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In re

DISTRIBUTION OF CABLE ROYALTY FUNDS	**CONSOLIDATED DOCKET NO. 19-CRB-0010 CD (2018-21)**
DISTRIBUTION OF SATELLITE ROYALTY FUNDS	**CONSOLIDATED DOCKET NO. 19-CRB-0011 SD (2018-21)**

RESPONSE OF MULTIGROUP CLAIMANTS TO ORDER 11 (2018-21 CD) AND ORDER 6 (2018-21 SD) REGARDING PRESUMPTION OF VALIDITY OF CLAIMS

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ARGUMENT

A. The Proposed Order is uniquely directed at Multigroup Claimants, is *de facto* a proposed regulation, and rulemaking *de facto* directed at a single party, which is prohibited as a matter of law.

As set forth in the Judges' order to show cause, the predicate for the Judges' Proposed Order is as follows:

> *"In recognition of repeated instances in prior Distribition [sic] proceedings where the Judges have found a participant's claim or claims not to be entitled to a presumption of validity, resulting in the ultimate disallowance of claims when their validity could not be proven without that presumption."*

Multigroup Claimants is the ***only*** participant to ever be denied the "presumption of validity", and most recently was denied the "presumption of validity" on unarticulated grounds. Based on the Judges' stated predicate, the Proposed Order is clearly directed exclusively at Multigroup Claimants, for the purpose of excluding MGC and its represented claims from these proceedings by imposing impractical impediments to MGC's ability to prosecute its represented claims.

Irrespective of the Judges characterizing this as a proposed "order", it is a *de facto* proposed regulation. Unlike other proceeding orders intended to address matters uniquely occurring within such proceeding, the predicate for the order is expressly stated to be rulings from other proceedings, for which the Judges propose to institute a rule prospectively for the 2018-2021 cable/satellite proceeding. It takes little effort to see that imposition of the sanction in the prior proceedings were each based on unique arguments and circumstances that are not known to exist in the current proceeding. As such, and merely as a procedural antecedent, the CRB is required to

publish the proposed rule in the Federal Register, allow for public commentary for a prescribed amount of time, etc. On this basis alone, the proposed rule cannot be instituted.

Moreover, although all parties would ostensibly be subject to the rule that the OSC proposes, if the Judges continue their practice of denying MGC the "presumption of validity" on unarticulated or indefensible grounds (see infra), then the practical effect of the Acknowledgment of Representation requirement will be to *de facto* impose its requirements only on Multigroup Claimants. Such is prohibited rulemaking (see infra), and when the CRB previously proposed a similar amendment to the rules that was also directed uniquely at MGC, its representatives, and the undersigned legal counsel, MGC briefed the matter extensively, noting how any such rule or regulation was prohibited as a matter of law.[1] In response, the CRB wisely elected not to engage in partisan rulemaking. In this regard, the Proposed Order is indistinguishable.

B. <u>The inauspicious origin of the "presumption of validity" ruling</u>.

A review of the initial denial of the "presumption of validity" bears relevance here. In short, the entire original premise for denying MGC's predecessor (Independent Producers Group ("IPG")) of a presumption of validity was based upon an inaccurate, unsound and unfair *sua sponte* conclusion by the CRB judges without even affording IPG the chance to address such conclusion until after it was made. This current proposal must be viewed in the dubious light of that original action. Specifically, in the consolidated 1999-2009 satellite/2004-2009 cable proceedings (the "Consolidated Proceedings"), without any prior notice to IPG, or any prior request to IPG for an explanation of the facts, in their Memorandum *Opinion and Ruling on*

[1] See generally, *Comments of Worldwide Subsidy Group, LLC to Proposed Rule Regarding Violation of Standards of Conduct* (May 22, 2017), *Docket No. 17-CRB-0013 RM.*

Validity and Categorization of Claims,[2] the Judges, without any accusation by any party, came to the conclusion, *sua sponte*, that Raul Galaz had submitted false testimony in connection with the 2008 satellite claim of IPG/Worldwide Subsidy Group, LLC ("WSG").[3]

In the Consolidated Proceedings, an issue arose with respect to the attachment to the 2008 satellite claim submitted to the CRB by WSG. The exhibit attached to both WSG's 2008 cable claim and 2008 satellite claim were identical, both titled "Exhibit A to WSG (TX) Claim for Cable/Satellite Royalties", and even delivered to the CRB in the same envelope. Notwithstanding, while WSG's 2008 *cable* claim contained ten pages, enumerated 1-10, the subsequently acknowledged "official" version of WSG's 2008 *satellite* claim was inexplicably missing certain of those pages, i.e., pages 4, 5, 9, and 10 did not appear therein.

At the claims hearing, Mr. Galaz testified that WSG's internal copy of its 2008 satellite claim included all ten pages of the exhibit. Specifically, Mr. Galaz testified (and produced) a photocopy of the entire contents from WSG's files of WSG's submission of 2008 cable and satellite claims, which included a cover letter to the Copyright Royalty Board detailing the contents of the package, i.e., WSG's 2008 cable and satellite claims. The exhibit to WSG's internal copy of its 2008 satellite claim was complete, and included all ten pages.

Mr. Galaz also explained that he had in his possession a version of the 2008 satellite claim that was missing the same pages as appearing in the official records, i.e., missing pages 4, 5, 9, and 10. Mr. Galaz explained that such incomplete version had been secured from the CRB on one of several instances in which Mr. Galaz had traveled to Washington, D.C., during which

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[2] *Memorandum Opinion and Ruling on Validity and Categorization of Claims,* Dkt. No. 2012-6 CRB CD 2004-2009 (Phase II) and Dkt. No. 2012-7 CRB SD 1999-2009 (Phase II).

[3] Multigroup Claimants is a fictitious business name of Worldwide Subsidy Group, LLC.

he had hand-photocopied the claims of WSG and numerous other claimants from the CRB files. Mr. Galaz explained that he had personally scanned in the version from the "official records", stored it electronically on his computer, and simply had not noticed that it was missing pages compared to the version actually filed by WSG. Mr. Galaz further explained that in response to discovery requests, he had produced the scanned incomplete version of WSG's 2008 satellite claim from the "official files" rather than the version that was actually sent by WSG to the CRB.

Mr. Galaz's testimony was unremarkable, and it has never been explained what motivation Mr. Galaz could have to lie about a mere administrative matter. *Not a single question about his testimony was asked by any adverse party, nor the Judges, nor was any suggestion even made that he was not being forthright.* Notwithstanding, in their *Memorandum Opinion*, the Judges abruptly accused Mr. Galaz of lying about such matter. According to the Judges, the version of WSG's 2008 satellite claim that was produced in discovery could not *under any circumstances* have been obtained from the CRB because the CRB's "ordinary course of official business" upon receipt of annual claims is to ascribe a "hand written sequential number". Because the version produced by WSG was not hand numbered, the Judges opined that it could not have come from the CRB. Notably, the ruling was issued without WSG being provided any opportunity to address the factual contention of the Judges.

In response, WSG personnel immediately traveled to Washington, D.C., and requested to see all claims files in order to evaluate the Judges' assertion regarding the CRB's "ordinary course of official business". WSG discovered a staggering number of discrepancies demonstrating that the CRB did not abide by the claimed "ordinary course of official business" that the Judges relied on to accuse Mr. Galaz. Following its review, WSG was able to demonstrate:

- For the 2008 cable/satellite claims and several other years, CRB personnel often vacillated between inscribing a "hand-written sequential number" and utilizing a bate-stamp number on claims, even in connection with the same set of cable or satellite claims;
- CRB personnel sometimes failed to *either* inscribe a "hand-written sequential number" or to utilize a bate-stamp number on claims;
- CRB personnel sometimes added a "hand-written sequential number" and other notations on claims *after* such claims are available for photocopying by the public at the Copyright Office.
- CRB personnel maintained multiple versions of the identical claim;
- the CRB had made the "official records" of claims available to the public at a site different from its location, without any supervision or attempt to assure that such records are returned in the same state as were provided, nor confirm that such claim files are not harmed, whether by inadvertence (e.g., photocopying issues) or intentionally;
- multiple "official" versions of the same claims appeared in the CRB's possession, and were available for photocopy in the Copyright Office reading room;
- the foregoing processed claims had all occurred after the advent of the CRB, i.e., after the CARP no longer existed;
- CRB personnel had previously lost *entire* claims of WSG, as well as the *entire* claims of other claimants, which claims were reinstated only after notice of such error was brought to the attention of the CRB.

In sum, the very factual predicate of the Judges' ruling, on which the Judges relied to deny a "presumption of validity", was demonstrated to be blatantly false. WSG immediately filed a *Motion for Modification of the March 13, 2015 Order*, which attached as exhibits numerous examples of filed claims demonstrating the foregoing, and demonstrating that the CRB maintained absolutely no consistent method of processing claims "in the ordinary course of business". Literally no evidence supported the CRB's contention that it faithfully followed an "official" practice, the very basis for denying WSG a "presumption of validity".

In addition to the practices revealed to exist with the CRB's intake of claims, the CRB's actual misplacement of claims, and the CRB's failure to maintain the chain-of-title, there was substantial evidence corroborating Mr. Galaz's explanation as to why he had in his possession an incomplete copy of WSG's 2008 satellite claim. Yet the Judges refused to withdraw their findings. That is, rather than simply acknowledge that it was possible (if not likely) for the CRB

to have lost *parts* of a claim filing when it was demonstrated that it had already lost *entire* claims of several claimants, the Judges continued to maintain that Mr. Galaz had lied and maintained their draconian sanction of denying WSG's "presumption of validity" for which WSG was not given any opportunity to challenge.

Denial of the "presumption of validity" imposes two significant consequences: (i) to *after-the-fact* ambiguously raise the level of required documentation that *would have been* needed to sustain a claim, and (ii) to summarily award any adverse program claim to the adverse party *irrespective* of the documentation provided by MGC. That is, only *after* a participant is denied a "presumption of validity" is the participant informed that its submission was subject to an unarticulated heightened level of documentation – even though the participant was not aware of or subject to such heightened requirement before making its claims challenge submission, and is not allowed to respond to or supplement their submission in order to address the after-the-fact ruling.

C. <u>The Judges' OSC relies on a false predicate, as demonstrated by the most recent imposition of the "presumption of validity" sanction, and ultimately fails to explain what purpose is served by procuring an "Acknowledgment of Representation", for all of MGC's represented claims.</u>

The ostensible reason for the Judges' order to show cause is set forth above, i.e., the "repeated instances" in prior distribution proceedings where the Judges have denied a presumption of validity. Such statement, however, is disingenuous, as it suggests that the Judges have articulated valid reasons for imposing the sanction, which simply has not occurred.

The flawed origin of the sanction has been explained above, as is the monumental lengths that the Judges went in order to impose it in the Consolidated Proceedings. Since issuance of the *Memorandum Opinion* in the Consolidated Proceedings, the Judges have imposed the sanction upon MGC in each of the subsequent proceedings, irrespective of any evidence of malfeasance,

including the 1998-1999 cable proceeding, the 2010-2013 cable/satellite proceeding, and most recently the 2014-2017 cable/satellite proceeding.[4]

Prior "claims challenge" rulings were extensive and discussed the bases of rulings for specific claims, e.g., in orders of 86 pages, 88 pages, 26 pages, etc.[5] By contrast, the most recent CRB "claims challenge" decision for the years 2014 to 2017 – the first to be issued in almost a decade -- was an aggregate of 4 pages in length, inclusive of the caption and signature block, and summarily provided the rulings as to which claims were to be dismissed.[6] Zero explanation was provided for the bases of the rulings, and the full extent of the Judges' explanation was that the rulings were "based on the entirety of the record". Notably, MGC had several purported claims "dismissed" *that MGC* ***had not even made***,[7] and legitimate MGC claims were dismissed based

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[4] Although Multigroup Claimants) could equally address the arbitrariness of such ruling in the 1998-1999 cable proceeding, as if to establish the point, no claims were affected, despite imposition of such sanction. As applied against MGC in the 2014-2017 proceeding, the sanction has summarily reduced the value of MGC's program supplier claims from approximately 7% of the program supplier pool, to *de minimus* percentages, at a cost of tens of millions of dollars. Coupled with the Judges' ruling that MGC's only adversary in the program supplier category (the Motion Picture Association) is not compelled to produce contracts leading back to the actual owner of program copyright, but merely produce contracts of parties purporting (without produced documentation) to represent the actual owner, the sanction all but nullifies MGC's program supplier claim.

[5] See *Ruling and Order regarding Objections to Cable and Satellite Claims* (Oct. 23, 2017), Consolidated Proceeding No. 14-CRB-0010-CD and Consolidated Proceeding No. 14-CRB-0011-SD (2010-2013 cable/satellite); *Memorandum Opinion and Ruling on Validity and Categorization of Claims* (March 13, 2015), Docket No. 2012-6 CRB CD 2004-2009 (Phase II) and Docket No. 2012-7 CRB SD 1999-2009 (Phase II); *Memorandum Opinion and Order Following Preliminary Hearing on Validity of Claims* (March 21, 2013), Docket No. 2008-2 CRB CD 2000-2003 (Phase II).

[6] See *Order 52 Granting In Part and Denying In Part Motions for Disallowance of Claims Made by Multigroup Claimants* (June 5, 2025), Docket No. 16-CRB-0009-CD (2014-2017) and Docket No. 16-CRB-0010-SD (2014-2017).

[7] For example, MGC explicitly noted in its briefing that the MPA sought to dismiss claims that ***are not being made by MGC***, yet the Judges still "dismissed" such non-existent claims,

MGC's submission ***of the identical documentation*** that several prior CARP and CRB panels had previously found sufficient,[8] even when MGC was subject to a denied "presumption of validity". These facts were discussed at length in MGC's briefing, but were by all appearances ignored.[9]

More significant is that the Judges again denied MGC a "presumption of validity" of its claims, providing zero basis for imposing the sanction, beyond stating that the ruling was "based on the entirety of the record". Whether such ruling was based on the dismissal of claims that had never been made by MGC, the dismissal of claims based on the identical documentation found

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including, Atlantic Firm Partners (cka Baker Street Holdings (2015), Sarrazin Couture Productions (2015-2017), Splendid Film Gmbh (2016-2017), Thump Records (2015), Knight Enterprises (2015), Phil Slater Associates. See *Multigroup Claimants' Opposition to MPA Motion for Disallowance of Claims* at 24, et seq. (June 3, 2022), Dkt. No. 2012-6 CRB CD 2004-2009 (Phase II) and Dkt. No. 2012-7 CRB SD 1999-2009 (Phase II). Multiple other examples of dismissed claims in the program supplier category exist whereby the identical challenges posed by the MPA were rejected in prior proceedings based on the identical documentation -- Acknowledgments of Representation -- secured by MGC when conflicting claims arose, or additional documentation already produced in prior proceedings was produced. Id. at p. 25 et seq. Moreover, certain dismissed claims were dismissed in a prior proceeding solely because MGC had been denied the "presumption of validity", and the MPA made a naked competing claim, supported only by heavily redacted documents that failed to adequately demonstrate the MPA's authority. Id.

[8] In the devotional category, the Judges were informed that the SDC's ***identical*** challenge to the Salem Baptist Church claim had been rejected on ***three prior occasions***; the identical challenge to the Jack Van Impe Ministries claim had been rejected on ***one prior occasion***, in the Consolidated Proceeding. See *Multigroup Claimants' Opposition to Settling Devotional Claimants Motion for Disallowance of Claims* at 14, 26, 31 (June 3, 2022), Dkt. No. 2012-6 CRB CD 2004-2009 (Phase II) and Dkt. No. 2012-7 CRB SD 1999-2009 (Phase II). The SDC challenges relied on the ***identical*** documentation submitted and rejected in those prior proceedings. Id. at 19. After more than two decades, and based on the same supporting documentation, neither of the claims had ever been dismissed until they summarily were in a four page order for 2014 to 2017 claims.

[9] As a matter of logic, the Judges must have ignored MGC's briefing when they dismissed claims that *were never made* by MGC, making clear that the Judges never took note of such an easily verifiable fact prior to issuing their claims ruling.

sufficient in several prior proceedings, or the mere fact that the sanction had issued in prior proceedings, remains entirely unknown to MGC, as the Judges' order did not provide that detail.

Recognizing that MGC's adversaries were actively advocating a denial of MGC's presumption of validity based solely on the fact that the presumption of validity had been denied to MGC in prior proceedings,[10] MGC reasonably expected that if the Judges were to again impose such a significant ruling, that they would clearly articulate whether any such ruling was being made solely because of rulings in prior proceedings, or based on the submission of evidence in that particular proceeding. Despite MGC's reasonable expectation, the Judges' ruling sat conspicuously silent on all such matters, summarily denying MGC a presumption of validity as to its claims based on no explanation other than that it was based "on the entirety of the record".[11]

Consequently, the Judges are requesting participants to address a solution to an inaccurate and unexplained predicate that, by all accounts, wrestles with logic, remains subject to appeal, and asks participants to respond as though the Judges did not recently dismiss claims that had never been made, and had not recently dismissed claims previously approved by prior CRB and CARP panels – even in those proceedings when MGC was being denied a "presumption of validity" – based on documentation supporting those claims that is identical to the documentation submitted to support MGC's 2014-2017 claims. Without any capability of

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[10] See, e.g., *Multigroup Claimants' Opposition to Joint Sports Claimants Motion for Disallowance of Claims* at 4 (July 5, 2022), in the Consolidated Proceedings.

[11] Currently, MGC only has one active dispute impacted by the 2014-2017 claims ruling, its dispute with the Settling Devotional Claimants, as all others have been resolved. If the remaining dispute is not settled and goes forward to decision, given the inexplicability of the ruling, MGC will have no reasonable alternative other than to appeal the decision denying MGC a "presumption of validity" without explanation or articulation.

understanding the bases of the Judges' most recent claims ruling, because it was never explained, MGC cannot clearly understand what issues the Judges seek to address, much less whether the proposed solutions will remedy such concern.[12]

D. The Judges' OSC does not clarify key aspects of the Acknowledgment of Representation requirement, making an informed response implausible.

As Multigroup Claimants understands, the Judge's Proposed Order proposes a circumstance whereby a participant must (i) present a contractual entitlement to make a claim that necessarily preceded the commencement of any proceedings, and – only if the participant is denied a "presumption of validity" -- (ii) present an executed Acknowledgment of Representation "on behalf of any particular claimant or claimants" that post-dates the commencement of any proceeding, irrespective of the documentation demonstrating the pre-commencement contractual entitlement. According to the Judges' Proposed Order, the Acknowledgment of Representation must be witnessed by a Notary Public and two additional witnesses.

The most obvious questions relate to (i) *the criteria* as to whether a participant has been denied a "presumption of validity", (ii) *when* that determination is made, (iii) *when* an Acknowledgment of Representation must be submitted to the Judges, and (iv) for *which* claims

[12] For example, the Judges' proposal that Acknowledgements of Representation be executed before a notary public, and then before an additional two witnesses, suggests that there is a significant concern with the fraudulent execution of documents. MGC cannot recall a single instance in which submitted claim documentation was alleged, much less determined, to have been fraudulently executed by anyone other than the individual identified as the signatory. Given that there have been no allegations or determinations of fraudulent execution, it is unclear what purpose would be served by the proposed requirement other than to establish superfluous impediments where already sufficient documentation exists.

would such Acknowledgment of Representation be required. None of the foregoing is clear from the order to show cause.

For example, the question arises at what point would the CRB impose its requirement that Acknowledgements of Representation must be secured. Is it only after a ruling has been made that a "presumption of validity" does not exist, or does the existence of an executed Acknowledgement of Representation factor into whether a "presumption of validity" is to be denied, i.e., a circular determination? What are the bases for ruling that a "presumption of validity" does not exist, which has never been clearly articulated. Would an "Acknowledgments of Representation" be required for claims for which there has been no issue after multiple proceedings, the legal equivalent of res judicata or collateral estoppel? MGC and its predecessors have long complained that the presumption of validity is simultaneously imposed and the consequence applied, without any notice being provided that such ruling has occurred, with no opportunity to respond to the aft-imposed heightened level of documentation required, and no notice of potential imposition beyond adversarial briefing that such a ruling is being sought by an adversary. MGC's adversaries responded, by making "blanket" challenges to documentation already found sufficient in prior proceedings which, to MGC's dismay, were remarkably, and without explanation, found to be insufficient documentation in the most recent claims ruling, "based on the entirety of the record". Would the Acknowledgment of Representation be limited to certain claims, or all claims being prosecuted by the participant, and when would they be required?

E. <u>The practical effect of the Proposed Order</u>.

In order to address concerns raised generally in prior proceedings, MGC attempted to secure Acknowledgements of Representation in the consolidated 1999-2009 satellite/ 2004-2009

cable proceeding. The process was extraordinarily time-consuming, cumbersome and, in many cases, unsurmountable. Given the extensive turnover of personnel that had originally granted MGC the right to prosecute the claims, MGC inevitably found itself having to identify the new personnel with whom to discuss such matter, re-explain the existence of such royalties and the labyrinth process for collection, all for the purpose of having the new personnel execute a document affirming the existence of a previously-executed agreement. No party is contractually obligated to execute such a document, and for this obvious reason, some parties found suspect the request for them to do so, a suspicion exacerbated by the fact that the CRB proceedings are extremely infrequent, and extremely delinquent.[13] As a practical matter, even parties that took no issue with the existing grant of rights nevertheless questioned the necessity of repeating their grant of authority by executing an Acknowledgment of Representation.

MGC's 2018-2021 Petition to Participate identifies 1,177 claims that include claims related to approximately 150 separate copyright owners. If the intention of the Proposed Order is to impose the "Acknowledgment of Representation" requirement post-facto, or to continue denying MGC the "presumption of validity" without explanation or because it was denied in prior proceedings, then it is inevitable that for MGC to secure such Acknowledgments will be a difficult task, and an unfair one imposed solely on MGC. Under the circumstances, for the reasons explained, it is unlikely that MGC will be able to secure all such Acknowledgements, irrespective of the validity of such claims, and the rights of MGC and the represented claims will be unfairly extinguished. If the intention of the Proposed Order is to impose such requirement

[13] As is well known, MGC is still involved in briefing relating to royalties generated as far back as 1999, and will soon submit a Written Direct Statement relating to 2014-2017 cable/satellite royalties, i.e., proceedings relating to royalties and broadcasts over a decade past.

only after a ruling that the "presumption of validity" has been denied, clear criteria for the basis of such denial must be provided, a reasonable opportunity to respond with additional documentation ***after*** such ruling has been imposed, and an obligation to respond only in connection with those claims for which documentation has been deemed insufficient, as opposed to a broader requirement to obtain additional documentation related to all claims even when there is no legitimate basis for challenge. Any requirements beyond the foregoing would be sending a participant to gratuitously perform an unnecessary task in connection with legitimate claims.

LEGAL AUTHORITIES and APPLICATION

A. Administrative Rules Are Subject to the Same Constitutional Scrutiny as Statutes.

In *Rodriguez v. U.S. Parole Comm'n*, 594 F.2d 170, 173-174 (7th Cir. 1979), it was held that:

> "'Legislative' rules adopted by the [United States Parole Commission] pursuant to statutory power have the force and effect of law. . .This rule must be viewed as tantamount to a statute for purposes of determining whether its application to [appellant] runs afoul of [a clause of the U.S. Constitution]."

Accordingly, the Proposed Order is subject to the same constitutional scrutiny as a federal statute.

B. The Proposed Order is Unconstitutional as a Bill of Attainder.

Article I, Section 9 of the U.S. Constitution expressly forbids Bills of Attainder. U.S. CONST. Art. I, § 9. The U.S. Supreme Court has defined Bill of Attainder as "a law that legislatively determines guilt and inflicts punishment upon an identifiable individual without provision of the protections of a judicial trial." *Selective Service System v. Minn. Pub. Interest Research*, 468 U.S. 841, 846-847 (1984).

A Bill of Attainder "consists of three elements: (1) specification of the affected persons; (2) punishment; and (3) lack of a judicial trial." *Dehainaut v. Pena*, 32 F.3d 1066, 1070 (7th Cir.

1994). There is a "three-prong test for determining whether a particular enactment inflicts punishment: (1) does it fall within the historical meaning of legislative punishment? (2) when viewed in terms of the type and severity of burdens imposed, can it reasonably be said to further nonpunitive legislative purposes?, and (3) does the legislative. . . record evince an intent to punish." *Id.* at 1071 (emphasis added).

An illustration of a bill of attainder is found in *Consolidated Edison Co. of New York, Inc. v. Pataki*, 117 F. Supp. 2d 257, at 270 (N.D.N.Y 2000):

> Having determined that a politically unpopular entity may have acted wrongfully, rather than setting "forth a generally applicable rule ... and leave to the courts and juries the job of deciding what [entities] have committed the specified acts or possess the specified characteristics," the legislature took it upon itself to determine the entity's guilt and to impose the sanction it deemed appropriate. *United States v. Brown*, 381 U.S. 437, 85 S. Ct. 1707 (1965). In short, the legislature "was intent on encroaching on the judicial function of punishing an individual for blameworthy offenses." *Nixon v. Administrator of General Services*, 433 U.S. at 479, 97 S. Ct. 2777. Consequently, the Court finds that the Indian Point Law violates the constitutional prohibition against enacting a bill of attainder. [fn. 4] As the Court has determined that it is violative of the Equal Protection Clause and the Bill of Attainder Clause, Defendants are enjoined from taking any action to implement or enforce Chapter 190.
>
> [fn. 4: Although the Supreme Court has not explicitly held so, it has stated in dicta that the Bill of Attainder Clause applies to corporate entities as well as to individuals. *Plaut v. Spendthrift Farm, Inc*., 514 U.S. 211, 239 n. 9, 115 S. Ct. 1447, 131 L. Ed. 2d 328 (1995). It is this Court's opinion that such an interpretation, although not explicitly adopted by the Supreme Court, is correct given the broad intent of the Clause and it is, accordingly, adopted.]

By issuing an order that is not based on events or facts relevant to the current proceeding, the Judges are effectively legislating a regulation subject to the Bill of Attainder prohibition. The Proposed Order suggests that the sanction would be imposed based solely on prior rulings, *automatically* denying MGC the "presumption of validity", affording MGC no "judicial trial" regarding MGC's 2018-2021 claims, and simultaneously imposing upon MGC the heightened evidentiary requirement of producing a newly-executed Acknowledgment of Representation. No illusions exist that the Proposed Order has been devised to affect a single participant in the

distribution proceedings – MGC -- and thereby constitutes "legislative punishment". Squarely, the Proposed Order seeks to punish MGC based upon (highly questionable) rulings from other proceedings, and the record of the CRB "evinces an intent to punish". Consequently, the Proposed Order constitutes an impermissible Bill of Attainder.

C. The Proposed Order Violates Substantive Due Process.

Substantive Due Process protects individuals from arbitrary or irrational action on the part of the federal government. In *Natural Resources Defense Council, Inc. v. United States Nuclear Regulatory Commission*, 680 F.2d 810 (D.C. Cir. 1982), the Court of Appeals for the District of Columbia held that courts are authorized to "set aside agency action ... found to be ... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." (Citing 5 U.S.C. § 706(2)(A)). Under this standard, a court must find a "rational connection between the facts found and the choice made" per *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29 (1983). More specifically, a court must decide whether the agency considered the relevant factors and whether there has been a clear error of judgment; see *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 416 (1971).

Here, to the extent that the Proposed Order is based upon prior orders that appear to be based upon dubious grounds, it would be an abuse of discretion to single out MGC for special punishment in these and future proceedings by imposing an automatic and continuing evisceration of the "presumption of validity" for MGC, rather than making such determinations on a case by case basis, based upon evidence presented in a case specific fashion.

CONCLUSION

The Proposed Order is vague and ambiguous as to the Judges' intended application, impractical, and void as a matter of law. Perusing the prior claims rulings pursuant to which MGC was denied the "presumption of validity", literally all claims were supported by substantial documentation (if the claims were actually being made), and there has never been an accusation of either the submission of fraudulent documentation, much less a ruling thereon, as the Proposed Order appears concerned. Provided that the regulatory requirements for filing a claim have been satisfied, and no genuine display exists that a participant has frequently or generally ignored the requirements for representation of a claim, or engaged in any fraudulent conduct, no rational basis exists for imposing a heightened evidentiary requirement applicable to any or all of the participant's represented claims beyond those already required.

DATED: March 14, 2026

Respectfully submitted,

MULTIGROUP CLAIMANTS
/s/ Brian Boydston
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Proof of Delivery

I hereby certify that on Tuesday, April 14, 2026, I provided a true and correct copy of the RESPONSE OF MULTIGROUP CLAIMANTS TO ORDER 11 (2018-21 CD) AND ORDER 6 (2018-21 SD) REGARDING PRESUMPTION OF VALIDITY OF CLAIMS to the following:

American Society of Composers, Authors and Publishers (ASCAP), represented by Sam Mosenkis, served via E-Service at smosenkis@ascap.com

Broadcast Music, Inc., represented by Brian A Coleman, served via E-Service at Brian.Coleman@faegredrinker.com

Broadcast Music, Inc., ASCAP, SESAC (joint participants), represented by Jennifer T. Criss, served via E-Service at jennifer.criss@faegredrinker.com

Commercial Television Claimants, represented by David J Ervin, served via E-Service at dervin@crowell.com

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

Global Music Rights, LLC, represented by Scott A Zebrak, served via E-Service at carly@oandzlaw.com

Joint Sports Claimants, represented by Michael E Kientzle, served via E-Service at michael.kientzle@arnoldporter.com

Major League Soccer, L.L.C., represented by Edward S. Hammerman, served via E-Service at ted@copyrightroyalties.com

National Women's Soccer League, LLC, represented by Edward S. Hammerman, served via E-Service at ted@copyrightroyalties.com

Premier Lacrosse League, Inc., represented by Edward S. Hammerman, served via E-Service at ted@copyrightroyalties.com

Program Suppliers, represented by Lucy H Plovnick, served via E-Service at lhp@msk.com

SESAC Performing Rights LLC, represented by Timothy L Warnock, served via E-Service at twarnock@loeb.com

Signed: /s/ Brian D Boydston