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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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9 Essex Music, Inc.; Sony/ATV Harmony;)
10 Panther Music Corp.; WB Music Corp.))
Chappell & Co., Inc.,

No. 11-MC-00081-PHX-JAT

ORDER

11 Plaintiffs/Judgment Creditors,)

12 vs. )

13 Sonora Claremont, Inc.; Roberto Flores, )

14 Defendants/Judgment Debtors.))

15 American Express TRS, Inc., )

16 Garnishee. )

17 )

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19 Pending before the Court is Plaintiffs' Motion for Garnishment Judgment (Doc. 6).

20 The Court now rules on the Motion.

21 I. BACKGROUND

22 On January 29, 2009, Judgment was entered against Defendants Sonora Claremont,
23 Inc. and Roberto Flores ("Judgment Debtors"), in favor of Plaintiffs Essex Music, Inc.,
24 Sony/ATV Harmony, Panther Music Corp., WB Music Corp., and Chappell & Co., Inc.
25 ("Judgment Creditors"), in the amount of \$15,000 in statutory damages, \$2,997.50 in
26 attorneys' fees, and post-judgment interest as provided by law "from the date of entry of
27 judgment until the date the judgment is paid in full." (Doc. 1).

28 On July 26, 2011, Judgment Creditors requested a writ of garnishment against

1 Garnishee American Express TRS, Inc. (“AmEx”) (Doc. 5). At the time the writ was served,  
2 the full amount of the judgment owed to Judgment Creditors was still outstanding. (*Id.* at 2).  
3 In its Answer, AmEx indicated that, at the time the writ was served, it was in possession of  
4 \$158.44 in monies of Judgment Debtors. (Doc. 6-2 at ¶ IV). AmEx’s Answer also indicated  
5 that copies of the Writ and Summons, underlying Judgment, Notice to Judgment Debtors, and  
6 Requests for Hearing were delivered to Judgment Debtors on August 15, 2011 by regular  
7 first class mail. (*Id.* at ¶ X). A copy of AmEx’s answer was attached to the Judgment  
8 Creditors’ Motion for Garnishment and mailed to Judgment Debtors on August 17, 2011.  
9 (Doc. 6 at 2).

## 10 II. LEGAL STANDARD

11 Process to enforce a judgment for the payment of money is a writ of execution, unless  
12 the court directs otherwise. FED. R. CIV. P. 69(a)(1). Generally, a federal writ of execution  
13 “must accord with the procedure of the state where the court is located.” *Id.* Arizona’s  
14 statutory scheme regarding garnishment of monies or property is located at Arizona Revised  
15 Statutes (“A.R.S.”) sections 1570-1597.

16 “A party who has an objection to the writ of garnishment, the answer of the garnishee  
17 or the amount held by the garnishee or a party claiming an exemption for garnishment may,  
18 not later than ten days after the receipt of the answer, file a written objection and request for  
19 hearing.” ARIZ. REV. STAT. ANN. § 12-1580(A) (2011). “[I]f the answer shows that the  
20 garnishee was indebted to the judgment debtor at the time of service of the writ, and no  
21 objection to the writ or answer is timely filed, on application by the judgment creditor the  
22 court shall enter judgment on the writ against garnishee for the amount of the nonexempt  
23 monies of the judgment debtor owed or held by the garnishee at the time of the service of the  
24 writ.” *Id.* at § 12-1584(A). Under Arizona’s garnishment statute, a presumption exists “that  
25 a document has been received five days after it is mailed.” *Id.* at § 12-597(A).

## 26 III. ANALYSIS

27 Judgment Creditors have properly complied with Arizona’s garnishment statutes  
28 regarding the Writ of Garnishment of nonearnings. Judgment Debtors presumptively

1 received notice of the Writ of Garnishment and the Motion for Garnishment Judgment.  
2 Judgment Debtors have not filed an objection to the writ or garnishment or the Motion for  
3 Garnishment Judgment. AmEx has not requested a reimbursement fee for its costs incurred  
4 in preparing its answer.

5 **IV. CONCLUSION**

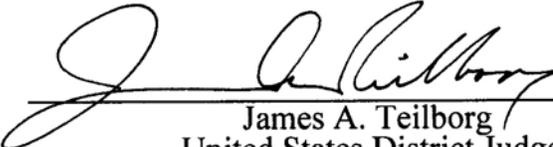
6 Based on the foregoing,

7 **IT IS ORDERED** that Judgment Creditors' Motion for Garnishment Judgment (Doc.  
8 6) is granted.

9 Judgment Creditors Essex Music, Inc, Sony/ATV Harmony, Panther Music Corp.,  
10 WB Music Corp., and Chappell & Co., Inc. shall have judgment against Garnishee American  
11 Express TRS, Inc. from the amount disclosed in American Express TRS, Inc.'s Answer in  
12 Garnishment as to Judgment Debtors Sonora Claremont, Inc. and Roberto Flores in the  
13 amount of \$158.44.

14 American Express TRS, Inc. shall remit the sum of \$158.44 to Judgment Creditors  
15 through their attorney, Peter J. Rathwell, Snell & Wilmer L.L.P., One Arizona Center, 400  
16 East Van Buren, Phoenix, Arizona 85004-2202.

17 DATED this 10th day of January, 2012.

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22 James A. Teilborg  
23 United States District Judge  
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