceedings. MPA also requests that this revision be ordered prior to any final distributions to the parties in these proceedings.

Respectfully submitted,

/s/ Gregory O. Olaniran

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D.C. Bar No. 488752
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*Attorneys for
MPA-Represented Program Suppliers*

October 26, 2020

CERTIFICATE OF SERVICE

I certify that on October 26, 2020, I caused a copy of the foregoing to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

/s/ Lucy Holmes Plovnick

Lucy Holmes Plovnick

EXHIBIT A



Lucy Holmes Plovnick
Partner
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

October 18, 2012

BY HAND

Library of Congress
James Madison Memorial Building
Copyright Licensing Division
Room LM-401
101 Independence Ave., SE
Washington, DC 20557-6400



Attention: Robert I. Cummings, Licensing Division, Fiscal Section

Re: Partial Distribution of 2010 Cable Royalties; Docket No. 2012-4 CRB CD 2010

Dear Mr. Cummings:

Enclosed please find Program Suppliers' executed copy of the Copyright Office's Agreement ("Agreement") regarding the partial distribution of the 2010 cable royalty fund fees scheduled to take place on or after October 25, 2012, pursuant to the Order of the Copyright Royalty Judges in Docket No. 2012-4 CRB CD 2010, dated September 14, 2012.

An electronic funds transfer authorization form for the Motion Picture Association of America, Inc. ("MPAA") has been emailed to licfiscal@loc.gov. MPAA will be receiving the partial distribution on behalf of Program Suppliers.

Please contact me with any questions.

Sincerely,

Lucy Holmes Plovnick
MITCHELL SILBERBERG & KNUPP LLP

LHP/lhp
Enclosure

AGREEMENT

This Agreement is made and entered into this 18th day of October, 2012 by and between American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; Canadian Claimants; Commercial Television Claimants; Devotional Claimants; Joint Sports Claimants; National Public Radio; Program Suppliers; Public Television Claimants; and SESAC, Inc. (hereinafter "Phase I Claimants") and the Library of Congress, Copyright Office, Washington, D.C. (hereinafter "Copyright Office").

WHEREAS, under the provisions of 17 U.S.C. § 111(d)(2), funds designated for royalty claimants and deposited with the Copyright Office are deposited by the Copyright Office with the U.S. Treasury and invested in interest-bearing funds for later distribution by the Librarian of Congress upon authorization by the Copyright Royalty Judges; and

WHEREAS, pursuant to 17 U.S.C. § 801(b)(3)(C), the Copyright Royalty Judges at any time after the filing of claims under 17 U.S.C. § 111, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants (1) agree to the partial distribution; (2) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees made under 17 U.S.C. § 801(b)(3)(B); (3) file the agreement with the Copyright Royalty Judges; and (4) agree that such funds are available for distribution; and

WHEREAS, the Phase I Claimants did make such motion and a request for responses to the motion was published in the Federal Register; and

WHEREAS, the Copyright Royalty Judges concluded in their September 14, 2012 *Order Granting Phase I Claimants' Motion for Partial Distribution of 2010 Cable Royalty Funds*, Docket No. 2012-4 CRB CD 2010 (hereinafter "Partial Distribution Order"), that no claimant entitled to receive such funds has stated a reasonable objection to the proposed partial distribution; and

WHEREAS, the Phase I Claimants agree to the proposed partial distribution and that such funds are available for distribution; and

WHEREAS, the Phase I Claimants have expressed a willingness to sign an agreement obligating them to return any excess amounts (including interest according to the amount that would have accrued if the principal had remained in the fund) to the extent necessary to comply with the final determination of fees made under 17 U.S.C. § 801(b)(3)(B) and to file such agreement with the Copyright Royalty Judges;

NOW THEREFORE, in consideration of the above, the Phase I Claimants agree as follows:

- (1) On or after October 25, 2012, the Copyright Office will make a partial distribution of 50 percent of 2010 Cable Royalty Funds, approximately \$99,471,281.18 to the Phase I Claimants in the manner specified in the Partial Distribution Order; and
- (2) The Copyright Office will withhold the remaining 2010 Cable Royalty Funds to settle all outstanding Phase I and Phase II claims.
- (3) In the event that the cost of any proceeding, convened for the purpose of determining the distribution of the 2010 Cable Royalty Funds, including any award or awards to a Phase I or Phase II claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the 2010 Cable Royalty Funds withheld in accordance with the Partial Distribution Order, the Phase I Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a Phase I or Phase II claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

The undersigned hereby certifies that he/she is the duly authorized representative or agent for one or more Phase I Claimants, and has the express authority to enter into this agreement on behalf of the identified claimant group(s). Penalties for fraud and false statements are set forth in 18 U.S.C. § 1001 et seq.

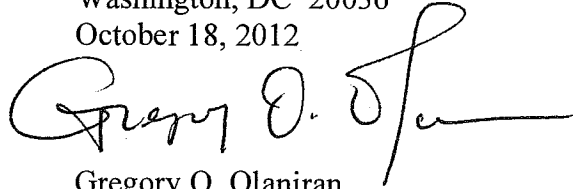
Name of "Phase I Parties" Group: **Program Suppliers**

Name of firm: Mitchell Silberberg & Knupp LLP

Address: 1818 N Street NW
8th Floor
Washington, DC 20036

Date: October 18, 2012

Handwritten signature:



Typed or printed name: Gregory O. Olaniran

Title: Counsel for Program Suppliers

Name of "Phase I Parties" Group: **Commercial Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Joint Sports Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Broadcast Music, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties"

Group

American Society of Composers,

Authors & Publishers

Name of firm:

Address:

Date:

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Title:

Name of "Phase I Parties" Group: **SESAC, Inc.**

Name of firm:

Address:

Date:

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Title:

Name of "Phase I Parties" Group: **Devotional Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **National Public Radio**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Canadian Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Public Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

I certify that I am a "Library Officer" who has authority to enter into this Agreement on behalf of the Library of Congress.

Date Library Officer Signature

James B. Enzinna

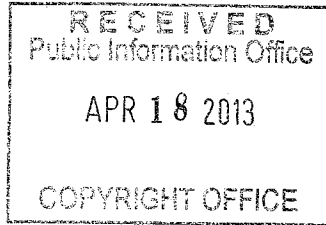
Chief, Licensing Division

Library Officer Name

Title

The signed Agreement **must** be returned to the below address by October 18, 2012.

Hand deliver to: Library of Congress
James Madison Memorial Bldg.
Copyright Licensing Division
Room LM-401
101 Independence Ave., S.E.
Washington, D.C. 20557-6400



Lucy Holmes Plovnick
Partner
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

April 18, 2013

BY HAND

Library of Congress
James Madison Memorial Building
Copyright Licensing Division
Room LM-401
101 Independence Ave., SE
Washington, DC 20557-6400

Attention: Erica Hilliard, Licensing Division, Fiscal Section

Re: Partial Distribution of 2011 Cable Royalties; Docket No. 2012-9 CRB CD 2011

Dear Ms. Hilliard:

Enclosed please find Program Suppliers' executed copy of the Copyright Office's Agreement ("Agreement") regarding the partial distribution of the 2011 cable royalty fund fees scheduled to take place on or after April 25, 2013, pursuant to the Order of the Copyright Royalty Judges in Docket No. 2012-9 CRB CD 2011, dated March 13, 2013.

An electronic funds transfer authorization form for the Motion Picture Association of America, Inc. ("MPAA") has been emailed to licfiscal@loc.gov. MPAA will be receiving the partial distribution on behalf of Program Suppliers.

Please contact me with any questions.

Sincerely,

Lucy Holmes Plovnick
MITCHELL SILBERBERG & KNUPP LLP

LHP/lhp
Enclosure

NOW THEREFORE, in consideration of the above, the Phase I Claimants agree as follows:

- (1) On or after April 25, 2013, the Copyright Office will make a partial distribution of 50 percent of 2011 Cable Royalty Funds, approximately \$104,372,898.09 to the Phase I Claimants in the manner specified in the Partial Distribution Order; and
- (2) The Copyright Office will withhold the remaining 2011 Cable Royalty Funds to settle all outstanding Phase I and Phase II claims.
- (3) In the event that the cost of any proceeding, convened for the purpose of determining the distribution of the 2011 Cable Royalty Funds, including any award or awards to a Phase I or Phase II claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the 2011 Cable Royalty Funds withheld in accordance with the Partial Distribution Order, the Phase I Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a Phase I or Phase II claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

The undersigned hereby certifies that he/she is the duly authorized representative or agent for one or more Phase I Claimants, and has the express authority to enter into this agreement on behalf of the identified claimant group(s). Penalties for fraud and false statements are set forth in 18 U.S.C. § 1001 et seq.

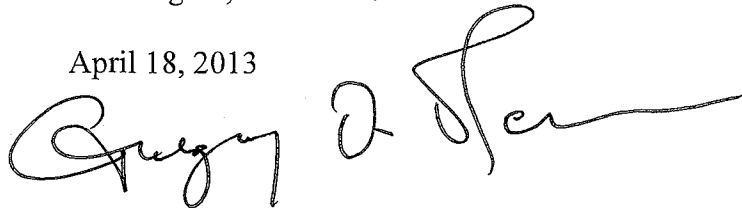
Name of "Phase I Parties" Group: **Program Suppliers**

Name of firm: Mitchell Silberberg & Knupp LLP

Address: 1818 N Street NW
8th Floor
Washington, DC 20036

Date: April 18, 2013

Handwritten signature:

A handwritten signature in black ink, appearing to read "Gregory O. Olaniran". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Typed or printed name: Gregory O. Olaniran

Title: Attorney

Name of "Phase I Parties" Group: **Commercial Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Joint Sports Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Broadcast Music, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties"

Group

American Society of Composers,

Authors & Publishers

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **SESAC, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Devotional Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **National Public Radio**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Canadian Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Public Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

I certify that I am a "Library Officer" who has authority to enter into this Agreement on behalf of the Library of Congress.

Date Library Officer Signature

James B. Enzinna

Chief, Licensing Division

Library Officer Name

Title

The signed Agreement **must** be returned to the below address by [date].

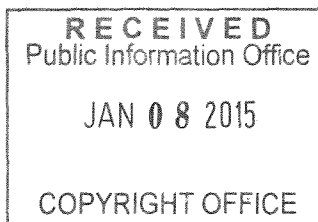
Hand deliver to:

Library of Congress
James Madison Memorial Bldg.
Copyright Licensing Division
Room LM-401
101 Independence Ave., S.E.
Washington, D.C. 20557-6400



Lucy Holmes Plovnick
Partner
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

January 8, 2015



BY HAND

Library of Congress
James Madison Memorial Building
Copyright Licensing Division
Room LM-401
101 Independence Ave., SE
Washington, DC 20557-6400

Attention: Hector Ruiz, Licensing Division, Fiscal Section

Re: Partial Distribution of 2012 Cable Royalties; Docket No. 14-CRB-0007 CD (2010-12)

Dear Mr. Ruiz:

Enclosed please find Program Suppliers' executed copy of the Copyright Office's Agreement ("Agreement") regarding the partial distribution of the 2012 cable royalty fund fees scheduled to take place on or after January 15, 2015, pursuant to the Order of the Copyright Royalty Judges in Docket No. 14-CRB-0007 CD (2010-12), dated December 23, 2014.

An electronic funds transfer authorization form for the Motion Picture Association of America, Inc. ("MPAA") has been emailed to licfiscal@loc.gov. MPAA will be receiving the partial distribution on behalf of Program Suppliers.

Please contact me with any questions.

Sincerely,

Lucy Holmes Plovnick
MITCHELL SILBERBERG & KNUPP LLP

LHP/lhp
Enclosure

AGREEMENT

This Agreement is made and entered into this 8th day of January, 2015 by and between American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; Canadian Claimants; Commercial Television Claimants; Devotional Claimants; Joint Sports Claimants; National Public Radio; Program Suppliers; Public Television Claimants; and SESAC, Inc. (hereinafter "Phase I Claimants") and the Library of Congress, Copyright Office, Washington, D.C. (hereinafter "Copyright Office").

WHEREAS, under the provisions of 17 U.S.C. § 111(d)(2), funds designated for royalty claimants and deposited with the Copyright Office are deposited by the Copyright Office with the U.S. Treasury and invested in interest-bearing funds for later distribution by the Librarian of Congress upon authorization by the Copyright Royalty Judges; and

WHEREAS, pursuant to 17 U.S.C. § 801(b)(3)(C), the Copyright Royalty Judges at any time after the filing of claims under 17 U.S.C. § 111, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants (1) agree to the partial distribution; (2) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees made under 17 U.S.C. § 801(b)(3)(B); (3) file the agreement with the Copyright Royalty Judges; and (4) agree that such funds are available for distribution; and

WHEREAS, the Phase I Claimants did make such motion and a request for responses to the motion was published in the Federal Register; and

WHEREAS, the Copyright Royalty Judges concluded in their December 23, 2014 *Order Granting Motion of Phase I Claimants for Partial Distribution*, Docket No. 14-CRB-0007 CD (2010-12) (hereinafter "Partial Distribution Order"), that no claimant entitled to receive such funds has stated a reasonable objection to the proposed partial distribution; and

WHEREAS, the Phase I Claimants agree to the proposed partial distribution and that such funds are available for distribution; and

WHEREAS, the Phase I Claimants have expressed a willingness to sign an agreement obligating them to return any excess amounts (including interest according to the amount that would have accrued if the principal had remained in the fund) to the extent necessary to comply with the final determination of fees made under 17 U.S.C. § 801(b)(3)(B) and to file such agreement with the Copyright Royalty Judges;

NOW THEREFORE, in consideration of the above, the Phase I Claimants agree as follows:

- (1) On or after January 15, 2015, the Copyright Office will make a partial distribution of 60 percent of 2012 Cable Royalty Funds, approximately \$131,154,417.29 to the Phase I Claimants in the manner specified in the Partial Distribution Order; and
- (2) The Copyright Office will withhold the remaining 2012 Cable Royalty Funds to settle all outstanding Phase I and Phase II claims.
- (3) In the event that the cost of any proceeding, convened for the purpose of determining the distribution of the 2012 Cable Royalty Funds, including any award or awards to a Phase I or Phase II claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the 2012 Cable Royalty Funds withheld in accordance with the Partial Distribution Order, the Phase I Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a Phase I or Phase II claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

The undersigned hereby certifies that he/she is the duly authorized representative or agent for one or more Phase I Claimants, and has the express authority to enter into this agreement on behalf of the identified claimant group(s). Penalties for fraud and false statements are set forth in 18 U.S.C. § 1001 et seq.


Name of "Phase I Parties" Group: **Program Suppliers**

Name of firm: Mitchell Silberberg & Knupp LLP

Address: 1818 N Street NW
8th Floor
Washington, DC 20036

Date: January 8, 2015

Handwritten signature:



Typed or printed name: Gregory O. Olaniran

Title: Partner

Name of "Phase I Parties" Group: **Commercial Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Joint Sports Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Broadcast Music, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties"

Group

American Society of Composers,

Authors & Publishers

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **SESAC, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Devotional Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **National Public Radio**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Canadian Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Public Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

I certify that I am a "Library Officer" who has authority to enter into this Agreement on behalf of the Library of Congress.

Date Library Officer Signature

James B. Enzina
Chief, Licensing Division

The signed Agreement **must** be returned to the below address by [date].

Hand deliver to: Library of Congress
James Madison Memorial Bldg.
Copyright Licensing Division
Room LM-401
101 Independence Ave., S.E.
Washington, D.C. 20557-6400



Lucy Holmes Plovnick
Partner
(202) 355-7918 Phone
(202) 355-7888 Fax
lhp@msk.com

June 11, 2015

BY HAND

Library of Congress
James Madison Memorial Building
Copyright Licensing Division
Room LM-401
101 Independence Ave., SE
Washington, DC 20557-6400

Attention: Kathy Tsai, Licensing Division, Fiscal Section

Re: Partial Distribution of 2013 Cable Royalties; Docket No. 14-CRB-0010 CD (2013)

Dear Ms. Tsai:

Enclosed please find Program Suppliers' executed copy of the Copyright Office's Agreement ("Agreement") regarding the partial distribution of the 2013 cable royalty fund fees scheduled to take place on or after June 18, 2015, pursuant to the Order of the Copyright Royalty Judges in Docket No. 14-CRB-0010 CD (2013), dated May 28, 2015.

An electronic funds transfer authorization form for the Motion Picture Association of America, Inc. ("MPAA") has been emailed to licfiscal@loc.gov. MPAA will be receiving the partial distribution on behalf of Program Suppliers.

Please contact me with any questions.

Sincerely,

Lucy Holmes Plovnick
MITCHELL SILBERBERG & KNUPP LLP

LHP/lhp
Enclosure

AGREEMENT

This Agreement is made and entered into this 11th day of June, 2015 by and between American Society of Composers, Authors and Publishers; Broadcast Music, Inc.; Canadian Claimants; Commercial Television Claimants; Devotional Claimants; Joint Sports Claimants; National Public Radio; Program Suppliers; Public Television Claimants; and SESAC, Inc. (hereinafter "Phase I Claimants") and the Library of Congress, Copyright Office, Washington, D.C. (hereinafter "Copyright Office").

WHEREAS, under the provisions of 17 U.S.C. § 111(d)(2), funds designated for royalty claimants and deposited with the Copyright Office are deposited by the Copyright Office with the U.S. Treasury and invested in interest-bearing funds for later distribution by the Librarian of Congress upon authorization by the Copyright Royalty Judges; and

WHEREAS, pursuant to 17 U.S.C. § 801(b)(3)(C), the Copyright Royalty Judges at any time after the filing of claims under 17 U.S.C. § 111, may, upon motion of one or more of the claimants and after publication in the Federal Register of a request for responses to the motion from interested claimants, make a partial distribution of such fees, if, based upon all responses received during the 30-day period beginning on the date of such publication, the Copyright Royalty Judges conclude that no claimant entitled to receive such fees has stated a reasonable objection to the partial distribution, and all such claimants (1) agree to the partial distribution; (2) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees made under 17 U.S.C. § 801(b)(3)(B); (3) file the agreement with the Copyright Royalty Judges; and (4) agree that such funds are available for distribution; and

WHEREAS, the Phase I Claimants did make such motion and a request for responses to the motion was published in the Federal Register; and

WHEREAS, the Copyright Royalty Judges concluded in their May 28, 2015 *Order Granting Motion of Phase I Claimants for Partial Distribution*, Docket No. 14-CRB-0010 CD (2013) (hereinafter "Partial Distribution Order"), that no claimant entitled to receive such funds has stated a reasonable objection to the proposed partial distribution; and

WHEREAS, the Phase I Claimants agree to the proposed partial distribution and that such funds are available for distribution; and

WHEREAS, the Phase I Claimants have expressed a willingness to sign an agreement obligating them to return any excess amounts (including interest according to the amount that would have accrued if the principal had remained in the fund) to the extent necessary to comply with the final determination of fees made under 17 U.S.C. § 801(b)(3)(B) and to file such agreement with the Copyright Royalty Judges;

NOW THEREFORE, in consideration of the above, the Phase I Claimants agree as follows:

- (1) On or after June 18, 2015, the Copyright Office will make a partial distribution of 60 percent of 2013 Cable Royalty Funds, approximately \$135,376,610.47 to the Phase I Claimants in the manner specified in the Partial Distribution Order; and
- (2) The Copyright Office will withhold the remaining 2013 Cable Royalty Funds to settle all outstanding Phase I and Phase II claims.
- (3) In the event that the cost of any proceeding convened for the purpose of determining the distribution of the 2013 Cable Royalty Funds, including any award or awards to a Phase I or Phase II claimant or claimants made by competent authority (*i.e.*, the Copyright Royalty Judges or the United States Court of Appeals for the District of Columbia Circuit), exceeds the amount of the 2013 Cable Royalty Funds withheld in accordance with the Partial Distribution Order, the Phase I Claimants agree to remit, will remit, and hereby agree to and will bind, if and as necessary, any successor(s) in interest or distributee(s) to remit, to the Copyright Office within thirty (30) days of the date of notification from the Copyright Office that insufficient funds exist to cover the cost of the proceeding or make a determined award or awards to a Phase I or Phase II claimant or claimants, an amount to be specified by the Copyright Office to cover the deficiency.

The undersigned hereby certifies that he/she is the duly authorized representative or agent for one or more Phase I Claimants, and has the express authority to enter into this agreement on behalf of the identified claimant group(s). Penalties for fraud and false statements are set forth in 18 U.S.C. § 1001 et seq.

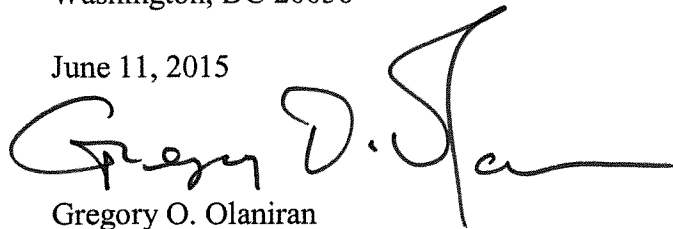
Name of "Phase I Parties" Group: **Program Suppliers**

Name of firm: Mitchell Silberberg & Knupp LLP

Address: 1818 N Street NW
8th Floor
Washington, DC 20036

Date: June 11, 2015

Handwritten signature:



Typed or printed name: Gregory O. Olaniran

Title: Attorney

Name of "Phase I Parties" Group: **Commercial Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Joint Sports Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Broadcast Music, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties"

Group

American Society of Composers,

Authors & Publishers

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **SESAC, Inc.**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Devotional Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **National Public Radio**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Canadian Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

Name of "Phase I Parties" Group: **Public Television Claimants**

Name of firm:

Address:

Date:

Handwritten signature:

Typed or printed name:

Title:

I certify that I am a "Library Officer" who has authority to enter into this Agreement on behalf of the Library of Congress.

Date Library Officer Signature

James B. Enzinna
Chief, Licensing Division

The signed Agreement **must** be returned to the below address by June 11, 2015.

Hand deliver to: Library of Congress
James Madison Memorial Bldg.
Copyright Licensing Division
Room LM-401
101 Independence Ave., S.E.
Washington, D.C. 20557-6400

EXHIBIT B

Program Suppliers Category

	Total Royalties	MGC (%)	MGC (\$)	MPA (%)	MPA (\$)	Less Partial Distribution	MPA Final Distribution	Total For PS Category
2010	\$ 53,372,556.75	0.63%	\$ 336,247.11	99.37%	\$ 53,036,309.64	\$ 33,848,074.81	\$ 19,188,234.83	
2011	\$ 50,844,162.86	0.53%	\$ 269,474.06	99.47%	\$ 50,574,688.80	\$ 35,515,738.00	\$ 15,058,950.80	
2012	\$ 47,574,148.28	0.55%	\$ 261,657.82	99.45%	\$ 47,312,490.47	\$ 44,633,179.04	\$ 2,679,311.43	
2013	\$ 44,228,550.55	0.50%	\$ 221,142.75	99.50%	\$ 44,007,407.80	\$ 46,050,918.33	\$ (2,043,510.53)	
			\$ 1,088,521.74			\$ 34,882,986.53	\$ 35,971,508.26	

Devotional Category

	Total Royalties	MGC (%)	MGC (\$)	SDC (%)	SDC (\$)	Less Partial Distribution	SDC Final Distribution	Total for Devo Category
2010	\$ 8,054,642.68	22.90%	\$ 1,844,513.17	77.10%	\$ 6,210,129.51	\$ 3,412,409.92	\$ 2,797,719.59	
2011	\$ 11,704,775.40	17.40%	\$ 2,036,630.92	82.60%	\$ 9,668,144.48	\$ 3,580,537.24	\$ 6,087,607.24	
2012	\$ 12,165,685.75	15.20%	\$ 1,849,184.23	84.80%	\$ 10,316,501.51	\$ 4,499,823.04	\$ 5,816,678.47	
2013	\$ 9,838,583.63	10.90%	\$ 1,072,405.62	89.10%	\$ 8,766,178.01	\$ 4,643,089.18	\$ 4,123,088.83	
			\$ 6,802,733.94			\$ 18,825,094.14	\$ 25,627,828.08	

Proof of Delivery

I hereby certify that on Monday, October 26, 2020, I provided a true and correct copy of the MPA-Represented Program Suppliers' Notice Opposing The Licensing Division's Final Distribution Calculations to the following:

Broadcast Music, Inc. (BMI), represented by Brian A Coleman, served via ESERVICE at Brian.Coleman@dbr.com

Public Television Claimants (PTC), represented by Ronald G. Dove Jr., served via ESERVICE at rdove@cov.com

Joint Sports Claimants, represented by Michael E Kientzle, served via ESERVICE at michael.kientzle@apks.com

Canadian Claimants Group, represented by Lawrence K Satterfield, served via ESERVICE at lksatterfield@satterfield-pllc.com

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis, served via ESERVICE at smosenkis@ascap.com

Devotional Claimants, represented by Matthew J MacLean, served via ESERVICE at matthew.maclean@pillsburylaw.com

Commercial Television Claimants (CTC), represented by John Stewart, served via ESERVICE at jstewart@crowell.com

SESAC Performing Rights, LLC, represented by John C. Beiter, served via ESERVICE at john@beiterlaw.com

Signed: /s/ Lucy H Plovnick