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In re

**DISTRIBUTION OF SATELLITE
ROYALTY FUNDS**

**DOCKET NO. 16-CRB-0010 SD
(2014-17)**

**[PUBLIC] ORDER 27 ON MOTION
OF MULTIGROUP CLAIMANTS FOR PARTIAL DISTRIBUTION
(2015-2017 Deposits)**

This matter is before the Copyright Royalty Judges (Judges) on motion of Worldwide Subsidy Group LLC (WSG) dba Multigroup Claimants (MGC) (Motion) (eCRB no. 25503), seeking partial distribution of satellite royalty fees deposited with the United States Copyright Office for the license to retransmit television programming by satellite carriers for broadcast years 2015 through 2017.

Satellite carriers deposit royalties annually. After the satellite carriers deposit the statutory royalties, copyright owners may file claims to the funds. If all eligible claimants agree, the Judges order distribution of the funds in accordance with the parties' agreement(s). If distribution of the funds is in controversy, the Judges commence a proceeding to adjudicate distribution of the royalties. Notwithstanding any controversy regarding disbursement of the funds, at any time after licensees deposit royalty fees with the Copyright Office, parties entitled to a share of the fees may request partial distributions. The Judges may approve a partial distribution, reserving on deposit sufficient funds to distribute when the parties either reach further agreement or the Judges adjudicate the appropriate distribution.

With regard to satellite television royalties for the subject broadcast years, the Judges have ordered partial distributions as follows.

Order Date	Royalty Year	Recipients	Authorized Distribution
2018-11-07	2015	Program Suppliers, Joint Sports Claimants, Broadcaster Claimants Group, Music Claimants, Devotional Claimants	40%
2019-08-23	2016-17	Program Suppliers, Joint Sports Claimants, Broadcaster Claimants Group, Music Claimants, Devotional Claimants	40%

Order Granting Allocation Phase Parties' Motion for Partial Distribution of 2015 Satellite Royalties, Docket No. 17-CRB-0011-SD (2015) (Allocation Phase); Order Granting Motion of Allocation Phase Claimants for Partial Distribution of 2016 and 2017 Satellite Royalty Funds, Docket No. 16-CRB-0010-SD (2014-17).

MGC is a participant in this consolidated proceeding but is only asserting claims for royalty years 2015 through 2017. MGC filed the Motion on July 23, 2021. Settling Devotional

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Claimants (SDC) filed a response in opposition to the Motion (Opposition) (eCRB no. 25572). And MGC filed a reply (Reply) (eCRB no. 25603). In September 2021, the Judges published in the Federal Register notice of the motion and requested comments. 86 Fed. Reg. 50910 (Sep. 13, 2021). In the notice, they acknowledged receipt of the Opposition and Reply, deeming them timely-filed comments. *Id.* at 50911. The Judges received no other comments.

The essence of MGC's Motion is that other participants in these proceedings have received partial distributions in amounts from 40% to 60% of available royalties in the respective years' funds. MGC cited its recent record of satellite royalty distributions from the portion allocated to the Devotional Claimants alone. MGC is seeking 50% of the average percentage amounts previously awarded to MGC in the 2010-2013 satellite proceedings.

In opposition, SDC offers responses similar to those it has presented to prior requests by MGC and its predecessor entities in royalty distribution proceedings. SDC argues that MGC 1) is not an "established claimant" in royalty distribution proceedings, 2) would be unwilling or unable to disgorge any overpayment, and 3) poses concerns regarding the potential for fraud or abuse in relation to a partial distribution. MGC responded to the argument offered by SDC in its reply submissions.

Statutory Authorization for Partial Distributions of Funds in Controversy

Section 801(b)(3)(C) of the Copyright Act (Act) grants the Judges authority to authorize partial distributions of deposited royalties on the motion of an interested claimant at any time after claims are filed. That subparagraph provides:

Notwithstanding section 804(b)(8), the Copyright Royalty Judges, at any time after the filing of claims under section 111, 119, or 1007, 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 –

- (i) agree to the partial distribution;
- (ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);
- (iii) file the agreement with the Copyright Royalty Judges; and
- (iv) agree that such funds are available for distribution.

17 USC 801(b)(3)(C).

Analysis and Findings

Established Claimant

In the 26 years between 1998 and 2024, all parties involved in television royalty distribution proceedings have had notice that MGC, or one of its predecessors in interest, has made the case in vigorously litigated proceedings that it represents claimants entitled to disbursements of television royalties for rebroadcasts by cable or satellite, or both. MGC has not claimed or received disbursements for every one of those years. The proportional disbursements have been small, but applying even a small factor to a multi-million-dollar fund results in disbursements that are meaningful in amount. Disbursements from the Program Suppliers fund to MGC have been consistently less than 1% of each annual fund. Disbursements to MGC from the Devotional category have ranged from approximately 8% to almost 29% of funds at issue in a given proceeding.

The argument that MGC is not an “established claimant” has run its course. Similarly, the tautological argument that MGC should not receive partial distributions because it has not previously received partial distributions has lost its power. MGC might not have won motions for partial distributions, but it has defended its claims to distributions sufficiently to permit the Judges to consider partial distributions in these proceedings. Nothing in the instant record has persuaded the Judges away from the conclusion that MGC is an established claimant.

Willingness or Ability to Disgorge Any Overpayment

In order to establish MGC’s inability or unwillingness to repay any overpayments of royalties, SDC points to prior circumstances relating to MGC, its owner entity Worldwide Subsidy Group (WSG), its predecessor business identity, Independent Producers Group, and its principals, primarily various members of the Galaz family. Opposition at 9-11. SDC points to a contractual dispute between WSG and a public broadcasting category claimant, which SDC alleges now represents more than a mere contractual dispute and instead is a knowing refusal to return funds to the proper category representative despite an acknowledged error in the distribution of the category’s funds. Opposition at 10-11.

The Judges have previously addressed such contract disputes in relation to granting (in part) similar requests for partial distribution, stating, “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.” Order Granting in Part and Denying in Part IPG’s Motion for Partial Distribution of Program Suppliers’ Royalties at 9, Docket nos. 2012-6 CRB CD (2004- 2009) (Phase II), 2012-7 CRB SD (1999-2009) (Phase II) (Sept. 29, 2016).

The Judges have accepted that MGC is responsible for meeting its duty to certain asserted constituent claimants. Further, MGC has agreed to execute the standard Repayment Agreement as a prerequisite to receiving any distribution, partial or final. Yet, the record reflects legitimate

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concerns regarding consistent financial ability to repay funds, as further addressed below, including in relation to statements in the May 24, 2019 bankruptcy petition.

Concerns Regarding the Potential for Fraud or Abuse in Relation to a Partial Distribution

SDC asserts that the Judges must be wary of making a partial distribution to a party that may be called to return funds that the Judges are required to distribute properly. Opposition at 11-12. It adds that the best way to avoid the need to recoup an overpaid partial distribution is to ensure such a situation does not arise in the first instance. *Id.* In this regard, SDC alleges that WSG and the individuals who have operated and worked for it over the years are not deserving of the trust that is necessary for any necessary repayment of the requested partial distribution. SDC points to instances of perjury, fraud, and criminal conduct of WSG's founder, Raul Galaz, who continues to submit testimony on behalf of its entities in royalty proceedings. *Id.* at 12-14.

SDC also alleges that WSG, as an entity, has repeatedly been involved in disputes over the propriety of its purported authority to collect funds on behalf of copyright owners, and has repeatedly been found to lack that authority. *Id.* SDC points to a particular finding that WSG had no contract with FIFA to collect royalties on its behalf, despite having claimed FIFA programming before the Judges. *Id.* at 12-13. SDC adds that WSG and its current and former principals are alleged in multiple civil actions to have engaged in fraudulent conveyances for the purposes of avoiding debts, including fraudulent conveyances directly involving MGC. SDC also notes evidence in a bankruptcy filing of Alfred Galaz that, as of January 2018 when he transferred his ownership interest in it, WSG's business had a \$0 fair market value. *Id.* at 14, SDC Further Briefing in Response to MGC's Response to Order to Show Cause, Consol. Dkt. 14-CRB-0010-CD/SD (2010-13) (Mar. 16, 2020) app. At 114 (eCRB nos. 21691 and 21688). SDC notes that if that was a false statement (as the SDC believe), then it is evidence that the transfer to Ryan Galaz was fraudulent. If it was an accurate statement, then it raises concerns about WSG's capability to repay any needed portion of a partial distribution. *Id.*

The concerns raised by SDC regarding the potential for fraud are legitimate ones, including with regard to the scope of MGC's representation of claimants in the 2015 satellite fund and regarding financial ability to repay funds. The Judges find that MGC has not adequately addressed such matters. One purposes of the provisions in 17 USC 801(b)(3)(C) is to enable copyright holders whose works are used under the various compulsory licenses to have greater access to their own funds. The Judges recognize that MGC clients are included among those copyright holders who are deserving of efficient of access to their own funds. However, this provision also calls upon the Judges to administer their *fiduciary* duties on behalf of all relevant copyright holders. 152 Cong. Rec. H6962-63 (2006) (statement of Rep. Sensenbrenner).

In regard to their fiduciary duties, the Judges note that SDC has credibly raised concerns regarding MGC's ability to comply with the terms of the Repayment Agreement, including concerns regarding solvency amidst this and similar proceedings. The record also reflects concerns regarding the historical and current accuracy of asserted claimant representation by MGC. For instance, as noted above, SDC pointed to a finding that WSG had not met its burden to establish the existence of an agreement between WSG and FIFA authorizing WSG to pursue

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copyright retransmission royalties on behalf of FIFA, a decision that was affirmed by the court of appeals. *See Worldwide Subsidy Grp., LLC v. Fed'n Int'l de Football Ass'n*, No. CV 14-00013-AB(JCX), 2018 WL 6169253 (C.D. Cal. July 24, 2018), *aff'd*, 771 F. App'x 767 (9th Cir. 2019). The Judges also observe that FIFA is included among the MGC claimants for the requested partial distribution. *See* Claim #195, MGC Joint Claim for Satellite Retransmission Royalty Fees Deposited for 2015, Docket No. 17-CRB-0011-SD (2015). While representation of FIFA as a claimant does not directly impact the instant request for distribution of Devotional Claimants' funds, the accuracy of such claimed representation in the captioned proceeding is relevant to the Judges' analysis.¹

For the foregoing reasons and based on the entirety of the record, Judges find that SDC has presented credible concerns with the requested partial distribution. While the objections do not represent reasonable objections to MGC-represented claimants receiving a partial distribution of the sort addressed in 17 USC 801(b)(3)(C), they do inform the Judges' exercise of discretion under that provision. Ensuring that recipients of partial distributions repay any overpayment is squarely within the Judges' authority. Indeed, the amount of a partial distribution, if any, is at the Judges' discretion. The Judges exercise their established discretion to grant a lower than requested partial distribution to such a level (one half of the request) so as to satisfy the Judges that, in the given circumstances, the likelihood of any overpayment is diminished and ability to repay any overpayment is enhanced.

Therefore, the Judges **GRANT** MGC's request for a partial distribution of satellite royalties in part. The percentage of the distribution from the Devotional category funds for each of the years 2015, 2016, and 2017, shall be 25% of the average percentage of the satellite royalty funds in the Devotional category awarded to MGC for years 2010, 2011, 2012, and 2013.

The Judges **ORDER** the Allocation parties to jointly provide to the Licensing Section of the Copyright Office the percentage of 2015, 2016, and 2017 satellite royalty funds allocated to the Devotional category pursuant to the confidential settlement reached by the Allocation parties. *See* Joint Notice of Final Allocation Phase Settlement and Motion for Further Distribution of 2015-17 Satellite Royalties (Sept. 15, 2021) (eCRB no. 25671) no later than July 11, 2024.

The Judges **ORDER** the Licensing Section of the Copyright Office, upon receipt of the confidential allocation information, to calculate the average percentage of royalties in the Devotional category that was distributed to MGC for years 2010, 2011, 2012, and 2013, and distribute to Multigroup Claimants that portion of the satellite funds allocated to the Devotional category for each of the years 2015, 2016, and 2017, that is equal to 25% of that average percentage.

The Copyright Office shall make the distribution **PROVIDED THAT** Multigroup Claimants provides to the Judges, with a copy to the Copyright Office, a signed agreement in the form required by the Copyright Office stating that the recipient shall repay to the Copyright Office any overpayment that results from the distribution of these funds, together with interest

¹ In this Order, the Judges make no finding regarding the validity of MGC's authority to claim any specific royalties.

