



Christian Television Corporation, Inc. and its specified subsidiary or affiliated entities<sup>1</sup>,  
Family Worship Center Church, Inc. (d/b/a Jimmy Swaggart Ministries)  
Free Chapel Worship Center, Inc.,  
In Touch Ministries, Inc.  
International Fellowship of Christians and Jews, Inc.  
It Is Written,  
Joel Osteen Ministries, Inc., a/k/a Lakewood Church,  
John Hagee Ministries, Inc.,  
Joyce Meyer Ministries, Inc.,  
Kerry Shook Ministries, a/k/a Fellowship of the Woodlands,  
Liberty Broadcasting Network, Inc.,  
Living Church of God (International), Inc.  
Living Word Christian Center, a/k/a Bill Winston Ministries,  
Messianic Vision, Inc.,  
New Psalmist Baptist Church,  
Philadelphia Church of God, Inc.,  
RBC Ministries,

---

<sup>1</sup> The specified subsidiaries and controlled affiliates of Christian Television Corporation, Inc. are the following entities: WCLF-TV, Christian Television Corporation, Inc.; WRXY, West Coast Christian Television, Inc.; WHTN-TV, Christian Television Network, Inc.; WHBR-TV, Christian Television of Pensacola/Mobile, Inc.; KNLJ-TV, Christian Television Network Inc. KFXB-TV, Christian Television of Iowa, Inc.; WVUP-TV, Christian Television Corporation, Inc.; WFGC-TV, Christian Television of Palm Beach County, Inc.; WVLR-TV, Volunteer Christian Television, Inc.; WLCN-TV, Christian Television Network of South Carolina, Inc. WYBU-TV, Christian Television Network, Inc.; WEPH-TV, Christian Television Network Of Mississippi, Inc.; WTJR-TV, Christian Television Network, Inc.; WLCF-TV, Christian Television Network, Inc.; and WGNM-TV, Christian Television Network, Inc.

Rhema Bible Church, a/k/a Kenneth Hagin Ministries,  
Ron Phillips Ministries,  
St. Ann's Media, Inc.,  
The Christian Broadcasting Network, Inc.,  
The Potter's House of Dallas, Inc., d/b/a T.D. Jakes Ministries,  
Word of God Fellowship, Inc., d/b/a Daystar Television Network, and  
Zola Levitt Ministries.

## **II. Report on Negotiations and Controversies.**

*A. Allocation of Shares Among Categories.* Negotiations to resolve the allocation of funds among the eight claimant group Categories have been unsuccessful, and it will be necessary for the Judges to conduct further proceedings to determine the allocation of shares among the Categories.

*B. Allocation of Shares Within the Devotional Claimant Category.* The SDC conducted negotiations to resolve the validity of claims within the Devotional Category with the Broadcasters Claimant Group ("BCG") and the Multigroup Claimants ("MC").

With respect to BCG, negotiations have been productive, and while an allocation of shares has not been finalized, the SDC expects this will be accomplished in the near future.

As to IPG and its purportedly represented Multigroup Claimants, the negotiations have also been unsuccessful, because IPG has failed to respond to multiple requests by the SDC's counsel to engage in good faith negotiations. Therefore, if the Judges do not disqualify IPG and the Multigroup Claimants for their failure to participate in good faith negotiations as required, it will be necessary for the Judges to conduct further proceedings to determine: 1) the validity of Multigroup Claimant devotional category claims and the authority of IPG to represent those

claims, 2) the categorization of certain programs claimed by Multigroup Claimants, and 3) the value of Multigroup Claimants' claims (if any) determined to be valid and compensable.

### **III. The SDC's Statement of Controversies: Legal and Factual Issues to Be Submitted to the Judges**

*A. Allocation of Shares Among the Agreed Categories.* The controversies recognized by the SDC among the Agreed Categories involve the following issues of fact and law:

1) Are IPG and the Multigroup Claimants qualified to be a representative of devotional claimants in this proceeding?

2) What should be the allocation of shares among the Agreed Categories?

*B. Allocation of Shares Within the Devotional Category.* The controversies recognized by the SDC within the Devotional Claimants Category involve the following issues of fact and law:

1) Are IPG and the Multigroup Claimants qualified to be a representative of devotional claimants in this proceeding?

2) Are IPG and the Multigroup Claimants qualified to be claimant-representatives in the Devotional Claimants Category, and are each of the claims asserted by Multigroup Claimants in the Devotional Claimants Category validly recognized under the Judges' rules and precedents?

3) Are IPG and the Multigroup Claimants making claims for the same program in more than one category?

4) What methodology should be employed by the Judges to allocate shares in the Devotional Claimants Category?

5) What are the relative shares for valid claimants, properly represented in the Devotional Claimants Category?

#### **IV. Proposals for Further Proceedings**

*A. Cable and Satellite Proceedings Should Be Bifurcated.* In the Order, the Judges state they will jointly administer the cable and satellite distribution proceedings for the purposes of negotiation and category allocation. Further to the issue of the administration of the proceedings, the SDC believe that hereafter the cable and satellite distribution proceedings should be bifurcated (with one exception noted below). The SDC believe the allocation of shares among Categories in the cable proceeding should be the first order of business, and the allocation of shares among Agreed Categories in the satellite proceeding should be held in abeyance pending the cable results.

By letter dated January 27, 2015, with the exception of Program Suppliers, all parties that represented Phase I parties in all prior cable and satellite royalty distribution proceeding advised the Judges that they opposed consolidation of the 2010-2013 cable and satellite proceedings. They explained that some of the Phase I parties in the cable distribution proceeding do not participate in the satellite distribution proceeding, and that others claim satellite royalties for programming that is not compensable under the cable compulsory license. As they additionally explained, the bifurcation has worked very well, as every satellite Phase I proceeding has been resolved without resort to litigation.

To amplify on this letter, the SDC believe it would be an undue burden to force the parties to litigate the allocation of shares to the Agreed Categories in the cable and satellite cases jointly. Public Television Claimants, Canadian Claimants and National Public Radio, all parties to the cable distribution proceeding, have no claims in the satellite distribution proceeding. A

comparable disparity exists in the satellite proceeding, where the three networks, ABC, CBS and NBC, have satellite royalty claims that are not recognized in the cable proceeding.

Joining the cable claimant categories to the satellite case, and the satellite parties to the cable case, would force their participation despite the absence of compensable claims. None of these parties could presume that aspects of the satellite distribution proceeding would be without impact on their cable awards, or vice versa. Thus, not only would these parties have to be fully engaged throughout all the proceedings, but also they would need to be served with pleadings and discovery, and granted the opportunity to file pleadings and examine witnesses. This would complicate the proceeding not just for them, but for the remaining parties as well, who would have to respond to their arguments and engage in additional examination of witnesses. In short, the joint administration of the cases assures more costly, complex, and contentious disputes.

Therefore, the SDC continue to believe that the cable and satellite proceedings should be bifurcated and that the cable proceeding should be resolved first.

*B. Bifurcation of Cases Involving Allocation of Shares within Categories.* The SDC also believe that the bifurcation of what traditionally has been Phase I and Phase II continues to make sense. Based on recent history, a significant part of the Phase II cases have turned entirely on disputes involving IPG's claims in the Devotional, Program Suppliers, and (to a lesser degree) Sports Categories. Essentially all claimants other than IPG within each Category have successfully resolved, or demonstrated the ability to resolve, intra-Category disputes among themselves (a process which to some degree is vital to the effectiveness of the copyright royalty system, in light of the vast number of claimants with potentially competing interests). It appears from the Multigroup Claimants' filing that its claims will fall in the Devotional, Program Supplier and Joint Sports categories, and possibly the Canadian Claimants Category. It would be

unnecessary for the other category parties, particularly, Commercial Television Claimants and Music Claimants, to participate in these proceedings; yet, as with the concern about traditional Phase I category share allocations, if the phases were consolidated, these parties would be obligated to participate.

Indeed, if the traditional Phase I and II proceedings were joined, every claimant representative would need to participate in all aspects of these cases, every claimant representative would be entitled to all discovery documents, and every claimant representative would be entitled to file pleadings on issues that might affect its claims. Failure to bifurcate would ensure the participation of many extra parties and much more contentious litigation, with its attendant burdens and costs. In sum, it is the SDC's view that the Judges should address the methodology and awarding of shares within each of the Categories only after conclusion of the hearing on allocation of shares of shares among Categories.

The only exception to the bifurcation of the cable and satellite proceedings the SDC would support involves the issue of the validity of the cable and satellite claims. As parties to the 1999-2009 Satellite Phase II and 2004-2009 Cable Phase II Proceedings, the SDC know that the facts and legal issues on the validity of claims issue are likely to overlap closely in both proceedings. Thus, the SDC would have no objection to this specific issue being adjudicated once for both proceedings, after the allocation of cable shares is determined.

*C. Procedures.* The rules of the Judges set forth the procedures for the filing of Written Direct Statements, discovery, Amended Written Direct Statements, evidentiary hearings and rebuttal proceedings in royalty distribution cases. 37 C.F.R. §§351.1-351.14. The SDC understand the Judges desire not to allow the proceedings to get bogged down, creating delay in distribution of funds. As explained, the SDC believe that a determination as to the allocation of

shares among and within Categories in the cable distribution proceeding will either lead to settlement of the satellite claims, or enable more expeditious handling of remaining issues.

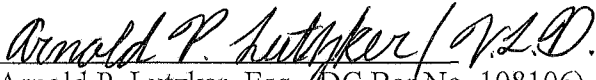
**V. The SDC Intent to Participate**

The undersigned intend to participate fully in these proceedings.

Dated: March 7, 2016

Respectfully submitted,

**DEVOTIONAL CLAIMANTS**

  
Arnold P. Lutzker, Esq. (DC Bar No. 108106)  
Benjamin Sternberg (DC Bar No. 1016576)  
Jeannette M. Carmadella, Esq. (DC Bar No. 500586)  
LUTZKER & LUTZKER LLP  
1233 20<sup>th</sup> Street, NW, Suite 703  
Washington, DC 20036  
Telephone: (202) 408-7600  
Fax: (202) 408-7677  
[arnie@lutzker.com](mailto:arnie@lutzker.com)

Clifford M. Harrington (D.C. Bar No. 218107)  
Matthew J. MacLean (D.C. Bar No. 479257)  
Victoria N. Lynch-Draper (D.C. Bar No. 1001445)  
PILLSBURY WINTHROP SHAW PITTMAN LLP  
1200 Seventeenth Street, NW  
Washington, D.C. 20036-3006  
Telephone: 202-663-8525  
Facsimile: 202-663-8007  
E-Mail: [Clifford.Harrington@PillsburyLaw.com](mailto:Clifford.Harrington@PillsburyLaw.com)

*Counsel for Devotional Claimants*



**CERTIFICATE OF SERVICE**

I, Victoria N. Lynch-Draper, hereby certify that a copy of the foregoing “SETTLING DEVOTIONAL CLAIMANTS’ NOTICE OF CONTROVERSY” was sent by overnight delivery via Federal Express, and electronically, this 7<sup>th</sup> day of March, 2016 to the following:

<p><b>MULTIGROUP CLAIMANTS SPANISH LANGUAGE PRODUCERS</b>                  Brian D. Boydston                  Pick &amp; Boydston, LLP                  10786 Le Conte Avenue                  Los Angeles, CA 90024  <a href="mailto:brianb@ix.netcom.com">brianb@ix.netcom.com</a></p>	<p><b>MPAA-REPRESENTED PROGRAM SUPPLIERS</b>                  Gregory O. Olaniran                  Lucy Holmes Plovnick                  MITCHELL, SILERBERG &amp; KNUPP LLP                  1818 N Street, NW, 8<sup>th</sup> Floor                  Washington, DC 20036                  202-355-7917                  202-355-7887  <a href="mailto:goo@msk.com">goo@msk.com</a>  <a href="mailto:lh@msk.com">lh@msk.com</a></p>
<p><b>JOINT SPORTS CLAIMANTS</b>                  Robert Alan Garrett                  M. Sean Laane                  Michael Kientzle                  ARNOLD AND PORTER LLP                  602 Massachusetts Avenue, N.W.                  Washington, DC 20001                  202.942.5000 (voice)                  202.942.5999 (facsimile)  <a href="mailto:Robert.garrett@aporter.com">Robert.garrett@aporter.com</a>  <a href="mailto:sean.laane@aporter.com">sean.laane@aporter.com</a>  <a href="mailto:Michael.kientzle@aporter.com">Michael.kientzle@aporter.com</a></p> <p>Richie T. Thomas                  Iain R. McPhie                  SQUIRE PATTON BOGGS (US) LLP                  1200 19<sup>th</sup> Street N.W., Suite 300                  Washington, D.C. 20036                  Tel: (202) 626-6600  <a href="mailto:ritchie.thomas@squirepb.com">ritchie.thomas@squirepb.com</a>  <a href="mailto:iain.mcphie@squirepb.com">iain.mcphie@squirepb.com</a></p> <p>Philip R. Hochberg                  LAW OFFICES OF PHILIP R.                  HOCHBERG                  12505 Park Potomac Avenue                  Sixth Floor                  Potomac, MD 20854                  Tel: (301) 230-6572  <a href="mailto:phochberg@shulmanrogers.com">phochberg@shulmanrogers.com</a></p>	<p><b>COMMERCIAL TELEVISION CLAIMANTS NATIONAL ASSOCIATION OF BROADCASTERS</b>                  John I. Stewart, Jr.                  Ann Mace                  CROWELL &amp; MORING LLP                  1001 Pennsylvania Ave., NW                  Washington, D.C. 20004                  Telephone: (202) 624-2685                  Fax: (202) 628-5116  <a href="mailto:jstewart@crowell.com">jstewart@crowell.com</a></p>

<p><b>NATIONAL PUBLIC RADIO</b> Jonathan D. Hart Gregory A. Lewis NATIONAL PUBLIC RADIO, INC. 1111 North Capitol Street, NE Washington, DC 20002 Telephone: (202) 513-2050 Fax: (202) 513-3021 <a href="mailto:glewis@npr.org">glewis@npr.org</a></p>	<p><b>PUBLIC TELEVISION CLAIMANTS PUBLIC BROADCASTING SERVICE</b> Ronald G. Dove, Jr. Lindsey Tonsager Dustin Cho COVINGTON &amp; BURLING LLP One CityCenter 850 Tenth Street, N.W. Telephone: (202) 662-5685 Fax: (202) 662-6291 <a href="mailto:rdove@cov.com">rdove@cov.com</a></p>
<p><b>BROADCAST MUSIC, INC.</b> Joseph J. DiMona BROADCAST MUSIC, INC. 7 World Trade Center 250 Greenwich Street New York, NY 10007-0030 Telephone: (212) 220-3149 Fax: (212) 220-4447 <a href="mailto:jdimona@bmi.com">jdimona@bmi.com</a></p> <p>Michael J. Remington Jeffrey J. Lopez Jennifer T. Criss DRINKER BIDDLE &amp; REATH LLP 1500 K Street, NW Suite 1100 Washington, DC 20005 Telephone: (202) 842-8800 Fax: (202) 842-8465 <a href="mailto:michael.remington@dbr.com">michael.remington@dbr.com</a> <a href="mailto:jeffrey.lopez@dbr.com">jeffrey.lopez@dbr.com</a> <a href="mailto:jennifer.criss@dbr.com">jennifer.criss@dbr.com</a></p>	<p><b>AMERICAN SOCIETY OF COMPOSERS, AUTHORS AND PUBLISHERS</b> Samuel Mosenkis ASCAP One Lincoln Plaza New York, NY 10023 Telephone: (212) 621-6450 Fax: (212) 787-1381 <a href="mailto:smosenkis@ascap.com">smosenkis@ascap.com</a></p>

<p><b>SESAC, INC.</b>  John C. Beiter  Shackelford, Bowen, Zumwalt &amp; Hayes  47 Music Square East  Nashville, TN 37203  Phone: 615.256.7200  Fax: 615.256.7106  Email: <a href="mailto:jbeiter@shackelfordlaw.net">jbeiter@shackelfordlaw.net</a></p>	<p><b>CANADIAN CLAIMANTS GROUP</b>  L. Kendall Satterfield  FINKELSTEIN THOMPSON LLP  <a href="mailto:ksatterfield@finkelsteinthompson.com">ksatterfield@finkelsteinthompson.com</a></p> <p>Victor J. Cosentino  LARSON &amp; GASTON, LLP  200 S. Los Robles Ave, Suite 530  Pasadena, CA 91101  <a href="mailto:Victor.consentino@larsongaston.com">Victor.consentino@larsongaston.com</a></p>
<p><b>ARENA FOOTBALL ONE, LLC</b>  Edward S. Hammerman  HAMMERMAN, PLLC  5335 Wisconsin Avenue, NW  Washington, DC 20015  <a href="mailto:ted@copyrightroyalties.com">ted@copyrightroyalties.com</a></p>	

*Victoria N. Lynch-Draper*  
Victoria N. Lynch-Draper