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September 20, 2024

VIA ECF

Honorable Robert W. Lehrburger
United States Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1960
New York, NY 10007
Lehrburger_NYSDChambers@nysd.uscourts.gov

Re: *Josh Webber, et al. v. Damon Anthony Dash*, 19 Civ. 610-RWL
Intervenor NYC Dept. of Social Services, ex rel. Rachel Roy and Cindy Morales -
Motion for Premotion Conference and Stay of Auction

Dear Magistrate Judge Lehrburger:

I represent Intervenor, the City of New York (the "City"), acting by and through the NYC Department of Social Services ("NYCDSS"). Pursuant to Your Honor's Individual Rules of Practice, I am writing to request a premotion conference and a stay of the auction sale by the U.S. Marshall pending a ruling by this Court regarding whether Shawn Carter, a/k/a Jay-Z ("Jay-Z") possesses a right to terminate Roc-A-Fella Records Inc. ("RAF")'s copyright for his album *Reasonable Doubt* under Copyright Act § 203, and whether discovery concerning the valuation of such copyright rights should be allowed. Such relief is warranted because Jay-Z and RAF have each taken actions to the detriment of the judgment creditors' interests in obtaining the best possible price from the auction sale of defendant Damon Dash's stock interest in RAF. Jay-Z has issued widely publicized statements designed to suppress the perceived value of the stock and bidder interest in the auction, and RAF has refused to provide royalty information in response to a subpoena that is critical and necessary for the valuation of the stock by potential bidders.

As this Court has already ruled, a judgment creditor need not proceed by special proceeding and may proceed by motion as long as the court has personal jurisdiction over the garnishee. See

Decision and Order dated Feb. 13, 2024, at p.5, n.12. The City also will likely file motions for turnover orders against RAF and its controlled affiliates in due course.

The auction should be conducted in the manner that “will bring the highest price” for the benefit of affected judgement creditors. See, e.g., City of New York v HC2 Holdings Inc., Index No. 452635/2020, 2021 NY Slip Op 30745(U), at *4 (Sup. Ct. New York County Mar.11, 2021) (NYSCEF Docs. 56, 67); Morgan v. Maher, 60 Misc. 2d 642, 644, 303 N.Y.S.2d 575, 577 (Sup. Ct. Nassau County 1969) (noting that a public auction sale “should be conducted in an environment that is calculated to bring the highest possible price.”).

Jay-Z’s statements to the press have poisoned the environment for the auction. He has claimed that he has a termination right under the Copyright Act and that the rights to *Reasonable Doubt* will revert to him in six years. In fact, he has no such termination right and RAF is entitled to the renewal term, which is now 67 years, meaning it will own the copyright rights until the year 2098. In other words, the highest possible auction price could be more than ten times higher than is likely now, given Jay-Z’s and RAF actions. RAF is complicit by its inaction in pushing back against such false statements.

Section 203(a) of the Copyright Act, provides, in relevant part, that a transfer of a copyright in “any work *other than a work made for hire*, . . . executed by the author on or after January 1, 1978, *otherwise than by will*, is subject to termination” under certain conditions. 17 U.S.C. § 203 (emphasis added). As the Second Circuit explained in *Horror Inc. v. Miller*, 15 F.4th 232, 242 (2d Cir. 2021), “[t]he Act creates an exception to the general authorship rule regarding ‘works made for hire’: as to those works, ‘the employer or other person for whom the work was prepared is considered the author,’ *id.* § 201(b), and the original creator has no corresponding termination right, *id.* § 203(a).” Thus, if Jay-Z was RAF’s employee when he created *Reasonable Doubt*, or RAF commissioned the work and Jay-Z willingly transferred all rights to RAF, then it is a “work made for hire” under the Act, and Jay-Z has no termination right under the Act.

Jay-Z has issued widely publicized statements warning potential bidders that copyright ownership will revert back to him in 2031. E.g., <https://hypebeast.com/2024/8/jay-z-files-notice-reasonable-doubt-ownership-rights-2031>; <https://www.vibe.com/news/entertainment/jay-z-files-notice-masters-reasonable-doubt-album-dame-dash-auction-1234904672/>. Those statements are false and extremely damaging to the City’s interests in ensuring that the auction will generate sufficient funds to satisfy all existing child support arrearages and secure future child support payments. Under these circumstances, the Court should stay the auction.

The RAF/Jay-Z Agreement

“In 1995, RAF, Inc. and Jay-Z inked a record deal under which RAF, Inc. would own, among other things, “[t]he Masters and the LP, from the inception of the recording thereof, and all Phonograph Records and other reproductions made therefrom, together with the performances embodied therein and all copyrights therein and thereto (excluding the copyright in the underlying compositions) throughout the world, and all renewals and extensions thereof, shall be entirely our property, free of any claims whatsoever by you, or any other person, firm, or corporation.” See Roc-A-Fella Records, Inc. v. Dash, No. 21 Civ. 5411 (JPC) (S.D.N.Y.), Cmpl. (ECF 1), at ¶ 3; Ex. A § 4.01). Jay-Z submitted a sworn declaration, stating that RAF “owns the copyright and all

rights, title, and interests in and to my album *Reasonable Doubt*, including, without limitation, the right to sell, record, reproduce, broadcast, transmit, exhibit, distribute, advertise, and exploit the album." *Id.* (ECF 7), at ¶ 3.

The agreement (copy attached as Exhibit A hereto), on its face, precludes any argument by Jay-Z that he has a termination right and that the work is not a "work made for hire." Section 4.01 expressly states: "As between [Jay-Z] and [RAF] all Masters embodied on the LP and all Masters recorded hereunder, from the inception of the recording thereof, shall, for purposes of copyright law, be deemed "works made for hire" for us by you and all other persons rendering services in connection with those Masters are our employees for hire. . . . We shall, accordingly, have the exclusive right to obtain registration of copyright (and all renewals and extensions) in those Masters and the LP, in our name, as the owner and author thereof."

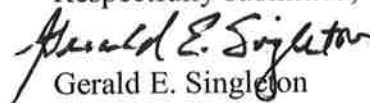
Request for Discovery

NYCDSS served an administrative subpoena on Roc Nation LLC requesting royalty information. It sought a lengthy extension, which was denied, and then served a dilatory response, asserting frivolous objections and alleging that it has no such records, despite the fact that Jay-Z and other controlled affiliates control all exploitation of copyright rights. The subpoena and Roc Nation's response are collectively annexed hereto as Exhibit B.

"[B]road post-judgment discovery in aid of execution is the norm in federal and New York state courts." *EM Ltd. v. Republic of Argentina*, 695 F.3d 201, 207 (2d Cir. 2012), aff'd sub nom. Republic of Argentina v. NML Cap., Ltd., 573 U.S. 134 (2014). Under the Federal Rules of Civil Procedure, "[i]n aid of the judgment or execution, the judgment creditor . . . may obtain discovery from any person — including the judgment debtor — as provided in these rules or by the procedure of the state where the court is located." Fed. R. Civ. P. 69(a)(2). Under New York law, "the judgment creditor may compel disclosure of all matter relevant to the satisfaction of the judgment." CPLR § 5223. This is "a generous standard which permits the creditor a broad range of inquiry through either the judgment debtor or any third person with knowledge of the debtor's property." *ICD Grp., Inc. v. Isr. Foreign Trade Co. (USA)*, 224 A.D.2d 293, 638 N.Y.S.2d 430, 430 (1st Dep't 1996); accord *Lisogor v. Nature's Delight, Inc.*, 189 A.D.3d 1386, 134 N.Y.S.3d 785, 786 (2d Dep't 2020). "[T]he presumption should be in favor of full discovery of any matters arguably related to the creditor's efforts to trace the debtor's assets," *Gujarat State Petrol. Corp. v. Republic of Yemen*, No. 19-mc-00547 (RA), 2022 WL 1567464, at *8 (S.D.N.Y. May 18, 2022) (citation omitted). "Those related matters may include information relevant to the existence or transfer of the judgment debtor's assets, as well as the location and source of those assets." *Id.* (emphasis, ellipsis, quotation marks, and citation omitted).

Based on the foregoing authorities, the City is entitled to an order compelling RAF to provide royalty information and to produce a knowledgeable person for a deposition forthwith.

Respectfully submitted,


Gerald E. Singleton

cc: Counsel of Record (via ECF)