

Before the
COPYRIGHT ROYALTY JUDGES
Washington, D.C.

In the Matter of)
)
Distribution of 2021) Docket No. 22-CRB-0005-CD
Cable Royalty Funds) (2021)
_____)

Multigroup Claimants’ Comments and Opposition to Allocation Parties’ Joint Motion for Partial Distribution of 2021 Cable Royalties

Worldwide Subsidy Group LLC (a Texas limited liability company) dba Multigroup Claimants (“MGC”) hereby responds to the Notice Requesting Comments published in the *Federal Register* at 89 Fed. Reg. 21286 (March 27, 2024), and opposes the Allocation Parties’ *Joint Motion for Partial Distribution of 2021 Cable Royalties* (March 12, 2024; the “*Joint Motion*”), whereby the “Allocation Parties” moved for distribution of 40% of the 2021 cable funds.

ARGUMENT

- I. No distributions should be made to the Allocation Parties unless and until the Judges rule on Multigroup Claimants’ multiple pending motions for partial distribution, including a pending motion *in this proceeding*, which motions predate the Allocation Parties’ motion for partial distribution by as much as three years.**

Multigroup Claimants currently has multiple pending motions for partial distribution, covering eight cable royalty pools spanning 2014 through 2022. For each of the related motions, Multigroup Claimants has sought merely 50% of its historical award, has demonstrated Multigroup Claimants to be an “established claimant”, and all briefing

on such motions has long concluded. The oldest of these motions was submitted to the Judges in July of 2021.¹ The most recent, for this very proceeding, concluded briefing six months ago. Despite having all information on which to make a partial distribution, the Judges have conspicuously failed to rule on any of the multiple pending motions, all the while consistently granting partial distributions emanating from Allocation Parties' motions, even motions filed *years* after the motions for partial distribution filed by Multigroup Claimants.² It remains the case that the Judges have granted the Allocation Parties' various motions for partial distribution within an average of *5.3 months* -- start to finish -- while the average for Multigroup Claimants' similar motions is *26.6 months and climbing*. See **Exhibit A**. Notably, however, the Judges have only actually issued a ruling in *one of eight motions* for partial distribution filed by Multigroup Claimants (*id.*), inexplicably failing to address the remaining motions while simultaneously addressing and granting the Allocation Parties' motions for partial distribution.

It remains a frustrating quandary to Multigroup Claimants why its motions for partial distribution, *including in this proceeding*, have been ignored, while the Allocation Parties' motions for partial distribution have been timely considered, addressed, and ultimately granted – in each circumstance. No explanation for such disparate treatment

¹ See *Multigroup Claimants' Motion for Partial Distribution of 2015-2017 Cable Royalties* (July 23, 2021).

² See *Order 02 Granting Moving Parties' Motion for Partial Distribution of 2020 Satellite Royalties* (Dec. 7, 2023), from *Motion of the Allocation Phase Parties for Partial Distribution of 2020 Satellite Royalty Funds* (Dec. 30, 2022); See *Order 02 Granting Moving Parties' Motion for Partial Distribution of 2020 Cable Royalties* (Dec. 7, 2023), from *Motion of the Allocation Phase Parties for Partial Distribution of 2020 Cable Royalty Funds* (Dec. 30, 2022).

has been offered, nor should such disparate treatment continue. Equity requires that the Judges immediately remedy this situation, and grant each of Multigroup Claimants' pending motions. Failure to do so, and failure to address those motions is, unfortunately, arbitrary and capricious.

II. The Judges should not make any further distributions to a party until such party has remedied any instances of overpayment in prior proceedings.

As noted above, the *identical* parties from whom royalties have yet to be reclaimed following prior miscalculations and excess disbursements, are the same entities seeking the distribution of royalties under the current motion. That is, the same entities that received overpayments in prior proceedings, and failed to timely return the overpayments on their own volition, are now asking for a partial distribution.

For example, in the 1999-2009 Satellite/2004-2009 Cable Consolidate Proceeding, Docket nos. 2012-6 CRB CD 2004-2009 (Phase II) and 2012-7 CRB SD 1999-2009 (Phase II), significant calculation errors were identified and addressed by the Judges in their January 11, 2021 order, including a direction that the Licensing Division recover over \$1 Million of overpayments to certain Allocation Phase parties. See *Joint Motion for Order Addressing Overpayment and Surplus Issues* (Sept. 10, 2021). After two years, after no repayment of such funds had occurred, the foregoing motion was renewed on September 11, 2023,³ prompting the Judges to issue yet another order

³ See *Order 1 Granting Joint Motion for Order Addressing Overpayment and Surplus Issues* (Mar. 18, 2024)(Consolidated docket nos. 2012-6 CRB CD 2004-2009 (Phase II) and 2012-7 SD 1999-2009 (Phase II)).

directing the Licensing Division to “take immediate steps to recover the royalty funds that were overpaid”. Of those overpayments, several hundred thousand dollars are owed to Multigroup Claimants yet have yet to be repaid.

In the 2000-2003 Cable Proceeding, a similar issue of overpayments existed that took years to remedy. See *Second Order Directing Recalculation of Royalty Calculations* (Mar. 11, 2022) referencing *Order Directing Recalculation of Royalty Allocations in the Devotional Category and Seeking Additional Guidance* (Aug. 28, 2020), 2000-2003 Cable Proceedings, Docket no. 2008-2 CD 2000-2003 (Phase II)(Remand). Again, repayment of overpayments issued to various Allocation Parties’ members did not occur despite the passage of two and one-half years.

In the 2010-2013 Cable/Satellite Proceeding, the same. 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*, Docket no. 14-CRB-0010-CD/SD (2010-2013), wherein the Judges noted that a shortfall existed, and ordered the Licensing Division to:

“take steps to invoke the repayment agreements that bind the allocation phase parties in order to recover the overpayments that those parties have received. Once the Licensing Division has recovered the overpayments, with interest, the Judges will order final distribution of those amounts to MGC.”

Id. Still, nothing occurred, and none of the overpayments were made by the Allocation Parties. This prompted the Judges to issue its *Order Regarding Final Distribution of 2010-2013 Satellite Royalty Funds* on December 22, 2021, *again* ordering the Licensing Division to perform the necessary calculations and overpayment recovery ordered almost

a year prior. Despite the foregoing, repayment by the Allocation Parties did not occur until on or about March 2, 2023,⁴ i.e., more than two years after initially ordered. Multigroup Claimants has yet to have such overpayments returned to it by the Licensing Division, much less a calculation of the amounts owed to Multigroup Claimants.

At this point, it is not the exception, but the norm, that overpayments have been made to various members of the Allocation Parties, for which there has been zero consequence for the Allocation Parties' failure to return the overpayments, even when the overpaid party has been made explicitly aware of the overpayments they have received. For this reason, it remains equitable and obvious that unless and until such excess disbursements have been repaid by such Allocation Parties members and distributed to the underpaid parties, no further distributions should be made to the Allocation Parties members, and the pending motion for partial distribution should be denied.

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⁴ See *Order 39 of Final Distribution of 2010-2013 Satellite Royalty Funds to Multigroup Claimants* (Dec. 18, 2023), Consolidated Dkt. No. 14-CRB-0010-CD/SD (2010-2013).

CONCLUSION

As a basic equitable concept, the Judges should not consider the Allocation Parties' motion for partial distribution for 2021 cable royalties unless and until the Judges first address Multigroup Claimants' multiple pending motions for partial distribution. Further, no party should be advanced any further funds from any proceeding without first remitting back to the Licensing Division those monies that were overpaid to it from prior proceedings, a fact that singularly warrants denial of the Allocation Parties' motion for partial distribution.

Respectfully submitted,

Dated: April 26, 2024

_____/s/_____
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CERTIFICATE OF SERVICE

I certify that on April 26, 2024, 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.

EXHIBIT A

Comparison of CRB response times for motions for partial distribution

Docket #	Docket	Motion for Distribution - Date	Renewed Motion for Distribution - Date	Second Renewed Motion for Distribution - Date	Federal Register Notice - Date	Federal Register Notice - Months after Motion for Distribution	Renewed Motion for Distribution - Date	Second Renewed Motion for Distribution - Date	Order Granting/Denying Partial Distribution - Date	Order Granting/Denying Distribution - Months after close of Federal Register Notice	Aggregate months in hands of CRB	NOTES
Phase I claimants motion for partial distribution												
14-CRB-0007 CD (2010-2012)	2012 Cable	07/25/14	09/12/14		10/01/14	2.25			12/23/14	1.75	4.00	
14-CRB-0008 SD (2010-2012)	2012 Satellite	07/25/14	09/12/14		10/01/14	2.25	02/26/15		03/03/15	4.00	6.25	Delay in order due to oversight.
14-CRB-0010 CD (2013)	2013 Cable	01/21/15			03/04/15	1.50			05/28/15	1.75	3.25	
14-CRB-0011 SD (2013)	2013 Satellite	01/21/15			02/11/15	1.00			05/28/15	2.50	3.50	
16-CRB-0009-CD (2014)	2014 Cable	02/05/16			02/29/16	0.75			08/15/16	4.50	5.25	
16-CRB-0010-SD (2014)	2014 Satellite	03/11/16			04/29/16	1.50			08/24/16	2.75	4.25	
16-CRB-0020 (2015)	2015 Cable	02/17/17			04/25/17	2.00			06/06/17	0.50	3.50	
17-CRB-0011-SD (2015)	2015 Satellite	02/17/17			04/17/17	2.00						
					09/29/17	7.00			11/07/18	0.50	17.00	
17-CRB-0017-CD (2016)	2016 Cable	05/18/18			06/04/18	0.50			unknown	unknown	unknown	
16-CRB-0010-SD (2014-17)	2016 Satellite	06/28/19			07/16/19	0.50			08/23/19	0.25	1.75	
16-CRB-0009-CD (2014-17)	2017 Cable	03/15/19			04/10/19	1.00			05/22/19	0.25	2.25	
16-CRB-0010-SD (2014-17)	2017 Satellite	06/28/19			07/16/19	0.50			08/23/19	0.25	1.75	
16-CRB-0010-SD (2014-17)	2014-2017 Satellite	09/15/21			03/14/22	6.00			05/04/22	1.00	8.00	
16-CRB-0010-SD (2014-17)	2014-2017 Satellite	08/17/22			12/13/22	4.00				7.00+	7.00	
19-CRB-0010-CD (2018)	2018 Cable	05/11/20			05/18/20	0.25			08/20/20	2.00	3.00	
19-CRB-0011-SD (2018)	2018 Satellite	05/11/20			05/18/20	0.25			08/20/20	2.00	3.00	
20-CRB-0010-CD (2019)	2019 Cable	06/10/21			06/24/21	0.50			08/09/21	0.50	2.00	
20-CRB-0009-SD (2019)	2019 Satellite	06/10/21			06/24/21	0.50			08/10/21	0.50	2.00	
21-CRB-0008-CD (2020)	2020 Cable	12/30/22			03/22/23	3.00			12/07/23	7.50	11.50	
21-CRB-0009-SD (2020)	2020 Satellite	12/30/22			03/22/23	3.00			12/07/23	7.50	11.50	
16-CRB-0009-CD (2014-17)	2016 and 2017 Satellite	04/11/23										
22-CRB-0005-CD (2021)	2021 Cable	03/12/24			03/27/24	0.50						
22-CRB-0006-SD (2021)	2021 Satellite	03/12/24			03/27/24	0.50						
					Average	1.79			Average	2.22	5.30	Avg. based on ## of separate motions filed
IPG/MGC motions for partial distribution												
2012-6 CRB CD (2004-2009), 2012-7 CRB SD (1999-2009)	2004-2009 Cable, 1999-2009 Satellite	09/18/15			12/16/15	3.00	06/06/15	08/25/16	11/09/16	10.00	14.00	
2008-2 CRB CD 2000-2003 (Phase 2)	2000-2003 Cable (Devotional)	04/19/17			04/01/19	24.00	10/24/19		n/a	68.00	68.00	Order never issued. Final distribution order issued December 5, 2022.
16-CRB-0009-CD (2014-17)	2014-2017 Cable	07/23/21	01/28/22	04/03/23	09/13/21	2.00					33.00+	Order not yet issued
19-CRB-0010-CD (2018)	2018 Cable	04/03/23			10/25/23	6.00					12.00+	Order not yet issued
20-CRB-0010-CD (2019)	2019 Cable	04/03/23			10/25/23	6.00					12.00+	Order not yet issued (same motion as for 2018 cable)
21-CRB-0008-CD (2020)	2020 Cable	04/03/23			10/25/23	6.00					12.00+	Order not yet issued
22-CRB-0005-CD (2021)	2021 Cable	10/11/23			10/25/23	0.50					6.00+	Order not yet issued (same motion as for 2020 cable)
23-CRB-0008-CD (2022)	2022 Cable	10/11/23			10/25/23	0.50					6.00+	Order not yet issued (same motion as for 2020 cable)
					Average	6.00			Average	39.00	26.60+	Avg. based on ## of separate motions filed