

Before the  
Copyright Royalty Judges  
Washington, D.C.

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

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**INDEPENDENT PRODUCERS GROUP'S REPLY IN SUPPORT OF  
MOTION FOR PARTIAL DISTRIBUTION OF 2000-2003 CABLE  
ROYALTIES**

Worldwide Subsidy Group LLC (a Texas limited liability company)  
dba Independent Producers Group ("IPG") hereby submits its "Reply In  
Support of Motion for Partial Distribution of 2000-2003 Cable Royalties".

By its motion, IPG seeks less than 75% of the *minimum* percentage  
that the *Settling Devotional Claimants* ("SDC") concede IPG is due in these  
proceedings.<sup>1</sup> Despite taking no issue with an award to IPG of the

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<sup>1</sup> According to the most recent filing by the SDC, the SDC contends that IPG is entitled 28.3%, 27.2%, 32.6%, and 31.8%, respectively, of the 2000-2003 cable royalty pool (devotional). See *Written Direct Statement of the Settling Devotional Claimants On Remand*, Test. of Sanders at p. 12 (April 15, 2016). IPG has requested a partial distribution equal to 21.52% of the 2000-2003 pools, and 75% of the average figures advocated by the SDC

percentage figures set forth in the SDC Direct Statement, the SDC nonetheless object that IPG is not entitled a partial distribution of such royalties – as the SDC and all other parties have received – because IPG is merely an “agent” of claimants. According to the SDC, IPG’s status as an agent fails to satisfy the prerequisite of being an “established claimant”, as a matter of law. The SDC also challenge that it has “substantial questions relating to IPG’s willingness and ability to disgorge funds”. SDC Opp. at p. 1.

The SDC’s opposition brief reflects itself to be nothing more than yet another pleading submitted by the SDC in order to harass and besmirch IPG (and, occupy as many as five legal counsel who regularly appear at every Phase II CRB hearing for the SDC, in contrast to one attorney for IPG, and two or three for the MPAA.)

**A. IPG has already been deemed an “established claimant” in the program suppliers category, and is not disqualified from such characterization merely because it is a for-profit entity. IPG is an “established claimant” in the devotional category.**

The SDC asserts that IPG is not an “established claimant” because IPG is merely an “agent” of claimants, and a for-profit business. However, the SDC ignore that IPG was *already deemed* an “established claimant” in

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equals a blended average of 22.48%. Although the 2000-2003 devotional royalty pools are different, they vary insignificantly.

the program suppliers category when it sought and received a partial distribution of 2004-2009 cable royalties attributable to the program suppliers category.<sup>2</sup> Consequently, the SDC's argument that IPG is foreclosed from *ever* being deemed an "established claimant" because it is an agent and a commercial entity is exposed as inaccurate.

Regardless, if IPG is an "agent" of claimants as the SDC contend, IPG stands in the shoes of its represented claimants. As such, it would not be reasonable to deny IPG any of the entitlements due to the principals in whose shoes IPG stands. For this rather obvious reason, the SDC fail to cite any authority for the proposition that an agent of a principal is to be treated differently than its principal, either in these or any comparable proceedings.

In fact, the fallacy of the SDC argument that an agent may not be considered an "established claimant" is revealed by simple consideration of the entities that typically have received advance royalties in these proceedings. The vast majority of entities receiving advances are "agents" of claimants. Therefore, the logical extension of the SDC's argument that

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<sup>2</sup> Such partial distribution came following the final non-appealable distribution of program supplier royalties attributable to the 2000-2003 cable pools. See *Order Directing Partial Distribution of Program Suppliers' Cable Royalties to IPG-Represented Claimants for 2004 through 2009* (Nov. 9, 2016).

“agents” of claimants *cannot* qualify as of an “established claimant” means that under no circumstances should any royalties have been previously advanced to the Motion Picture Association of America, PBS, the National Association of Broadcasters, or the Canadian Claimants Group. As the Judges are likely aware, partial distributions have been provided to these entities for decades, and on countless occasions.

In order to distinguish IPG from such “agents”, the SDC falsely attribute the Judges with the position that an agent is precluded from qualifying as an “established claimant” if the agent is *commercially* motivated. That is, the SDC attribute the Judges with the position that a non-profit organization acting as an agent can qualify as an “established claimant”, whereas a for-profit organization cannot so qualify. No explanation is provided as to why such distinction would be relevant, and the SDC cite only to unrelated dicta from a ruling on the validity of claims to assert this position. The SDC ignore that while many of the entities receiving advances are ostensibly non-commercial, they nonetheless represent (and have received partial distributions on behalf of) commercially motivated agents and commercially motivated claimants. Moreover, the SDC ignore that if such a rule were to apply, i.e., that only non-profit “agents” could qualify as “established claimants”, IPG would not have

previously qualified for a partial distribution of royalties in the program suppliers category.

**B. The SDC provides a long list of “arguments” that have no relation to IPG’s claim to 2000-2003 cable royalties, and/or no effect on IPG’s claim to 2000-2003 cable royalties.**

Inexplicably, the SDC’s argument as to why IPG is not an “established claimant” for purposes of these 2000-2003 cable proceedings includes (i) reference to the fact that the Judges ruled that IPG is entitled no 2008 *satellite* royalties, (ii) that for 2010 and subsequent IPG has transferred its rights to Multigroup Claimants, (iii) that Raul Galaz has been found liable of an unrelated fraudulent conveyance, and (iv) the SDC has moved to strike IPG’s direct statement in these proceedings.

Why any of these assertions have anything to do with IPG’s motion for distribution of 2000-2003 cable royalties is unclear and unexplained, nor does the SDC address the fact that IPG seeks 75% of the figure that the SDC *concede* IPG is entitled, i.e., 75% of the *minimum* amount that IPG will be awarded. That is, the only argument set forth above that remotely relates to 2000-2003 cable royalties is the SDC’s argument that it has sought to strike IPG’s direct statement. Aside from the fact that the SDC’s argument to throw out the *entirety* of IPG’s direct statement is based on IPG’s overstatement by 3.73% of IPG’s 2001 cable claim, even if the SDC were to

obtain its requested remedy IPG would still receive the figures advocated by the SDC in its direct statement. As noted herein, IPG's motion only seeks 75% of such figures, i.e., 75% of the *minimum* amount that IPG will be awarded. Consequently, whether or not the SDC's overreaching motion were granted or not, it would have no effect on the arguments that stand as the basis of IPG's motion for partial distribution of 2000-2003 cable royalties.

**C. The SDC challenge is based on a variety of events that the SDC speculate *might* occur in the event that several overreaching motions brought by the SDC are granted.**

The SDC also argue that the SDC and MPAA have brought a motion for sanctions against IPG and its counsel in the consolidated 1999-2009 satellite and 2004-2009 cable proceedings, and a motion to disqualify Multigroup Claimants in the 2010-2013 proceedings. The tenuous connection with IPG's motion for an partial distribution of 2000-2003 cable royalties is that *if* the SDC were to prevail on such motions, IPG-represented claimants *might* elect to represent themselves in these proceedings.

IPG has represented each of the handful of devotional claimants represented in the 2000-2003 cable proceedings for more than seventeen years (see *infra*), and the SDC present no evidence that any of those claimants have elected to represent themselves in these proceedings, even if

the SDC and MPAA were to prevail in any or all of the overreaching motions that have been brought.<sup>3</sup>

**D. The SDC's ostensible concern that IPG will be unable or unwilling to disgorge funds is ridiculously contrived, and based on a disturbing number of misrepresentations and non-sequitur arguments. The SDC have no standing to involve itself in contractual matters between IPG and its represented claimants, and the Judges have already ruled their lack of authority to involve themselves in such matters.**

Ostensibly out of the goodness of its heart, the SDC embark upon an area for which it has no standing, and argue that they are concerned that IPG will be unable or unwilling to disgorge the funds collected on behalf of its represented devotional claimants.<sup>4</sup> On such grounds, the SDC argue that the Judges should not make a partial distribution of royalties to IPG for 2000-2003 cable royalties from the devotional category.

Following prior attempts to inject the Judges in the contractual relationships between IPG and its represented claimants, including IPG's

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<sup>3</sup> IPG-represented claimants for 2000-2003 cable royalties in the devotional category include Benny Hinn Ministries, Billy Graham Evangelistic Association, Creflo Dollar Ministries, Kenneth Copeland Ministries, and Life Outreach International.

<sup>4</sup> The SDC's disingenuous concern for the well-being of IPG-represented devotional claimants may be properly evaluated against the SDC's prior attempts in all proceedings to dismiss the valid claims of such claimants, in order that such claimants receive no royalties for any of their cable and satellite retransmitted programs.

dispute with Bob Ross, Inc., the Judges have correctly declined to involve themselves.<sup>5</sup> Nevertheless, refusing to abide by such ruling, the SDC persist, and lob a host of accusations against IPG based on its unsubstantiated and non-sequitur “suspicions” of IPG’s alleged insolvency and alleged refusal to abide by its contractual relationships. The logic by which the SDC reaches its conclusions regarding these matters is as flawed and contrived as the SDC’s purported motives.

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<sup>5</sup> Following IPG’s most recent request for a partial distribution of royalties, the Judges held the following:

“With respect to IPG’s willingness to pay its own claimants funds that are due to them, MPAA alleges that IPG continues to withhold cable royalties it received on behalf of Bob Ross, Inc. As a preliminary matter, the Judges note that no IPG claimant responded to the *Federal Register* notice announcing IPG’s request for partial distribution. Therefore, the Judges have no evidence from IPG-represented claimants to support MPAA’s allegation. Assuming, for the sake of argument, that MPAA’s allegations are true, MPAA describes a contract dispute between IPG and a claimant. The Act does not authorize the Judges to adjudicate or mediate contract disputes.

Therefore, the Judges conclude that MPAA has not stated a reasonable objection to IPG-represented claimants receiving a partial distribution of cable royalties from the Program Suppliers category for 2004-2009.”

*See Order Granting In Part and Denying In Part IPG’s Motion for Partial Distribution of Program Suppliers Royalties* at p. 9 (Sept. 29, 2016), Docket nos. 2012-6 CRB CD 2004-09 (Phase II), 2012-7 CRB SD 2004-09 (Phase II).



*First*, the SDC states that it “suspect[s] that IPG is insolvent”. The sole predicate of this conclusion is the SDC’s false statement that IPG “engaged in a large conveyance of assets [to Multigroup Claimants and Spanish Language Producers for the years 2010 and later] without consideration”. Conveniently, the SDC make this allegation without a shred of familiarity with the intra-family transfer amongst the principals of IPG, Multigroup Claimants, and Spanish Language Producers, nor provides any (reasonable) explanation as to why transfers relating to 2010 and after have any relation to 2000-2003 cable royalties or IPG’s solvency.

*Second*, and based on the SDC-contrived assertion that IPG conveyed assets “without consideration”, the SDC’s next failed leap of logic is to state that “[a] transfer of assets without consideration is suggestive of a fraudulent conveyance, which implies insolvency”. The SDC’s argument is mind-numbing. The SDC provide literally no rational explanation for such statement (why would a fraudulent conveyance, even if existent, imply insolvency?), ignore that the transfer was only for years 2010 and after, and fail to even explain what conceivable fraudulent purpose existed for a conveyance that was openly revealed in public filings.

*Third*, the SDC summarily allege that the conveyance from IPG to Multigroup Claimants was not arms-length solely because it was between

Denise Vernon and Alfred Galaz, suggesting that *all* intra-family transfers are non-arms-length.

*Fourth*, the SDC falsely accuse that Alfred Galaz attempted to “conceal his identity” despite the fact that the documents reflecting the transfers to Multigroup Claimants and Spanish Language Producers clearly reflected his name, and were produced in the initial round of discovery. In fact, such documents are *attached* to the SDC opposition brief, and may be considered by the Judges firsthand in order to evaluate whether any “identity concealment” was involved. See signature line to Exhibits 1, 2 to SDC Opp. The SDC’s allegation regarding Alfred Galaz is based solely on Multigroup Claimants’ objection that the organizational documents of those entities were irrelevant to any matter before the Judges,<sup>6</sup> and ironically, the SDC refused to produce *the identical documents requested by IPG*.<sup>7</sup> Despite

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<sup>6</sup> See *Multigroup Claimants’ Opposition to Settling Devotional Claimants’ Motion to Compel Production of Documents* at p. 5 (July 28, 2016) (Docket nos. 14-CRB-0010-CD 2010-2013, 14-CRB-0011-SD 2010-2013).

<sup>7</sup> *Id.* See also, *Multigroup Claimants’ First Motion to Compel Production of Documents Not Produced by Settling Devotional Claimants* at p. 6 (July 28, 2016)(Docket nos. 14-CRB-0010-CD 2010-2013, 14-CRB-0011-SD 2010-2013). Multigroup Claimants received a copy of the SDC requests, and responded by propounding many of the same requests. The SDC nonetheless objected. In the Judges’ orders on discovery the Judges ordered Multigroup Claimants to produce the category of documents, but denied Multigroup Claimants’ request for production of the identical documents. *Cf. Order Granting In Part Settling Devotional Claimants’ Motion to*

producing such documents (see Exhibits 3, 4 to SDC Opp.), Multigroup Claimants continues to maintain that the form of those entities, e.g., corporation, limited liability company, etc., had no conceivable significance to any matter before the Judges, leaving the subject requests without any apparent purpose other than to vex and harass IPG.

*Fifth*, the SDC accuse that Multigroup Claimants *falsely* reported to the Judges that it and Spanish Language Producers (both owned by Alfred Galaz) had come to an agreement regarding their respective roles in the 2010-2013 proceedings. The SDC accusation of a “false report” is entirely an SDC fabrication, and proven inaccurate by documents produced in the initial round of discovery in the 2010-2013 proceedings, which are also attached to the SDC opposition brief.<sup>8</sup> As reflected therein, Multigroup Claimants included the claims of Spanish Language Producers as part of its claims rather than Spanish Language Producers maintaining a duplicative and redundant presence in the 2010-2013 proceedings.

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*Compel Production by Multigroup Claimants* at p. 3 (Sept. 14, 2016) with *Order Granting In Part Multigroup Claimants’ Motion to Compel Production by Settling Devotional Claimants* at p. 4 (Sept. 14, 2016) (“[S]auce for the goose is not, *ipso facto*, sauce for the gander.”).

<sup>8</sup> See Exhibits 1, 2 to SDC Opp. Review of the text of Exhibits 1 and 2 reflect that the rights held by Spanish Language Producers would vest with Multigroup Claimants if Spanish language programming were not established as a separate Phase I category.

*Sixth*, the SDC attempt to equate a dramatically different factual scenario for which Raul Galaz was found liable, with the intra-family transfers amongst Denise Vernon and Alfred Galaz. The most obvious difference is that Raul Galaz was found liable because he ostensibly transferred rights that he co-owned with others, whereas in this case Denise Vernon transferred 2010-forward rights for which it is universally acknowledged that only Ms. Vernon owns. Again, no basis exists to characterize Ms. Vernon's transfer to Alfred Galaz as "fraudulent", and the SDC's characterization is revealed as but another gratuitously false accusation thrown out by the SDC.

*Finally*, for the umpteenth time the SDC raise the contractual dispute between IPG and Bob Ross, Inc. as a tenuous basis for denying IPG a partial distribution of royalties, and despite this panel's explicit rulings on this matter. See cited excerpt, footnote 5, *supra*. The SDC rehash the entire Bob Ross, Inc. matter then, based on a knowingly misattributed position of IPG, argue that: IPG has reversed position, that such reversal bears on IPG's credibility, and such reversal bears on the partial distribution sought by IPG herein. Specifically, the SDC falsely assert that on October 28, 2016 "Multigroup Claimants further expressed to the Judges that IPG was willing for the entire amount to be returned to PBS", citing to an October 28, 2016

pleading filed by Multigroup Claimants. See *Multigroup Claimants' Opposition to SDC Motion for Disallowance of Claims Made by Multigroup Claimants*, No. 14-CRB-0010-CD 2010-13, Oct. 28, 2016, at 33.

Review of that pleading makes clear that Multigroup Claimants was detailing an offer that had been made by IPG *over four years ago*, and prior to revelation by Bob Ross, Inc. of documents relevant to the dispute. IPG's position as to the Bob Ross, Inc. matter is succinctly and comprehensively set forth in recent correspondence attached to the SDC opposition brief, has been set forth on countless occasions, and is no different than has been stated for several years. See SDC Opp. at Exh. 11 (April 12, 2017 letter by Brian Boydston). Notwithstanding, dissatisfied with the relevant facts, in an effort to prop up its arguments regarding Bob Ross, Inc., the SDC misrepresent IPG's position, and misrepresent the position of IPG as set forth in pleadings filed by Multigroup Claimants. IPG's contractual dispute with Bob Ross, Inc. has never had any relation to the devotional programming category, has no relation to this proceeding, presents a unique factual scenario that bears no relation on IPG's contractual relationships with devotional producers and, most significantly, is a contractual dispute

for which the Judges have already indicated they have no authority to adjudicate.<sup>9</sup>

## CONCLUSION

Now that IPG has received a final, non-appealable award of 1999 cable royalties in the devotional category, IPG has qualified itself as an “established claimant” in the devotional category. Advance distribution of 75% of the minimum amount that IPG will receive is therefore warranted. No “reasonable objection” has been set forth to such proposed partial distribution.

As to the “substantial questions” that ostensibly drive the SDC’s concern for IPG clients, the SDC has no support from the IPG-represented claimants, nor have the IPG-represented claimants expressed such concern. In fact, with the sole exception of Billy Graham Evangelistic Association, all of the devotional claimants on whose behalf IPG makes claim in the 2000-2003 proceedings are still represented by IPG, and have been represented by IPG without interruption since no later than for calendar year 2000

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<sup>9</sup> See *Order Granting In Part and Denying In Part IPG’s Motion for Partial Distribution of Program Supplier’s Royalties* at p. 9, Docket nos. 2012-6 CRB CD 2004-2009 (Phase II), 2012-7 CRB SD 1999-2009 (Phase II).

royalties.<sup>10</sup> Most of such entities have engaged IPG for the collection of royalties ex-U.S. and, consequently, for seventeen (17) years IPG has collected ex-U.S. royalties on behalf of such entities and accounted to them, all without incident.

Notwithstanding the foregoing, and that there is no evidence or even suggestion of discord between IPG and its represented claimants, the SDC claim that they know better, and that it has “substantial questions relating to IPG’s willingness and ability to disgorge funds”. However, the SDC’s “substantial questions” are nothing more than poorly thought out excuses raised by the SDC in order to disrupt or antagonize IPG’s operations, and to delay distributions to IPG and its represented claimants. Quite simply, the SDC seek to accomplish this goal by requiring the Judges to engage in endless consideration of specious arguments. The Judges should rule in IPG’s favor, without further delay.

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<sup>10</sup> IPG will be imminently filing an amended claim removing the 2001 broadcasts of Jack Van Impe Ministries and Salem Baptist Church of Chicago, both of whom engaged IPG for the 2001-forward royalty pools and continue to engage IPG.

Respectfully submitted,

Dated: May 2, 2017

\_\_\_\_\_/s/\_\_\_\_\_  
Brian D. Boydston, Esq.  
California State Bar No. 155614

PICK & BOYDSTON, LLP  
10786 Le Conte Ave.  
Los Angeles, California 90024  
Telephone: (213)624-1996  
Facsimile: (213)624-9073  
Email: brianb@ix.netcom.com

Attorneys for Independent Producers  
Group



**CERTIFICATE OF SERVICE**

I hereby certify that on this 2nd day of May, 2017, a copy of the foregoing was sent by overnight mail and email to the parties listed on the attached Service List.

/s/

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Brian D. Boydston, Esq.

**DEVOTIONAL CLAIMANTS:**

Clifford M. Harrington  
Matthew J. MacLean  
Victoria N. Lynch  
Pillsbury, Winthrop, et al.  
P.O. Box 57197  
Washington, D.C. 20036-9997

**MPAA-REPRESENTED PROGRAM SUPPLIERS:**

Gregory O. Olaniran, Esq.  
Lucy Holmes Plovnick Esq.  
Mitchell, Silberberg & Knupp LLP  
1818 N Street, N.W., 8<sup>th</sup> Floor  
Washington, D.C. 20036