

**Before the
Copyright Royalty Board
United States Copyright Office
Washington, D.C. 20540**

In the Matter of _____)
)
Distribution of DART Sound Recordings Fund)
Featured Recording Artists and Copyright Owners)
Subfunds Royalties For 2010)

Docket No. _____

**NOTICE OF SETTLEMENT AND REQUEST FOR PARTIAL DISTRIBUTION OF THE
2010 DART SOUND RECORDINGS FUND FEATURED RECORDING ARTISTS AND
COPYRIGHT OWNERS SUBFUNDS ROYALTIES¹**

The Alliance of Artists and Recording Companies (“AARC”), on behalf of itself and parties listed in Exhibit A, *see* 2010 Settling Parties, Ex. A, (collectively referred to as the “Settling Parties”), submits this notice reporting that the 2010 Audio Home Recording Act of 1992 (referred to hereinafter as “DART”)² Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds distribution proceeding is settled, except for the claims of Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, Herman Kelly, Afterschool Publishing, Eddie Rolling, Write 4 U Publishing/Treasa Fennie (“Write 4 U/Fennie”)³, and Ernest William Furrow.⁴ Therefore, the Settling Parties request partial distribution of the 2010 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds (“2010 Sound Recordings Fund”), as follows:

¹ On behalf of the Settling Parties, AARC filed a motion for partial distribution pursuant to § 801(b)(3)(A) on July 15, 2011. Write 4 U objected to the request on July 26, 2011, and the CRB denied § 801(b)(3)(A) partial distribution on August 9, 2011, on the grounds that Write 4 U’s objection established that a controversy existed with regard to the requested 98%. The CRB noted that Settling Parties could re-file their request for partial distribution pursuant to § 801(b)(3)(C), which they have done herein.

² 17 U.S.C. §§ 1001-10 (2006).

³ Ms. Fennie filed her Featured Recording Artists claim where she identified Write 4 U Publishing as the “Filer’s Full Name,” and Treasa M. Fennie as the “Interested Copyright Party’s Full Name.” She filed her Copyright Owners claim where she also identified Write 4 U Publishing as the “Filer’s Full Name,” and Treasa Fennie as the “Interested-Copyright Party’s Full Name.” AARC researched her claim names and the only two titles (“Heal My Heart” and “Young Hearts”) she listed in her claims. Additionally, AARC researched the following names found through independent SoundScan, AllMusic, Discogs and Google searches: Treasa Finnie, Treasure “The Diva of House,” Treassa Feannie, Treasa “Diva” Fennie, and Diva T. Searching all these names and the two titles, AARC found only 13 record sales.

⁴ On August 10, 2011, Asolo Chika Chukwu, withdrew his 2010 DART Sound Recordings Fund Copyright Owners Subfund claim. Therefore, he is no longer in this proceeding.

I. Status of Settlement

AARC pursued and obtained settlements with 433 of the 442 other claimants for the 2010 Sound Recordings Fund, as detailed below:

Featured Recording Artists Subfund

AARC pursued and obtained settlements with 215 of the 217 other 2010 DART Sound Recordings Fund Featured Recording Artists Subfund (“2010 Featured Recording Artists Subfund”) claimants. *See* 2010 Settling Parties, Ex. A. The two remaining 2010 Featured Recording Artists Subfund royalty claimants with whom AARC has been unable to obtain settlement are Herman Kelly and Write 4 U/Fennie, who have de minimis record sales of 2,163 and 13, respectively, in a universe of over one billion claimants’ sound recordings sold in 2010. *See* Seltzer Decl. Ex. B, Aug.18, 2011. Therefore, the Settling Parties respectfully request distribution of 98% of the 2010 Featured Recording Artists Subfund.

Copyright Owners Subfund

AARC pursued and obtained settlements with 218 of the 225⁵ other 2010 DART Sound Recordings Fund Copyright Owners Subfund (“2010 Copyright Owners Subfund”) claimants. *See* 2010 Settling Parties, Ex. A. The seven 2010 Copyright Owners Subfund royalty claimants with whom AARC has been unable to obtain settlement are Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, Afterschool Publishing,⁶ Eddie Rolling, Write 4 U/Fennie, and Ernest William Furrow, who combined have de minimis record sales of 3,010 (which include the 13 record sales AARC found for Write 4 U/Fennie) in a universe of over one billion claimants’ sound recordings sold in 2010.⁷ *See* Seltzer Decl. Ex. B, Aug.18, 2011. Therefore, the Settling Parties respectfully request distribution of 98% of the 2010 Copyright Owners Subfund.

⁵ *See supra* note 4.

⁶ Featured Recording Artist claimant Herman Kelly also filed the 2010 Copyright Owners Subfund claim for Afterschool Publishing.

⁷ *See supra* note 3.

II. The Copyright Royalty Board Has Authority to Order the Distribution of Royalty Fees Upon Motion of Claimants Pursuant to Section 801(b)(3)(C).

Partial distribution of the 2010 Sound Recordings Fund is warranted to prevent any further delay in the distribution of royalties to which no *reasonable* objection has been filed. The Copyright Royalty Judges may order distribution of royalties, pursuant to § 801(b)(3)(C) of the Copyright Royalty and Distribution Reform Act. Copyright Royalty and Distribution Reform Act of 2004, 17 U.S.C. § 801(b)(3)(C) (2006). Here, the Settling Parties have established that the nine remaining claimants in the 2010 Sound Recordings Fund are entitled to minimal, if any, royalties based on the distribution, or lack of distribution, of their sound recordings during the 2010 royalty year. *See infra* Section III. Partial distribution, as statutorily permitted under the requirements of § 801(b)(3)(C), will allow the Settling Parties to collect the royalties to which they are entitled, while allowing the Copyright Royalty Board (“CRB”) to retain sufficient funds to cover the outstanding claims. *See* § 801(b)(3)(C).

In addition to existing statutory and regulatory mandates, the CRB has granted partial distribution pursuant to § 801(b)(3)(C) when there was no *reasonable* objection to a partial distribution request. Order, In the Matter of Distribution of 2005-2008 DART Musical Works Funds Royalties, Docket No. 2010-8 CRB DD 2005-2008 (MW) (Apr. 14, 2011) (concluding that 95% of the Musical Works Funds should be distributed because “no claimant entitled to receive the royalties at issue has stated a reasonable objection to the proposed partial distribution.”); Order, In the Matter of Distribution of the 2008 Satellite Royalty Funds, Docket No. 2010-7 CRB SD 2008 (Jan. 11, 2011) (noting that while controversies exist regarding the royalties, no reasonable objection to the distribution was delivered via comment); Order, In the Matter of Distribution of the 2008 Cable Royalty Funds, Docket No. 2010-6 CRB CD 2008 (Jan. 11, 2011) (granting the motion for partial distribution because no reasonable objections were stated); *see also* Order, In the Matter of Distribution of the 2004-2007 Satellite Royalty Funds,

Docket No. 2010-2 CRB SD 2004-2007 (Mar. 23, 2010); Order, In the Matter of Distribution of the 2007 Cable Royalty Funds, Docket No. 2009-6 CRB CD 2007 (Oct. 22, 2009); Order, In the Matter of Distribution of the 2006 Cable Royalty Funds, Docket No. 2008-4 CRB CD 2006 (Dec. 2, 2008); Order, In the Matter of Distribution of the 2003 Cable Royalty Funds, Docket No. 2005-4 CRB CD 2003 (Jan. 23, 2008).

The Copyright Arbitration Royalty Panel (“CARP”) and the Copyright Royalty Tribunal (“CRT”) have historically awarded partial distributions so as to expedite the distribution of royalties to the interested copyright parties who were entitled to them. *See, e.g.*, Order, In the Matter of Distribution of the 1992 Cable Royalty Fund, Docket No. 94 CARP CD 92, and In The Matter of Distribution of the 1993 Cable Royalty Fund, Docket No. 94 CARP CD 93 (Sept. 26, 1994) (concluding that delay between the collection of royalties, the filing of claims, and the expected initiation of proceedings justified partial distribution of the 1992 and 1993 Cable Royalty Funds); 1991 Cable Royalty Distribution Proceeding, 58 Fed. Reg. 49038 (Copyright Office Sept. 21, 1993) (stating that the CRT would handle the partial distribution commenting process “as expeditiously as feasible” so as not to unduly delay distribution to the claimants).

The above-referenced CRT and CARP decisions must be considered as precedent by the CRB under the provisions of § 803(a)(1) of the Copyright Royalty and Distribution Reform Act of 2004, which states:

The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, the Register of Copyrights, copyright arbitration royalty panels . . . and the Copyright Royalty Judges....

§ 803(a)(1).

In the aforementioned proceedings, the CRT and CARP have routinely reasoned that the delay between the collection of royalties, the filing of claims, and the expected initiation of

proceedings justified partial distribution of the relevant royalty funds in advance of the declaration of a controversy. Order, In the Matter of Distribution of the 1992 Cable Royalty Fund, Docket No. 94 CARP CD 92, and In The Matter of Distribution of the 1993 Cable Royalty Fund, Docket No. 94 CARP CD 93 (Sept. 26, 1994). In the case at hand, the delay between collection and distribution of DART royalties also warrants partial distribution. The Settling Parties are motioning for a 98% partial distribution of the collected royalties based on their reasonable belief, as supported by the 2010 SoundScan data detailed in the next section, that the remaining 2% is more than enough to cover any award granted to the non-settling parties after a distribution proceeding is held. If a partial distribution is not issued, the distribution of the Settling Parties' royalties will be delayed for months, if not years. Such a delay would substantially deprive the Settling Parties, who have negotiated in good faith in a concerted effort to minimize administrative costs and expedite the proceeding by avoiding litigation, of the royalties. Accordingly, the Settling Parties respectfully request that the CRB distribute 98% of the 2010 Sound Recordings Fund.

III. Partial Distribution of 98% of the 2010 Sound Recordings Fund is Warranted.

Pursuant to DART, allocation of the 2010 Sound Recordings Fund royalties must be based on distribution (record sales) of the claimants' sound recordings during the royalty year, in this case, 2010. 17 U.S.C. § 1006(c)(1) (2006); Distribution of the 1992, 1993, and 1994 Musical Works Funds, 62 Fed. Reg. 6558, 6561 (Copyright Office Feb. 12, 1997). SoundScan is the industry-recognized source for sound recording sales in the United States and also the data source used by AARC to determine annual distribution of royalties.

Historically, decision makers in DART distribution proceedings have recognized SoundScan as "credible evidence" of distribution for the purposes of allocating royalties.

Distribution of 1995, 1996, 1997 and 1998 Digital Audio Recording Technology Royalties, 66

Fed. Reg. 9360, 9362 ¶ 61 (Copyright Office Feb. 7, 2001); *see also* Distribution of 1992, 1993 and 1994 Musical Works Funds, 62 Fed. Reg. 6558, 6562 (Copyright Office Feb. 12, 1997) (“The [Copyright Arbitration Royalty] Panel's decision to reject the record sales data submitted by Mr. Curry and rely upon the SoundScan data was not arbitrary.”).

Based on record sales titles and figures compiled by SoundScan, the 2010 total record sales for all claimants of the 2010 Featured Recording Artists Subfund are 1,093,039,534 and the 2010 Copyright Owners Subfund are 1,125,921,911 record sales. *See* Seltzer Decl. Ex. B, Aug. 18, 2011. SoundScan compiles record sales data based on sound recording copyright owner labels and featured recording artists. *Id.* The 2010 SoundScan data lists only 2,163 record sales for a featured recording artist named Herman Kelly, 2,163 record sales for a copyright owner named Afterschool Publishing, Inc. (“ASP”), 13 record sales for a featured recording artist Write 4 U/Fennie and 13 record sales for a copyright owner named Write 4 U/Fennie, and 834 record sales for a copyright owner named Ernest William Furrow. The 2010 record sales data lists no record sales for any copyright owners named Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, or Eddie Rolling. *Id.*

The Settling Parties’ 2010 Featured Recording Artists Subfund claims total 1,093,037,358 record sales, equaling 99.9998% of the universe of the 2010 Featured Recording Artists Subfund. Therefore, the non-settling 2010 Featured Recording Artists Subfund claimants would be entitled to no more than 0.0002% of the 2010 Featured Recording Artists Subfund royalties, which translates to approximately 31¢ for Herman Kelly and less than one penny for Write 4 U/Fennie. The Settling Parties’ 2010 Copyright Owners Subfund claims total 1,125,918,901 record sales, equaling 99.9997% of the universe of the 2010 Copyright Owners Subfund. Therefore, the non-settling 2010 Copyright Owners Subfund claimants would be entitled to no more than 0.0003% of the 2010 Copyright Owners Subfund royalties, which

translates to 63¢ for ASP, Ernest William Furrow, and Write 4 U/Fennie combined. We therefore request that the Copyright Royalty Judges distribute 98% of the 2010 Sound Recordings Fund royalties upon satisfying the Federal Register publication's requirements of section 801(b)(3)(C). Distribution of less than 98% of the 2010 Sound Recordings Fund would further deprive the Settling Parties of a substantial amount of royalties that belong to them. Furthermore, we believe that the 2% of 2010 Sound Recordings Fund royalties that would remain with the CRB would provide more than sufficient funds to satisfy any 2010 Copyright Owners Subfund claims that ASP, Ernest William Furrow, Write 4 U/Fennie, Eric N. Burns, Arpi Takacs, Eugene "Lambchops" Curry, or Eddie Rolling may substantiate and any 2010 Featured Recording Artists Subfund claim that Herman Kelly or Write 4 U/Fennie may substantiate. The remaining 2% is more than adequate, especially in light of the fact that, except for the few record sales attributed to Herman Kelly, ASP, Ernest William Furrow, and Write 4 U/Fennie, the SoundScan data shows no record sales for any of the non-settling parties. *See* Seltzer Decl. Ex. B, Aug. 18, 2011.

As a condition to the partial distribution of the 2010 Sound Recordings Fund royalties, the Settling Parties hereby agree to be bound by the condition uniformly imposed under section 801(b)(3)(C). Specifically, the Settling Parties agree that in the event that the final 2010 royalty percentages for the Settling Parties differ from the partial distributions made to them pursuant to this motion, any party who has received more than its share will "return any excess amounts to the extent necessary to comply with the final determination on the distribution of fees." *See* § 801(b)(3)(C)(ii).

As to the amounts to be distributed to each Settling Party, we move to have the distribution made in bulk to AARC as a common agent for all Settling Parties. Agreements as to the proportionate allocation of royalties and the designation of a common agent to receive

payment on behalf of the Settling Parties are permitted by the DART. 17 U.S.C. § 1007(a)(2) (2006).

IV. Conclusion

The Settling Parties agree that the settlements were reached in an attempt to minimize the costs of the 2010 Sound Recordings Fund distribution proceeding. Consequently, the Settling Parties have agreed that the terms of the settlement agreements have no precedential effect on any future DART proceedings.

WHEREFORE, the Settling Parties respectfully request that once the requirements of § 801(b)(3)(C) are satisfied, which include the publication in the Federal Register of Settling Parties' request for partial distribution, the CRB issue a partial distribution of 98% of the 2010 Sound Recordings Fund royalties to AARC, as agent for the Settling Parties.

Respectfully submitted,
On Behalf of the Settling Parties



Linda R. Bocchi, Esq.
DC BAR # 338012
VA BAR # 77599
Executive Director
Alliance of Artists and Recording Companies
700 N. Fairfax Street, Suite 601
Alexandria, VA 22314
(703) 535-8101 (phone)
(703) 535-8105 (facsimile)

August 23, 2011

EXHIBIT A

2010 SETTLING PARTIES

August 23, 2011

Featured Recording Artists

Ernst Andre**

James Cannings

Claimants represented by Jeffrey E. Jacobson, Esq.:

J RAD Music

Daniel Greenwald

Kosmic Daydream

Kim Angelis

Bill Gravel

John Kaizan Neptune

The Process

Aaron Shragge**

Beatrice Thomas

Vaneese Thomas

Claimants represented by Lawrence E. Feldman:

4:00 PM

AD LIBS

ANDREWS*LEE & THE HEARTS

BAKER*LAVERN

BAKER*RON

BALLARD*HANK

BARBARIANS

BELL*TONY

BELLAMY BROTHERS

BELMONTS

BENNO*MARC

BLACKFOOT

BOBBETTES

BRASS CONSTRUCTION

BRODIE*HUGH

BROWN*ALEX

BROWN*MAXINE

BROWN*SHARON

CAPITOLS

CARLEBACH*SHLOMO

CATHY JEAN & ROOMATES

CHAD & JEREMY

CHAKA DEMUS

CHAKA DEMUS & PLIERS

CHANTELS

CHIFFONS

CLANTON*JIMMY
CLASSICS IV
COLD CRUSH BROTHERS
COLLINS*LYN
COOKIES
CRASH CREW
CREED*LINDA
CRUDUP BROTHERS
DALE & GRACE
DAYVINA
DEE*LENNY
DEL-VIKINGS
DICK & DEEDEE
DIMUCCI*DION
DION
DION & BELMONTES
DREAM STREET
DRY KILL LOGIC
DUBS
ELEGANTS
E-TYPE
FAUST*WAYNE
FEARING*CHARLES
FLIPMODE SQUAD
FUNKY FOUR PLUS ONE
GARDNER*TAANA
GEORGE*BARBARA
GQ
GRANDMASTER FLASH & FURIOS FIVE AKA FURIOUS FIVE
GRAVEDIGGAZ
GROOVE THEORY
GUILBEAU*GIB
HAGGARD*MERLE
HAMILTON*ROY
HARPTONES
HARRIS*NORMAN
HARRIS*THURSTON
HARRISON*WILBERT
HEARTBEATS
HOLMES*RICHARD "GROOVE"
HORNE*LENA
HORSTMAN*CINDY
JACKSON CHUCK
JIVE FIVE
KENNER*CHRIS
KERSEY*RON

LARRIEUX*AMEL
LEADERS OF THE NEW SCHOOL
LEWIS*JERRY LEE
LITTLE EVA
LYMON*FRANKIE
LYMON*FRANKIE & TEENAGERS
MEL*MELLE AKA GRANDMASTER MELLE MEL
MOONGLOWS
NEALE*BILL
NUTMEGS
OMAR & THE HOWLERS
ORIOLES
ORLONS
PARRISH*DEAN
PASSIONS
PENGUINS
PITTMAN*WAYNE AKA O'KAYSIONS
PRETTY BOY FLOYD
QUIET ELEGANCE
RAE*FONDA
ROSIE & ORIGINALS
RUNAWAYS
RUSH*TOM
SAM THE SHAM & THE PHAROAHS
SANDS*TOMMY
SEVAG*OYSTEIN
SEXUAL HARRASSMENT
SHEP & THE LIMELITES
SHIRELLES
SILHOUETTES
SMITH*PRESTON
SMITH*VERDELLE
SOUL SONIC FORCE
STANDELLS
TEMPOS
TERRY*JOHNNY
VANILLA ICE
VINCELLI*JOSEPH
VINCENT*GENE & BLUE CAPS
WALLS*HARRY VANN
WESLEY*FRED
WHITNEY*MARVA
WILLIAMS*CAROL
WILLIAMS*OTIS & CHARMS
WILLOWS
WORL-A-GIRL

YARBROUGH*GLENN
AKENS*JEWEL
AYERS*ROY
BAD BRAINS
BELL*ARCHIE
BERRY*RICHARD
BLACK UHURU
BLOSSOMS
BOB B. SOXX & BLUE JEANS
BROWN*RUTH
BUSTA RHYMES
BYRD*BOBBY
CAKE
CASCADES
CHAMBERS BROTHERS
CHANGE
COASTERS
CORBIN-HANNER BAND
CRESPO*RICKY
CRESTS
CRUDUP*ARTHUR "BIG BOY"
CRYSTALS
DANNY & THE JUNIORS
DELLS, THE
DIAMONDS
DIXIE CUPS
DOUGLAS*CAROL
FABULOUS THUNDERBIRDS
FLAMINGOS
FLYING BURRITO BROTHERS
GILLESPIE*DIZZY
HAPPENINGS
HELM*LEVON
INXS
JAY & THE AMERICANS
JAYNETTES
JB'S
JUNGLE BROTHERS
KLEINOW*PETER
KNACK
LEWIS*BARBARA
LITTLE ANTHONY & THE IMPERIALS
LITTLE TEXAS
LOBO
LOVE*DARLENE
MANGIONE*CHUCK

MANHATTANS
MANN*BARRY
MANN*HERBIE
MARCELS
MARLEY*RITA
MARTINO*AL
MARVELETTES
MCPHATTER*CLYDE
MELVIN*HAROLD & BLUE NOTES
MFSB
MONOTONES
NEWTON*JUICE
NICK CAVE & BAD SEEDS
PARIS SISTERS
PATRA
PAUL*BILLY
PEACHES & HERB
PENN*DAWN
PITNEY*GENE
PLATTERS
RANDY & THE RAINBOWS
REEVES*MARTHA & VANDELLAS
RONETTES
ROSE*MICHAEL
SCOTT*FREDDIE
SEALS*DAN
SHA NA NA
SHANGRI-LAS
SIMONE*NINA
SMITH*FRANKIE
SOUL SURVIVORS
TAMS
TESH*JOHN
TRAMMPS
TROY*DORIS
WEIDER*JIM
WELK*LAWRENCE
WHEELER*CHERYL
YAKI-DA

**These claimants have signed on with AARC. Therefore, AARC will represent them in all current and future AHRA Sound Recording Fund proceedings.

All other claimants have settled with AARC only with regard to the 2010 proceeding.

Copyright Owners

Reginald C. Woodward, Jr.**

Ernst Andre**

James Cannings

Claimants Represented by Dayna D. Staggs:

Dayna D. Staggs**

Songwriters Guild of America

National Music Publishers Association

Dayna Staggs Music Publishing**

Dayna Paryss Entertainment, LLC

Doin Peeps Music Publishing, LLC

Claimants Represented by Jeffrey E. Jacobson, Esq.:

ROIR

Norton Records, Inc.

J Rad Music

Daniel Greenwald

Kosmic Daydream

Reachout International Records, Inc.

Skysong Record

CQK

Bill Gravel

John Kaizan Neptune

VP Record Distributers, Inc.

Claimants Represented by Lawrence E. Feldman:

ANDREWS*LEE & THE HEARTS

BAKER*RON

BARBARIANS

BELL*TONY

BLOSSOMS

BRODIE*HUGH

BROWN*ALEX

CATHY JEAN & ROOMATES

COLD CRUSH BROTHERS

COOKIES

CREED*LINDA

CRUDUP BROTHERS

DALE & GRACE

DAYVINA

DICK & DEEDEE

DREAM STREET

FEARING*CHARLES

FUNKY FOUR PLUS ONE

GARDNER*TAANA

GEORGE*BARBARA

HARRIS*NORMAN

HEARTBEATS

HORSTMAN*CINDY
JAYNETTES
KERSEY*RON
NEALE*BILL
ORLONS
PARRISH*DEAN
PITTMAN*WAYNE AKA O'KAYSIONS
RAE*FONDA
SHEP & THE LIMELITES
SMITH*VERDELLE
TEMPOS
TERRY*JOHNNY
VINCELLI*JOSEPH
WALLS*HARRY VANN
WEIDER*JIM
WHITNEY*MARVA
YAKI-DA
4:00 PM
AD LIBS
AKENS*JEWEL
AYERS*ROY
BAD BRAINS
BAKER*LAVERN
BALLARD*HANK
BELL*ARCHIE
BELLAMY BROTHERS
BELMONTS
BENNO*MARC
BERRY*RICHARD
BLACK UHURU
BLACKFOOT
BOB B. SOXX & BLUE JEANS
BOBBETTES
BRASS CONSTRUCTION
BROWN*MAXINE
BROWN*RUTH
BROWN*SHARON
BUSTA RHYMES
BYRD*BOBBY
CAKE
CAPITOLS
CARLEBACH*SHLOMO
CASCADES
CHAD & JEREMY
CHAKA DEMUS
CHAKA DEMUS & PLIERS

CHAMBERS BROTHERS
CHANGE
CHANTELS
CHIFFONS
CLANTON*JIMMY
CLASSICS IV
COASTERS
COLLINS*LYN
CORBIN-HANNER BAND
CRASH CREW
CRESPO*RICKY
CRESTS
CRUDUP*ARTHUR "BIG BOY"
CRYSTALS
DANNY & THE JUNIORS
DEE*LENNY
DEL-VIKINGS
DELLS, THE
DIAMONDS
DIMUCCI*DION
DION
DION & BELMONT'S
DIXIE CUPS
DOUGLAS*CAROL
DRY KILL LOGIC
DUBS
E-TYPE
ELEGANTS
FABULOUS THUNDERBIRDS
FAUST*WAYNE
FLAMINGOS
FLIPMODE SQUAD
FLYING BURRITO BROTHERS
GILLESPIE*DIZZY
GQ
GRANDMASTER FLASH & FURIOS FIVE AKA FURIOUS FIVE
GRAVEDIGGAZ
GROOVE THEORY
GUILBEAU*GIB
HAGGARD*MERLE
HAMILTON*ROY
HAPPENINGS
HARPTONES
HARRIS*THURSTON
HARRISON*WILBERT
HELM*LEVON

HOLMES*RICHARD "GROOVE"
HORNE*LENA
INXS
JACKSON CHUCK
JAY & THE AMERICANS
JB'S
JIVE FIVE
JUNGLE BROTHERS
KENNER*CHRIS
KLEINOW*PETER
KNACK
LARRIEUX*AMEL
LEADERS OF THE NEW SCHOOL
LEWIS*BARBARA
LEWIS*JERRY LEE
LITTLE ANTHONY & THE IMPERIALS
LITTLE EVA
LITTLE TEXAS
LOBO
LOVE*DARLENE
LYMON*FRANKIE
LYMON*FRANKIE & TEENAGERS
MANGIONE*CHUCK
MANHATTANS
MANN*BARRY
MANN*HERBIE
MARCELS
MARLEY*RITA
MARTINO*AL
MARVELETES
MCPHATTER*CLYDE
MEL*MELLE AKA GRANDMASTER MELLE MEL
MELVIN*HAROLD & BLUE NOTES
MFSB
MONOTONES
MOONGLOWS
NEWTON*JUICE
NICK CAVE & BAD SEEDS
NUTMEGS
OMAR & THE HOWLERS
ORIOLES
PARIS SISTERS
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SAM THE SHAM & THE PHAROAHS
SANDS*TOMMY
SCOTT*FREDDIE
SEALS*DAN
SEVAG*OYSTEIN
SEXUAL HARRASSMENT
SHA NA NA
SHANGRI-LAS
SHIRELLES
SILHOUETTES
SIMONE*NINA
SMITH*FRANKIE
SMITH*PRESTON
SOUL SONIC FORCE
SOUL SURVIVORS
STANDELLS
TAMS
TESH*JOHN
TRAMMPS
TROY*DORIS
VANILLA ICE
VINCENT*GENE & BLUE CAPS
WELK*LAWRENCE
WESLEY*FRED
WHEELER*CHERYL
WILLIAMS*CAROL
WILLIAMS*OTIS & CHARMS
WILLOWS
WORL-A-GIRL
YARBROUGH*GLENN

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EXHIBIT B

DECLARATION OF RICHARD SELTZER

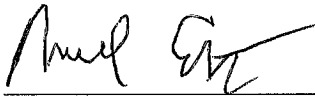
I, Richard Seltzer, declare under penalty of perjury as follows:

1. My name is Richard Seltzer, and I am a Political Science professor at Howard University, where I currently teach graduate courses in statistics and research methods. For the past thirty-one years, I have also designed and conducted various surveys. Additionally, I have authored numerous publications, which are listed in the attached curriculum vitae. On account of my experience in the field, I have previously been qualified as an expert in statistics and survey research in several federal and state courts. In addition to my teaching responsibilities, I have acted as a consultant to a variety of organizations in creating and maintaining complex databases. For the last fourteen years, I have worked with the Alliance of Artists and Recording Companies (“AARC”) as a royalty distribution system and sales data consultant. It is through this professional relationship that I have become familiar with Nielsen SoundScan’s sales data,¹ the data my following testimony is based upon.
2. I confirm that AARC’s Royalty Distribution System uses SoundScan data to determine the annual allocation of the DART Sound Recordings Fund royalties among claimants before the Copyright Royalty Board.
3. I have reviewed the 2010 SoundScan record sales data in the AARC Royalty Distribution System and found 2,163 record sales for Herman Kelly and 13 record sales for Write 4 U/ Fennie as featured recording artists.
4. I have reviewed the 2010 SoundScan record sales data in the AARC Royalty Distribution System and found no record sales for Eric N. Burns, Arpi Takacs, Eugene “Lambchops” Curry, and Eddie Rolling, and 2,163 record sales for Afterschool Publishing, 834 record sales for Ernest William Furrow, and 13 record sales for Write 4 U/Fennie as copyright owners.
5. The 2010 universe of record sales for claimants to the 2010 Featured Recording Artists Subfund, which includes record sales of the Settling Parties as defined in AARC’s “Notice of Settlement and Request for Partial Distribution of the 2010 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds Royalties,” and the 2,163 record sales for Herman Kelly and 13 record sales for Write 4/Fennie is 1,093,039,534 record sales.

¹ “Nielsen provides charts and insights for both music broadcast and sales. We capture in excess of 100 million song performances on more than 2,000 radio, satellite radio, network radio, and music video channels across Canada, Mexico, Puerto Rico and the United States. Nielsen’s tracking of music sales data is used by all major and most independent record companies as well as distribution companies, artist managers, booking agents, concert promoters, performing rights organizations, government agencies, venue owners, traditional retailers, online retailers, and digital delivery companies. Nielsen’s data on airplay and sales is featured weekly in *Billboard* magazine and is widely cited by numerous publications and broadcasters as the standard for music industry measurement.” See: <http://www.nielsen.com/us/en/industries/media-entertainment/music.html>

6. The 2010 universe of record sales for claimants to the 2010 Copyright Owners Subfund, which includes record sales of the Settling Parties as defined in AARC's "Notice of Settlement and Request for Partial Distribution of the 2010 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds Royalties," and the 2,163 record sales for Afterschool Publishing, 834 record sales for Ernest William Furrow, 13 record sales for Write 4/Fennie, and no record sales for Eric N. Burns, Arpi Takacs, Eugene "Lambchops" Curry, or Eddie Rolling, is 1,125,921,911 record sales.

I declare under penalty of perjury that the foregoing is true and correct.



Richard Seltzer

8/18/2011

Date

City of Alexandria

Commonwealth of Virginia

Certified this 18 day of 8, 2011




Notary Public

My commission expires: May 31, 2011

CURRICULUM VITAE

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II. EDUCATION

Undergraduate: University of Denver

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III. ACADEMIC FIELDS OF INTEREST

- a. Methodology: including public opinion surveys and statistical analysis.
- b. Legal Studies: including juror decision making processes and jury composition.

IV. BOOKS

Seltzer, R. and Holona LeAnne Ochs (2010). *Getting a Cut: A Contextual Understanding of Commission Systems*, Lanham: Lexington Books.

Seltzer, R. and Holona LeAnne Ochs (2010). *Gratuity: A Contextual Understanding of Tipping Norms from the Perspective of Tipped Employees*, Lanham: Lexington Books.

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Smith, Robert and R. Seltzer (2001). *Contemporary Controversies and the American Racial Divide*. Lanham: Rowman & Littlefield.

Seltzer, R., Jody Newman, and Melissa Leighton (1997). *Sex as a Political Variable: Women as Candidates and Voters in U.S. Elections*. Boulder: Lynne Rienner Publishers. This book was selected by *Choice* as an Outstanding Academic Book for 1998.

Seltzer, R. (1996). *Mistakes That Social Scientists Make: Error and Redemption in the Research Process*. New York: St. Martin's Press.

Smith, Robert C. and R. Seltzer (1992). *Race, Class, and Culture: A Study in Afro-American Mass Opinion*. Albany: State University of New York Press. In 1995 the book was the recipient of the Outstanding Book award of the National Conference of Black Political Scientists.

V. OTHER PUBLICATIONS

Seltzer, R., S. Franklin and J. Davis (2007). Symbolic Linkages and the Congressional Black Caucus. In J. Davis (Ed.) *Perspectives in Black Politics and Black Leadership* (pp. 143-160). Lanham, University Press of America.

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Seltzer, R., John Copacino and Diana Roberto Donahoe (1996). Fair Cross-Section Challenges in Maryland: An Analysis and Proposal. *University of Baltimore Law Review* 35:2, 127-167.

Seltzer, R., Sucre Alonè and Gwendolyn Howard (1996). Police Satisfaction with Their Jobs: Arresting Officers in the District of Columbia. *Police Studies*. 19:4, 25-37.

Seltzer, R., Michael Frazier and Irelene Ricks (1995). Multiculturalism, Race, and Education. *Journal of Negro Education*. 64:2, 124-140.

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Seltzer, R., Betsy Biben and Richard Seligman (1992). Public Attitudes Toward Mandatory and Alternative Sentencing in the District of Columbia, A Paper of the Sentencing Project, Washington, D.C.

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Seltzer, R. (1978). A Five-School Typology of Theorists of the Origins of American Imperialism, 1870-1901. Ph.D. Dissertation, University of Denver.

VI. PRESENTATIONS AT PROFESSIONAL CONFERENCES AND SELECTED REPORTS

Seltzer, R. and Y. Curtis, Translation of Verbal and Attitudinal Expressions into Numeric Probabilities, Paper presented at American Association for Public Opinion Research Convention, Anaheim, California, May 20, 2007.

Seltzer, R. Nonresponse in Telephone Surveys: The Reporting of Outcome Measures, Paper presented at American Association for Public Opinion Research Convention, Miami, Florida, May 13, 2005.

Seltzer, R. and R. Roper. Changes in Attitudes toward American Institutions and Occupations, Paper presented at American Association for Public Opinion Research Convention, Miami, Florida, May 13, 2005.

Williams II, Ronald and R. Seltzer. Testing the Cosby Thesis: An Empirical Analysis of the Allegations Made by Dr. William H. Cosby about African American Youth, Paper presented at National Conference of Black Political Scientists Convention, Arlington, Virginia, March 23-26, 2005.

Franklin, Sekou and R. Seltzer. The Paradoxes of Enclave Federalism in the District of Columbia: Race, Class, Political Culture, Home Rule and Statehood, Paper presented at the Midwest Political Science Association Convention, Chicago, Illinois, April 25-28, 2002.

R. Seltzer & John Davis. Attitudes Toward School Vouchers in the District of Columbia, Paper presented at Annual Meeting of the National Conference of Black Political Scientists. Washington, D.C., March 9, 2000.

Alexander, Carolyn, R. Seltzer & Debra Bright. *Combating Violence Against Women Within Hotspot Communities*, A Report to the Governor's Office of Crime Control & Prevention (Maryland), December, 1999.

Seltzer, R. Voir Dire in the District of Columbia: Empirical Findings. Presentation at Annual Meeting of District of Columbia Bar. Washington, D.C. June 20. 1989.

Smith, Robert C. and R. Seltzer. Class and the Patterning of Racial Differences in Mass Opinion. Paper presented at Annual Meeting of the National Conference of Black Political Scientists. Baton Rouge, Louisiana. March 15-17, 1989.

Stroman, Carolyn and R. Seltzer. Mass Communication and Knowledge of AIDS. Paper presented at 17th Annual Communication Conference. Howard University, Washington, D.C. October 28, 1988.

Gilliam, Aisha and R. Seltzer. The Efficacy of Educational Films on AIDS Among College Students. Paper presented at the American Alliance for Health, Physical Education, Recreation and Dance - Eastern District Association. Philadelphia, Pennsylvania. March 19, 1988.

Seltzer, R. and Robert C. Smith. Color Differences in the Afro-American Community and the Differences They Make. Paper presented at the Annual Meeting of the National Conference of Black Political Scientists. Atlanta, Georgia. April 23, 1987.

Seltzer, R. Juror Appraisal of Jury Service in the Superior Court of the District of Columbia. A report to the Superior Court of the District of Columbia. November, 1987.

Seltzer, R. Juror Perception of Death Penalty Trials. A report to the Office of the Public Defender of Maryland. October, 1987.

Seltzer, R. and Aisha Gilliam. AIDS at Howard University: Attitudes and Knowledge of Students. A report to the Howard University Administration. July, 1987.

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Seltzer, R. and Earl Wright. Attitudes of Students and Residents of Washington, D.C. Toward Howard University. A report to the Howard University Administration. 1984.

Seltzer, R. The Social Location of Attitudes Toward the Ku Klux Klan. Paper presented at the Union Radical Political Economists National Convention. Washington, D.C. August 26, 1983.

Seltzer, R. Joseph McCormick, and Walter Hill. Housing Conditions and Attitudes Toward Housing and Related Issues in Washington, D.C. monograph available by writing the authors at the Department of Political Science at Howard University. 1981.

Seltzer, R. and Dan Rodriguez. Conflicts in Consumer Coops: A Survey of the Common Market Food Coop. Paper presented at the 4th Annual Conference on Utopian Studies. Denver, Colorado. October 12, 1979.

Seltzer, R. An Example of the Use of Exploratory Data Analysis: Multinational Corporations. Paper presented at International Studies Association/West Convention. San Francisco, California. March 20, 1976.

R. Seltzer and Baldave Singh. The Effects of Social Criteria on University Investment Portfolios as They Relate to Southern Africa and the Native American Reservations. Paper presented at the African Studies Convention. Chicago, Illinois. November 2, 1974.

CERTIFICATE OF SERVICE

I, Sarah Koons, Junior Royalty Administrator of the Alliance of Artists and Recording Companies, certify that on this August 23, 2011, a copy of the foregoing "Notice of Settlement and Request for Partial Distribution of the 2010 DART Sound Recordings Fund Featured Recording Artists and Copyright Owners Subfunds Royalties" was served, by the designated delivery method, on the following parties:


Sarah Koons

NON-SETTLING PARTIES BY OVERNIGHT MAIL:

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c/o Paula B. Mays
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¹ No postal carrier is able to provide overnight delivery service to Romania. We have therefore sent this pleading to Mr. Takacs electronically via email and by USPS Express Mail, which will arrive in an estimated 3-5 business days.