

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)
)
Distribution of 2018) Docket No. 19-CRB-0010-CD
Cable Royalty Funds) (2018)
_____)

In the Matter of)
)
Distribution of 2019) Docket No. 20-CRB-0010-CD
Cable Royalty Funds) (2019)
_____)

In the Matter of)
)
Distribution of 2020) Docket No. 21-CRB-0008-CD
Cable Royalty Funds) (2020)
_____)

**Multigroup Claimants’ Reply in Support of Motion for
Partial Distribution of 2018-2020 Cable Royalties**

The SDC note the redundant nature of Multigroup Claimants’ motion for partial distribution, asserting that it is “nearly verbatim” of Multigroup Claimants’ motion for partial distribution of 2015-2017 cable royalties, except that it “substitutes references to the 2018-2020 proceedings”. Contrary to the SDC’s statements, Multigroup Claimants engages in actual monetary calculations relating to the 2018-2020 cable royalty funds, very different than the umpteen “literally verbatim” motions for partial distribution submitted by the SDC as part of the “Allocation Parties” that engage in no such analysis. The SDC criticism personifies the maxim, “the pot calling the kettle black”.

The aggregate of the SDC opposition is to refer the Judges to their opposition to a *different* MGC motion in *different* proceedings from almost two years ago (filed August 6, 2021). In most courts, pleadings that simply refer the court to other pleadings by reference are rejected out of hand, and as a matter of procedure, the pleading to which the SDC refers the Judges should not even be considered.

Regardless, no “reasonable objection” to Multigroup Claimants’ (“MGC”) motion for partial distribution has been made. Even if the Judges were to consider the SDC’s prior arguments “by reference”, the substance of the SDC’s arguments should be rejected. As more specifically explained by MGC in response to the pleading cited by the SDC, MGC briefly notes the following:

1) WSG dba Multigroup Claimants is an established claimant, without any change in represented Devotional claimants since 2003.

Since WSG’s inception in 1998, nominal attrition has occurred in any category of WSG-represented copyright claimants, and *zero* attrition in the devotional programming category.¹ During the same timeframe, at least half of the SDC members have exited as members of the SDC.²

2) The Devotional award or valuation to WSG-represented claimants has been consistently stable, and WSG has conservatively valued its anticipated award.

¹ Billy Graham Evangelistic Association was represented only during calendar years 2002 and 2003, per the original terms of agreement.

² The SDC’s lineup has not fared well. Only 7 of the 14 SDC entities for the 2000-2003 cable proceedings were identified as part of the SDC for the 2014-2017 cable proceedings, demonstrating 50% attrition. *Cf. Direct Statement of SDC on Remand* (Apr. 15, 2016), App. B-2, Docket no. 2008-2 CD 2000-03 (Phase II) with *SDC Joint Petition to Participate* (Mar. 8, 2019) in this proceeding.

By its opposition brief, the SDC ignored their own stated percentages of what WSG-represented devotional claimants should have otherwise received. MGC's use of the figures accorded in the immediately prior 2010-2013 proceeding was neither extraordinary or misrepresentative, and demonstrates that use of a 16.6% average as a basis of comparison for MGC's cable royalties actually reflects a reduction of the 15-year average of cable royalties to which WSG would receive, even according to the SDC.

3) The SDC has made unsubstantiated contentions of Multigroup Claimants' unwillingness to disgorge any possible overpayment, and insolvency, despite its own unwillingness to disgorge overpayments that were made to it.

The SDC's encouragement that the Judges ignore the most recent awards is not based on any claim that MGC will not eventually be awarded a substantial percentage of the devotional programming royalty pools. Rather, it is based on nothing more than the SDC's fabricated claim of MGC's "unwillingness or inability to disgorge funds" and the SDC's fabricated "concerns about MGC's continued solvency".

It has been a hallmark of these proceedings that the SDC will make grand allegations of fraud and corruption based on attenuated, irrelevant, and unsubstantiated claims by the SDC and others, and this proceeding appears to be no different. Most recently, in response to a myriad of accusations against MGC, WSG, their former and present principals, and unrelated entities owned by them, the Judges found no intentional misconduct, no wrongdoing, and no "transactions for the purpose of defrauding creditors", as the SDC had alleged. *Order on Order to Show Cause*, at 13-14 (Nov. 13, 2020), Consolidated Docket no. 14-CRB-0010-CD/SD (2010-2013). In fact, in a 2014 order cited by the SDC whereby WSG dba IPG was denied a partial distribution, the

Judges addressed the identical claims of the SDC that WSG would be unwilling to disgorge any overpayment and was insolvent, and stated the following:

“The Judges have no evidence, either from the hearings in the 2000-03 distribution hearing or proffered to support the theories of the objecting parties, regarding [WSG’s] financial status. Claims of inability to pay, without more, are insufficient to sustain a reasonable objection to partial distribution.”

See *Order Denying IPG Motion for Partial Distribution*, at 5 (Feb. 11, 2014). No different than there, the SDC have failed to proffer any evidence for its contentions, which remain unsubstantiated.

Nonetheless, a particular irony of the SDC’s current accusation cannot be overlooked. On February 4, 2021, the Judges issued their *Order Modifying Order Granting Multigroup Claimants’ Third Motion for Final Distribution of 2010-2013 Satellite Royalty Funds*, noting that an overpayment had been made to the Allocation Phase Parties (of which the SDC is a member), each of whom had executed repayment agreements in the event of the overpayment *to the collective group*. Because of the overpayment, MGC could not be paid the aggregate of the 2010-2013 satellite royalties which it was awarded. For each of the 2010-2013 satellite royalty pools, the SDC was twice the recipient of partial distributions to which the SDC remained jointly and severally liable for overpayments. Notwithstanding, and despite the SDC receiving direct notice of the Judges’ February 4, 2021 order, at no point did the SDC (and other parties) remit the overpayment to the Licensing Division, waiting instead for forced compliance after a subsequent accounting of funds.³ Consequently, MGC remains the *only* party to

³ Because of the seeming indifference of the SDC and Allocation Phase Parties to comply with their repayment agreements, MGC had no alternative other than to file a motion seeking to compel the Licensing Division to pursue repayment. See *Multigroup Claimants’ Motion to Direct Licensing Division to Comply*

have executed a repayment agreement and fully abided by the terms thereof. MGC's record remains unblemished, while the SDC's record remains tarnished.

CONCLUSION

The foregoing points are only a handful of the responses made by MGC in response to the litany of poorly thought out arguments previously made by the SDC, including responses to the SDC's contradictory and repetitive statements and actions, the SDC's attempt to resurrect a matter between WSG and Bob Ross, Inc. that the Judges have asserted on multiple occasions is not within their authority to address, and the SDC's misrepresentation of legal determinations, and citation to irrelevant third-party allegations. See, e.g., *Multigroup Claimants' Reply in Support of Motion for Partial Distribution of 2015-2017 Cable Royalties* (filed Aug. 13, 2021). What becomes immediately evident throughout the SDC's prior pleading is that the SDC develops its line of argument *then* makes false statements where convenient in order to support such line of argument.

Despite the litany of SDC accusations, MGC and WSG have represented as many as 250 clients at a time, most for twenty years, yet no such client has ever asserted that MGC or WSG refused to pay owed royalties, and neither MGC, nor WSG have ever been sued by a client or been the subject of a counterclaim by a client. No basis exists to

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with February 4, 2021 Order (July 23, 2021), Consolidated docket no. 14-CRB-0010-CD/SD (2010-2013). Predictably, the SDC did not file an opposition brief, as it would have only highlighted breach of its repayment agreement.

accept a single argument previously proffered by the SDC (from its opposition brief to a different motion).

Respectfully submitted,

Dated: April 14, 2023

/s/

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CERTIFICATE OF SERVICE

I certify that on April 14, 2023, 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, April 14, 2023, I provided a true and correct copy of the Multigroup Claimants' Reply in Support of Motion for Partial Distribution of 2018-2020 Cable Royalties to the following:

Devotional Claimants, represented by Matthew J MacLean, served via E-Service at matthew.maclea@pillsburylaw.com

Signed: /s/ Brian D Boydston