

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELISSA FERRICK, et al.,

Plaintiffs,

vs.

SPOTIFY USA INC., et al.,

Defendants.

Case No. 1:16-cv-08412 (AJN)

DECLARATION OF STEPHEN J. CIRAMI
REGARDING NOTICE TO SETTLEMENT CLASS

I, STEPHEN J. CIRAMI, hereby declare and state as follows:

1. I am the Executive Vice President and Chief Operating Officer of Garden City Group, LLC (“GCG”), a full service administration firm providing legal administration services, including the development of complex legal notice programs. The following statements are based on my personal knowledge as well as information provided by other experienced GCG employees working under my supervision, and if called on to do so, I could and would testify competently thereto.

2. GCG was appointed as the Settlement Administrator pursuant to this Court’s Order Granting Plaintiffs’ Unopposed Motion for Preliminary Approval of Settlement (the “Order”) dated June 29, 2017, and in accordance with the Parties’ Settlement Agreement and Release (the “Agreement” or “Settlement Agreement”). Pursuant to Paragraph 19 of the Order, I

submit this Declaration in order to provide the Court and the Parties to the Agreement¹ with information regarding dissemination of direct Notice and implementation of the Notice Plan, in accordance with the Agreement and the Order.

CLASS ACTION FAIRNESS ACT NOTICE

3. Pursuant to Paragraph 12.7 of the Agreement, and on behalf of Spotify USA Inc. (“Spotify”), on June 2, 2017, GCG served upon all required government officials written notice of the Agreement in compliance with the requirements of the Class Action Fairness Act 28 U.S.C. § 1715(b) (“CAFA Notice”). Specifically, on June 2, 2017, GCG served the CAFA Notice and an accompanying CD containing the documents specified by 28 U.S.C. § 1715(b)(1)-(8) to the Attorney General of the United States and to the state Attorneys General identified in the CAFA Notice Service List. True and correct copies of the CAFA Notice and CAFA Notice Service List are attached hereto as **Exhibit A**. Federal Express and USPS Express Mail deliveries were confirmed for each recipient to whom the CAFA Notice was sent. A chart containing true and correct confirmation information is attached hereto as **Exhibit B**.

CLASS DATA TRANSFER

4. Pursuant to Paragraph 12.3 of the Agreement, on July 12, 2017, Spotify provided to GCG, via a secure File Transfer Protocol (“FTP”) site, an electronic data file which included the names, addresses, and email addresses of all registered claimants of copyrights in musical compositions whose names together with either mail addresses or email addresses appear in electronic records (the “Records”) maintained in a digitally searchable format by the U.S. Copyright Office starting in 2008. The file provided to GCG contained 677,482 Records (the

¹ All capitalized terms not otherwise defined in this document shall have the meaning ascribed to them in the Settlement Agreement.

“Raw Class Data”). GCG downloaded this file directly from the FTP site and promptly loaded the Raw Class Data into a database created for the purpose of Settlement administration.

5. After analyzing the Raw Class Data, GCG determined that there were 535,380 unique Records with complete name and mailing address data, and an additional 21 unique Records with only complete name and email address data. Of the 535,380 unique Records, 280 had complete name and mailing address data as well as email address data. In total, GCG determined that there were 535,401 unique Records in the Raw Class Data to which GCG could attempt to send notice (“Usable Class Data”). Unique identifiers were given to all Usable Class Data records in order to maintain the ability to track them throughout the Settlement administration process.

OVERVIEW OF NOTICE PLAN

6. In compliance with the Order and as set forth in more detail in my May 26, 2017 Declaration Regarding Notice Plan and Settlement Administration (the “Pre-Notice Declaration”), GCG utilized a multifaceted approach engineered through a combination of direct notice, print media and Internet advertising. The elements in this multilayered and comprehensive Notice Plan included:

- a) direct mail and email notice to potential Settlement Class Members for whom mailing or email addresses were included in the Usable Class Data;
- b) print notice once each in *Rolling Stone*, *Billboard*, *Music Connection*, and *Variety*;
- c) targeted digital advertisements on the Internet;
- d) social media outreach;
- e) a press release;
- f) a settlement website;

- g) a toll-free information number; and
- h) a disclosure on Spotify's webpage for artists.

DIRECT NOTICE – UNITED STATES MAIL

7. Pursuant to Paragraphs 12.1 – 12.5 of the Agreement and Paragraphs 12, 18(a), and 22 of the Order, GCG formatted the Court-approved Postcard Notice for distribution by the United States Postal Service (“USPS”) to all registered claimants of copyrights in musical compositions whose names together with mailing addresses appeared in the Usable Class Data (“Mailed Notice”). A true and correct copy of the Mailed Notice is attached hereto as **Exhibit C**.

8. As described in the Pre-Notice Declaration, prior to mailing the Mailed Notice, GCG ran each complete Record through the National Change of Address (“NCOA”) database, which is maintained by the USPS and ensures that address data is accurately formatted for mailing.² Where an updated address was obtained, GCG updated the address in its database to help increase the success rate of the Mailed Notice reaching potential Class Members for whom a mailing address was included in the Usable Class Data.

9. Pursuant to Paragraphs 12, 18, and 22 of the Order, on August 3, 2017, GCG mailed, by USPS first class mail, the Mailed Notice to the persons and entities identified in the 535,380 Records with complete name and mailing address data.

10. Pursuant to Paragraph 12.5 of the Agreement, GCG promptly re-mailed and will continue to re-mail Mailed Notices returned as undeliverable if a forwarding address is provided

² The NCOA database is the official USPS technology product which makes change of address information available to mailers to help reduce undeliverable mail pieces before mail enters the mailstream. This product is an effective tool to update address changes when a person has completed a change of address form with the USPS. The address information is maintained on the database for 48 months.

to GCG by USPS. If a forwarding address is not provided by the USPS, GCG has conducted and will continue to conduct an advanced address search and promptly re-mail any undeliverable mail pieces where a new address can be located. As of August 30, 2017 a total of 1,000 Mailed Notices were re-mailed as a result of forwarding addresses provided to GCG by the USPS, and a total of 30,834 Mailed Notices were re-mailed as a result of new addresses located through an advanced address search. A total of 20,093 Mailed Notices were returned as undeliverable without forwarding addresses for which a new address could not be located through an advanced address search.

11. Based upon the total number of Mailed Notices mailed and the rate of undeliverables, GCG estimates that the direct mail notice reached approximately 94% of the potential Class Members for whom a mailing address was included in the Usable Class Data.

DIRECT NOTICE – EMAILED NOTICE

12. Pursuant to Paragraph 12.4(a) of the Agreement and Paragraphs 12, 18, and 22 of the Order, GCG formatted the Court-approved Postcard Notice for email dissemination (the “E-mail Notice”) to the 301 Records with complete name and email address data included in the Usable Class Data. A true and correct copy of the template of the E-mail Notice is attached hereto as **Exhibit D**.

13. For all Class Members with potentially valid email addresses in the Usable Class Data, GCG closely monitored all deliverability attempts of the Email Notice. A total of 266 Email Notices were delivered. Of the 35 Email Notices that could not be delivered, 32 of them were undeliverable because the email address no longer existed, the email account was closed, or the email address had a bad domain name or address error (collectively, “Hard Bouncebacks”).

After three attempts, the remaining three Email Notices could not be delivered due to an inactive or disabled account, the recipient's mailbox was full, technical auto-replies, or the recipient server was busy or unable to deliver (collectively, "Soft Bouncebacks"). Ultimately, GCG was able to deliver direct Email Notice to 88% of the potential Class Members for whom an email address was included in the Usable Class Data.

14. In my opinion, direct Mail and E-mail Notice were most practicable under the circumstances, as they provided individual direct notice to all registered claimants of copyrights in musical compositions whose names could be identified through reasonable effort from electronic records maintained in a digitally searchable format by the U.S. Copyright Office. The direct notice clearly and concisely stated in plain, easily understood language all matters required to be communicated under Federal Rule of Civil Procedure 23(c)(2)(B).

PUBLICATION NOTICE

15. Pursuant to Paragraphs 12.6 of the Agreement and Paragraphs 12, 18, and 22 of the Order, GCG has also implemented all the other components of the Notice Plan as approved by the Court. As discussed below, the completed Notice Plan included a combination of print publication and targeted internet banner advertising, social media outreach, the creation of a dedicated informational Settlement Website, and a toll-free telephone number where Settlement Class Members are able to obtain relevant information about the Settlement.

16. As set forth in more detail in the Pre-Notice Declaration, based upon the Settlement Class definition and GCG's analysis and research, GCG determined that our best qualitative Target Audience of this case was "adults 18 and older in the United States who indicated their job was in the arts, design, entertainment, sports, or media fields."

PRINT PUBLICATION

17. Pursuant to Paragraph 12.6(a) of the Agreement and Paragraphs 12, 18, and 22 of the Order, and to further enhance the direct mail effort described above, the Publication Notice was published once each in *Rolling Stone*, *Billboard*, *Music Connection*, and *Variety* to notify additional potential Settlement Class Members of the Agreement.

18. The Publication Notice was inserted once in *Rolling Stone* magazine's August 24, 2017 issue, once in *Billboard* magazine's August 19, 2017 issue, once in *Music Connection* magazine's September 2017 issue, and once in *Variety* magazine's August 22, 2017 issue. The combined circulation for the above referenced Publication Notice is 1,545,979. A true and correct copy of the Publication Notice as it appeared in each magazine is attached hereto as **Exhibit E**.

19. The Publication Notice was written with plain language in a clear and concise question/answer format appropriate for the Target Audience. Further, the Publication Notice communicated important information about the Agreement, class definition, objection and exclusion options, and deadlines in a prominent and easy to understand manner. The Publication Notice included the Settlement Website address and the toll-free telephone number that potential Settlement Class Members could utilize to obtain additional information. The Settlement Website address and toll-free number stood out at the bottom of the Notice for ease of reference.

INTERNET BANNER ADVERTISING

20. Pursuant to Paragraph 12.6(b) of the Agreement and Paragraphs 12, 18, and 22 of the Order, commencing on July 17, 2017, and running through August 27, 2017, GCG caused banner advertisements to be published on the following internet sites: The Yahoo! Audience

Network; Conversant; Facebook; American Songwriter; Fader; Hits Daily Double (Hits Magazine); Billboard and BillboardBiz; Pitchfork; Drowned in Sound; and Consequence of Sound. The total number of impressions delivered for each of the internet sites is below:

INTERNET	
Site	Impressions
Yahoo! Audience Network	174,173,607
Conversant	133,374,665
Facebook	130,654,278
American Songwriter	150,224
Fader	150,628
Hits Daily Double (Hits Magazine)	219,598
Billboard and BillboardBiz	733,464
Pitchfork	372,046
Drowned in Sound	405,593
Consequence of Sound	523,869
Total Impressions:	440,757,972

21. The banner advertisements allowed website visitors to identify themselves as potential Settlement Class Members and then click on a link that would take them directly to the Settlement Website. In total, the banner advertisement campaign delivered over 440,757,972 impressions or opportunities for potential Settlement Class Members to click on the banner advertisement and view the Settlement Website. A true and correct copy of the screenshot of the

banner advertisements as they were displayed on each website is attached hereto as **Exhibit F**.

SOCIAL MEDIA OUTREACH

22. Pursuant to Paragraph 12.6(c) of the Agreement and Paragraphs 12, 18, and 22 of the Order, GCG conducted social media outreach utilizing LinkedIn ads, Reddit promoted links and Twitter promoted tweets. This outreach commenced on July 31, 2017, and ran through August 27, 2017.

23. LinkedIn ads targeted musicians, composers, producers, and other related job titles. Those in our Target Audience were 142% more likely to use LinkedIn than the average adult 18 years of age or older. These ads earned 891,355 impressions. A true and correct copy of a screenshot of the LinkedIn ad is attached hereto as **Exhibit G**.

24. Reddit promoted links targeted songwriters and the music and music publishing industry by placement of links on specific content areas of interests called subreddits which specifically included r/songwriters, r/songwriting, r/composer, r/wearethemusicmakers, r/music, r/musicians, r/musicinthemaking, and r/musicproduction. These links earned 1,600,000 impressions. True and correct copies of screenshots of the Reddit promoted links are attached hereto as **Exhibit H**.

25. Twitter promoted tweets were targeted by keywords such as musician, producers, composers, and other music-related keywords. The targeted tweets were served on behalf of GCG to Twitter users who had an opportunity to click directly on the tweet to be connected to the Settlement Website or to retweet to their followers to extend the message to others that may not have seen the promoted tweet. Users were encouraged to visit the Settlement Website for further information or to call the toll-free number to speak with a case representative. The tweets

earned 619,708 impressions. True and correct copies of screenshots of the promoted tweets are attached hereto as **Exhibit I**.

PRESS RELEASE

26. Pursuant to Paragraph 12.6(d) of the Agreement and Paragraphs 12, 18, and 22 of the Order, a press release was distributed on July 31, 2017, over PR Newswire's US1 newswire and National Hispanic newswires. US1 press releases are issued broadly to more than 15,000 media outlets, including newspapers, magazines, national wire services, television and radio broadcast media, web sites, online databases, Internet networks and social networking media in all 50 states. The Hispanic newswire reaches over 7,000 U.S. Hispanic media contacts including online placement of approximately 100 Hispanic websites nationally. The combined release resulted in 278 pickups by media outlets, with a potential audience of 224,613,286. True and correct copies of the press releases as they were distributed are attached hereto as **Exhibit J**.

SETTLEMENT WEBSITE

27. Pursuant to Paragraph 12.2 of the Agreement and Paragraphs 12 and 18 of the Order, on July 6, 2017, GCG launched and continues to maintain and update a website, www.SpotifyPublishingSettlement.com, dedicated to this Settlement (the "Settlement Website"). A live "clickable" link to the Settlement Website was contained in the Email Notice and the complete URL was contained in the Mailed Notice. *See Exhibits C-E*.

28. The Settlement Website contains a copy of the Long Form Notice, the Mailed Notice, the Publication Notice, the Order, motions and declarations filed in support of the Order, the Agreement and exhibits thereto, and the Class Action Complaint. It also includes procedural information regarding the status of the Court-approval process, how to determine if one is a class

member, important dates and deadlines, searchable answers to 24 frequently asked questions, and a contact information page for Class Counsel and the Settlement Administrator. The Settlement Website also provides instructions for Claimants wishing to exclude themselves from or object to the Settlement, as well as information for attending the Final Fairness Hearing. True and correct copies of the Settlement Website pages as they appeared on August 30, 2017 are attached hereto as **Exhibit K**. The Settlement Website is accessible 24 hours a day, seven days a week. As of August 30, 2017, the Settlement Website has received 157,760 visitors.

SETTLEMENT TOLL-FREE NUMBER

29. Pursuant to Paragraph 18(c) of the Order and Paragraph 43 of the Pre-Notice Declaration, on July 14, 2017, GCG established and continues to maintain a toll-free telephone number, 1 (855) 474-3853 (the “Settlement Toll-Free Number”), with an Interactive Voice Response (“IVR”) system, to answer questions and provide information to potential Settlement Class Members. The IVR provides callers with the ability to listen to important information about the Settlement and request mailed copies of the Long Form Notice. The IVR system also provides callers with the ability to speak to a Customer Service Representative during business hours. Long Form Notices were promptly mailed to all persons who requested them.

30. As of August 30, 2017, GCG has received 14,176 calls to the Settlement Toll-Free Number.

31. GCG has maintained and will continue to maintain the Settlement Toll-Free Number and update the IVR throughout the administration of the Agreement.

DISCLOSURE ON SPOTIFY’S WEBPAGE FOR ARTISTS

32. As described in Paragraph 36 of the Pre-Notice Declaration, I understand that

Spotify posted a prominent link to the settlement website on the artist-focused webpage on its website at artists.spotify.com. A true and correct copy of this link to the settlement website is attached hereto as **Exhibit L**. I further understand that Spotify also posted a prominent link to the settlement website on the publisher-focused webpage on its website at publishers.spotify.com. A true and correct copy of this link to the settlement website is attached hereto as **Exhibit M**.

SUMMARY

33. The Notice Plan described above included an appropriate mix of different types of media designed and implemented in order to properly and effectively provide notice to the Class. The measured portion of the Notice Plan reached approximately 74% of the Target Audience approximately 2.6 times.

CONCLUSION

34. The Notice Plan, in my opinion, was implemented to achieve the best practicable notice under the circumstances and satisfied due process and the applicable rules governing class actions.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 1st day of September, 2017 in Lake Success, New York.



Stephen J. Cirami

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2017, I caused the aforementioned document to be served via the Electronic Case Filing (ECF) system in the United States District Court for the Southern District of New York, on all parties registered for CM/ECF in the above-captioned matters.

Dated: September 1, 2017

/s/ Krysta Kauble Pachman

Krysta Kauble Pachman