

Before the  
Copyright Royalty Judges  
Washington, D.C.

_____	)	
In the Matter of	)	
	)	
Distribution of	)	Docket No. 2008-2 CRB CD
2000-2003	)	2000-2003 (Phase 2)
Cable Royalty Funds	)	
_____	)	

**INDEPENDENT PRODUCERS GROUP’S MOTION FOR FINAL  
DISTRIBUTION OF 2000-2003 CABLE ROYALTIES OR,  
ALTERNATIVELY, THIRD RENEWED MOTION FOR PARTIAL  
DISTRIBUTION OF 2000-2003 CABLE ROYALTIES**

Despite scores of other matters being addressed by the Judges since final settlement of the 2000-2003 devotional royalty pool in mid-2019, the absurd has occurred, and continues to occur, as IPG still has not been distributed the royalties owed to it following a settlement of all remaining 2000-2003 claims occurring on July 17, 2019, i.e., *two and one-half years ago*. The Copyright Office holds millions of dollars in its coffers, to which all effected parties have presented the Judges all requested information, and

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yet the royalties collected by the Copyright Office remain languishing therewith.

The effected parties deserve to have the Judges make this a matter of first priority, as no reasonable explanation exists as to why the royalties have not been distributed, or at least distribution of the minimum amounts owed. If the Judges continue to back-burner final resolution of this matter, a partial distribution of royalties to IPG should be made immediately.

### **BACKGROUND**

On April 19, 2017, IPG filed its *Motion for Partial Distribution of 2000-2003 Cable Royalties*, seeking partial distribution of royalties attributable to the devotional programming category. Despite the fact that only IPG and the Settling Devotional Claimants (“SDC”) remained participants in the 2000-2003 cable proceedings, IPG served its motion on all prior participants in such proceeding. In response thereto, the SDC filed an opposition brief, to which IPG filed a reply.

Despite the only possible “interested parties” receiving actual notice of the motion, and filing a response, the Judges waited almost two years

before announcing that in order to consider IPG’s motion, it was required to publish a *Federal Register* notice soliciting comment on such motion from “interested parties”.<sup>1</sup> See 84 Fed. Reg. 12295 (Apr. 1, 2019), Distribution of 2000-2003 Cable Royalty Funds, *Order Requesting Comments*.

Nonetheless, the *Federal Register* notice expressly stated that the only “interested parties” qualified to object were “claimants that have filed petitions to participate in the proceeding (or are included in a petition to

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<sup>1</sup> IPG found it unclear why further solicited briefing was necessary vis-à-vis a *Federal Register* notice. The IPG motion to which the *Federal Register* notice was issued only sought a partial distribution of devotional programming funds, and the only other party maintaining devotional programming claims in the above-referenced proceedings was the SDC. The Judges have concluded previously that the statutory requirement for published notice and a comment period is inapplicable after the filing of Petitions to Participate (“PTP”) and commencement of distribution proceedings. See *Order Denying IPG Motion for Partial Distribution*, Docket No. 2008-2 CRB 2000-2003 (Phase II), at 2 n. 1 (January 17, 2012); see also *Order Denying IPG Motion for Partial Distribution*, Docket No. 2008-2 CRB 2000-2003 (Phase II), at 3 n. 2 (February 11, 2014). Publication after the receipt of PTPs would be “unnecessary and duplicative” because only those claimants who submitted acceptable PTPs are entitled to receive a Phase II distribution and only participants in the proceeding have standing to respond to the motion. *Id.*

participate filed on their behalf)”, i.e., the same parties that had already previously received actual notice of IPG’s motion. Again, only the SDC – the only remaining “interested party” – filed comments in response to the *Federal Register* notice. IPG thereafter sought leave to file a response thereto, which was filed on May 10, 2019.

As of July 17, 2019, IPG believed that IPG’s motion, first filed over two years prior, was moot. IPG and the SDC had jointly provided notice to the Judges that they had settled their claims. See *Joint Notice of Settlement and Motion for Stay* (July 17, 2019). Therein, the SDC revealed the contents of a confidential settlement agreement with IPG, whereby IPG would receive 31.25% of the 2000-2003 cable royalty pools attributable to devotional programming. Notwithstanding the foregoing, the Judges’ *Order for Further Briefing*, issued on October 22, 2019, suggested that the Judges considered that there may not have been an enforceable settlement, though neither IPG or the SDC challenged the existence of an agreement. To the extent that such was the case, on October 25, 2019 IPG renewed its *Motion*

for *Partial Distribution of 2000-2003 Cable Royalties*, initially filed two and one-half years prior.<sup>2</sup>

Following submission of IPG's *Renewed Motion for Partial Distribution*, additional issues were raised by the SDC and other parties relating to the actual amount of the devotional category royalty pools, for which the last briefing concluded on November 2, 2020.<sup>3</sup> Regardless of any determination relating thereto, because of advance distributions to literally every other party participating in the 2000-2003 cable proceedings, the vast bulk of royalties yet to be distributed from the 2000-2003 cable devotional pool belong to IPG. Failing to receive any order addressing the merits of the

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<sup>2</sup> In connection therewith, IPG submitted a spreadsheet comparing IPG's motions for partial distribution with those of other parties that have sought partial distribution, and demonstrating that on literally every front – e.g., the time by which the CRB issues a *Federal Register* notice, the time by which the CRB rules -- IPG's motions for partial distribution have been addressed by the Judges on a basis dramatically less timely than other parties' motions for partial distribution. This is despite IPG being an "established claimant" in each of those circumstances, and despite there already being a finite, identified list of "interested parties" whom had already received actual notice of IPG's motions, thereby obviating the need for a *Federal Register* notice (according to CRB precedent).

<sup>3</sup> See *MPA Response Permitted by Order Granting MPA Leave to Respond to SDC Motion for Leave* (Nov. 2, 2020).

SDC briefing, on July 23, 2021, IPG *again* moved for final distribution of the 2000-2003 cable royalties, or alternatively to distribute IPG the minimum IPG would be entitled from such royalty pool. On September 10, 2021, even the SDC and MPA jointly submitted a motion similarly requesting that the Judges address their motion. Still, and with millions of dollars undistributed and reliant on the Judges' determination as to a singular issue, no response from the Judges has been forthcoming.

At this juncture, and particularly because of the lengthy delays that have already occurred, IPG moves that the Judges promptly issue a determination as to the last remaining issue in the 2000-2003 cable proceedings, and proceed to order a final distribution of royalties to IPG. Alternatively, IPG moves the Judges for a *fourth* time to issue an order for partial distribution to IPG consistent with IPG's original motion for partial distribution, dating back to April 19, 2017, as such motion retains the unenviable record – by years -- for the longest period of time that a motion has not been ruled upon. Notwithstanding, no reasonable basis exists for not

distributing to IPG the percentage to which it is entitled (31.25%) under a settlement agreement, qualified only by its application against the lowest figure that could possibly be accorded to the devotional 2000-2003 cable royalty pools.

### **CONCLUSION**

For the reasons set forth above, IPG requests that the Judges promptly address the final issue applicable to the 2000-2003 cable royalty pools, in order that such matter be resolved and closed out, and issue an order for final distribution to IPG of the percentage to which it is entitled (31.25%) under the SDC-reported settlement agreement. Alternatively, no “reasonable objection” can be made to IPG receiving 31.25% of the devotional 2000-2003 cable royalty pools, as applied against the lowest figure that could possibly be accorded to the devotional 2000-2003 cable royalty pools.

# # #

The Judges should rule in IPG's favor, without further delay.

Respectfully submitted,

Dated: January 28, 2022

\_\_\_\_\_/s/\_\_\_\_\_  
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## CERTIFICATE OF SERVICE

I certify that on January 28, 2022, I caused a copy of the foregoing pleading to be served on all parties registered to receive notice by eCRB by filing through the eCRB filing system.

\_\_\_\_\_/s/\_\_\_\_\_  
Brian D. Boydston, Esq.

# Proof of Delivery

I hereby certify that on Friday, January 28, 2022, I provided a true and correct copy of the Independent Producers Group's Motion For Final Distribution Of 2000-2003 Cable Royalties Or, Alternatively, Third Renewed Motion For Partial Distribution Of 2000-2003 Cable Royalties to the following:

Settling Devotional Claimants (SDC), represented by Jeannette M. Carmadella, served via ESERVICE at [jeannette@lutzker.com](mailto:jeannette@lutzker.com)

Signed: /s/ Brian D Boydston