

UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION



\_\_\_\_\_  
In the Matter of )  
 )  
POLYGRAM HOLDING, INC., )  
a corporation, )  
 )  
DECCA MUSIC GROUP LIMITED, )  
a corporation, )  
 )  
UMG RECORDINGS, INC., )  
a corporation, )  
 )  
and )  
 )  
UNIVERSAL MUSIC & VIDEO )  
DISTRIBUTION CORP., )  
a corporation. )  
\_\_\_\_\_ )

Docket No. 9298

**COMPLAINT COUNSEL'S APPLICATION**  
**FOR THE ISSUANCE OF SUBPOENAS AD TESTIFICANDUM**

Pursuant to Rule 3.34(a)(2) of the Federal Trade Commission's Rules of Practice, complaint counsel makes this application for the issuance of three subpoenas *ad testificandum* to be issued to Mr. Anthony O'Brien, Mr. Paul Saintilan and Mr. Rand Hoffman.

Each of these individuals' testimony is reasonably relevant to complaint counsel's prosecution of this matter and thus satisfies the conditions under Rule 3.34(a)(2) for the issuance of a subpoena *ad testificandum* to give testimony at an adjudicative hearing. Each of these individuals was listed on Complaint Counsel's Preliminary Witness list and is currently on Complaint Counsel's

Final Witness List. Each of these individuals also appeared on Respondents' Preliminary Witness list and is currently on Respondents' Final Witness List. A brief description of each individual's position and relevance to complaint counsel's case follows.

Anthony O'Brien

During 1998, Mr. O'Brien was the Chief Financial Officer of Atlantic Records, one of the parties to the moratorium agreement that is the subject of the complaint. We expect that Mr. O'Brien will testify concerning: (i) the business of the Warner Music Group ("Warner"); (ii) the contract negotiations and communications between and among Warner, PolyGram, and Resorts Productions Ltd. relating to the 1998 Three Tenors album and video; (iii) the resulting Three Tenors contracts; (iv) Warner's plans with regard to the marketing and distribution of the 1998 Three Tenors album and video; (v) communications between Warner and PolyGram relating to the moratorium agreement; and (vi) the purpose, implementation, course, and effect of the moratorium agreement.

Paul Saintilan

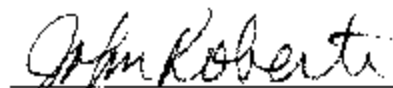
During 1998, Mr. Saintilan was director of strategic development for Respondent Decca Music Group Limited, and was the executive responsible for the release of the Three Tenors album during 1998. We expect that Mr. Saintilan will testify concerning: (i) communications between PolyGram and Warner relating to the 1998 Three Tenors project; (ii) communications between PolyGram and Warner relating to the moratorium agreement; (iii) the purpose, implementation, course, and effect of the moratorium agreement; and (iv) the marketing of audio products, including products featuring the Three Tenors.

Rand Hoffman

During 1998, Mr. Hoffman was senior vice president of business affairs for PolyGram Holding, Inc. We expect that Mr. Hoffman will testify concerning: (i) the business of PolyGram; (ii) the contract negotiations between and among Warner, PolyGram, and Resorts Productions Ltd. relating to the 1998 Three Tenors album and video; (iii) the resulting Three Tenors contracts; (iv) communications between Warner and PolyGram relating to the moratorium agreement; (v) the structure and organization of PolyGram and the division of responsibility among entities composing PolyGram; and (vi) the purpose, implementation, course, and effect of the moratorium agreement.

For the foregoing reasons, each of the individuals for whom complaint counsel seeks a subpoena *ad testificandum* is relevant to an element in either complaint counsel's case in chief or case in rebuttal. Complaint counsel thus respectfully requests that this application be granted in all respects.

Respectfully Submitted,



Geoffrey M. Green

John Roberti

Melissa Westman-Cherry

Counsel Supporting the Complaint

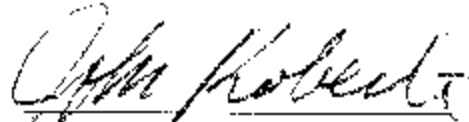
Dated: January 28, 2002

**CERTIFICATE OF SERVICE**

I, John Roberti, hereby certify that on January 28, 2002, I caused a copy of Complaint Counsel's Application For the Issuance of Subpoenas Ad Testificandum to be served upon the persons listed below:

The Honorable James P. Timony  
Chief Administrative Law Judge  
The Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580 (served by hand)

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John Roberti