

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

Plaintiff,

v.

AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS,

Defendant.

Supplemental to Case No. 41-1395 (DLC)


**AFFIDAVIT OF KELSEY W. SHANNON IN SUPPORT OF PETITION FOR ORDER
TO SHOW CAUSE WHY DEFENDANT AMERICAN SOCIETY OF COMPOSERS,
AUTHORS AND PUBLISHERS SHOULD NOT BE HELD IN CONTEMPT FOR
VIOLATING THE SECOND AMENDED FINAL JUDGMENT**

1. I am a trial attorney for the United States Department of Justice, Antitrust Division. I have personal knowledge of the facts set forth below.
2. As the agent for musical copyright holders, ASCAP sells public performance licenses collectively on behalf of its composer, songwriter, and publisher members.
3. In conjunction with colleagues, I have reviewed approximately 150 agreements between ASACP and its writer, composer and publisher members that contain terms designating ASCAP as the exclusive licensor of that member's musical works. These contracts each provided, in essentially identical terms, that the member granted to ASCAP "the exclusive right not only to license the public performance of all works I have written during my term of membership at ASCAP, but also those works that I will write or co-write during the term of my membership at ASCAP[.]"
4. Section IV(A) of the Second Amended Final Judgment (AFJ2) prohibits ASCAP from "[h]olding, acquiring, licensing, enforcing, or negotiating concerning any foreign or domestic

rights in copyrighted musical compositions other than rights of public performance on a non-exclusive basis” Section IV(B) of AFJ2 bars ASCAP from “[l]imiting, restricting, or interfering with the right of any member to issue, directly or through an agent other than a performing rights organization, non-exclusive licenses to music users for rights of public performance.”

I affirm under penalty of perjury that the statements made in this Affidavit are true and correct.

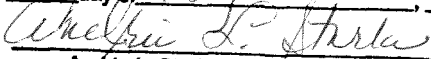
Executed on May 12, 2016 in Washington, D.C.


Kelsey W. Shannon

District of Columbia: SS

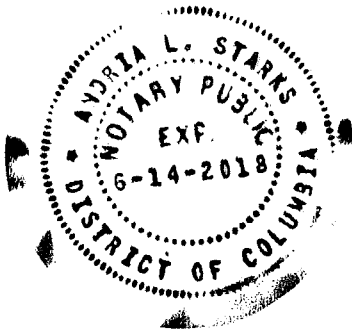
Subscribed and sworn to before me, in my presence,

this 12th day of May, 2016



Andria L. Starks, Notary Public, D.C.

My commission expires June 14, 2018.



CERTIFICATE OF SERVICE

I certify that on May 12, 2016, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification to all counsel of record in this matter who are registered with the Court's ECF system. I also served an electronic copy of the foregoing on the following counsel for Defendant American Society of Composers, Authors and Publishers, who have agreed to accept electronic service pursuant to Fed. R. Civ. P. 5(b)(2)(E):

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/s/ Kelsey W. Shannon
Kelsey W. Shannon