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10 Attorneys for Plaintiff
 11 HENDRICKS & LEWIS PLLC

12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA

14 HENDRICKS & LEWIS PLLC, a
 15 Washington professional limited
 16 liability company,

Plaintiff,

vs.

18 GEORGE CLINTON, an individual,

19 Defendant.

) Case No. CV10-09921- ODW (PLAx)

)

) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW, AND**
) **ORDER MODIFYING ASSIGNMENT**
) **ORDER DATED DECEMBER 5, 2014**

)

) The Honorable Otis. D. Wright II

)

) Date:

) Time: 1:30 p.m.

22 Action Filed: August 10, 2010

23
 24 **I. BACKGROUND.**

25 This matter originally came before the Court on Plaintiff and Judgment

26
 27 [PROPOSED] FINDINGS AND CONCLUSIONS,
 28 AND ORDER MODIFYING ASSIGNMENT ORDER
 DATED DECEMBER 5, 2014 - 1

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1 Creditor Hendricks & Lewis PLLC (“H&L”)’s Motion for Assignment Order,
2 Restraining Order and Turnover Order filed on December 27, 2010. (See ECF
3 No. 5.) On December 5, 2014, this Court granted H&L’s motion and entered
4 Findings and Conclusions on Motion for Assignment Order, Restraining Order,
5 and Document Turnover Order (the “Assignment Order”).
6
7

8 H&L has moved for a modification of the Assignment Order to extend it to
9 cover four (4) awards for attorneys’ fees and costs totaling \$430,768.35. The
10 parties have provided briefing on the subject and the having considered that
11 briefing as well and the entire record of this proceeding, the Court makes the
12 following findings of fact and conclusions of law and Order Extending Assignment
13 Order.
14
15

16 **II. FINDINGS OF FACT.**

17 1. On May 28, 2010, the United States District Court for the Western
18 District of Washington entered judgment in favor of H&L and against Defendant
19 and Judgment Debtor George Clinton for \$1,675,639.82 (the “Original
20 Judgment”). Pursuant to 28 U.S.C. § 1963, H&L registered that judgment in this
21 District on August 10, 2010.
22
23

24 2. On December 27, 2010, H&L moved for Assignment Order,
25 Restraining Order and Turnover Order to provide for payment of the Original
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
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1 Judgment and costs of the litigation.

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3 3. On December 5, 2014, this Court granted H&L's motion and entered
4 Findings and Conclusions on Motion for Assignment Order, Restraining Order,
5 and Document Turnover Order (the "Assignment Order"). The Assignment Order
6 provided for payment of the Original Judgment, interest and costs of the litigation.
7

8 4. On February 5, 2015, this Court awarded H&L its reasonable
9 attorney' fees of \$119,666.50 as part of the costs of the assignment motion
10 litigation, and on March 17, 2015, taxed costs of \$13,611.19. Royalties assigned
11 have been applied to payment of these fees and costs.
12

13 5. The balance due on the Original Judgment after application of
14 payments through October 27, 2016 was \$40,216.37.
15

16 6. On September 29, 2016, in *Hendricks & Lewis PLLC v. George*
17 *Clinton*, No. 3:13-mc-00183 (M.D. Tenn.), the United States District Court for the
18 Middle District of Tennessee ordered George Clinton to pay H&L reasonable
19 attorneys' fees in the amount of \$146,931.25. Pursuant to 28 U.S.C. § 1963, H&L
20 registered that Order in this District on November 14, 2016.
21
22

23 7. On August 28, 2015, in *George Clinton v. Will Adams v. Hendricks &*
24 *Lewis PLLC*, No. 12-56663 (9thCir.), D.C. No. 10-cv-9476-ODW (C.D. Cal.), the
25 United States Court of Appeals for the Ninth Circuit awarded H&L attorneys' fees
26

27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 3

1 and costs against George Clinton in the total amount of \$64,540.45.

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3 8. On December 9, 2014, in *Hendricks & Lewis PLLC v. George*
4 *Clinton*, No. 13-35010 (9th Cir.), D.C. No. 12-CV-841-RSL, the United States
5 Court of Appeals for the Ninth Circuit issued its mandate and taxed costs against
6 George Clinton in the amount of \$892.10. On January 6, 2015, the United States
7 Court of Appeals for the Ninth Circuit amended its mandate by an Order to George
8 Clinton to pay H&L reasonable attorneys' fees in the amount of \$157,618.00.
9 Pursuant to 28 U.S.C. § 1963, H&L registered the Mandate in this District on
10 November 16, 2016, and the Order in this District on November 2, 2015.

13 9. On July 19, 2010, in *Hendricks & Lewis PLLC v. George Clinton*, No.
14 C10-0253-JCC (W.D. Wash.), the United States District Court for the Western
15 District of Washington entered judgment awarding H&L its reasonable attorneys'
16 fees against George Clinton in the amount of \$60,786.50. Pursuant to 28 U.S.C.
17 § 1963, H&L registered that Judgment in this District on October 27, 2016.

18
19
20 10. As a consequence of the foregoing four awards, George Clinton has
21 become indebted to Hendricks & Lewis PLLC for a total of \$430,768.35 for
22 attorneys' fees and costs in addition to the original judgment debt he owed
23 Hendricks & Lewis PLLC, the balance of which was \$1,304,340.72 at the time the
24 Court entered the assignment order on December 5, 2014.

27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 4

1 11. Clinton incurred these fees and costs by opposing, obstructing and
2
3 delaying payment of the original judgment debt for which the Assignment Order
4 was entered.

5 12. George Clinton has given notice to Broadcast Music, Inc. (“BMI”) of
6
7 termination of his songwriter’s performance royalty accounts. Two of the accounts
8 have terminated. The last of these accounts that provides royalties, the Tick Free
9 Music account, reportedly terminates on June 30, 2017.

10 13. Clinton reported to this Court that he has moved or is moving his
11
12 accounts to a French organization comparable to BMI, Société *des Auteurs,*
13 *Compositeurs et Éditeurs de Musique* (Society of Authors, Composers and
14 Publishers (SACEM)) (ECF 263 at 8.).

15 14. At SACEM Clinton’s royalties are beyond the reach of traditional
16
17 U.S. state garnishment proceedings.

18 15. These royalties are now presumptively available to Clinton for his
19
20 personal needs and use.

21 16. Under the assignment order entered on December 5, 2014, the original
22
23 judgment debt and the costs of the Assignment Order litigation have been
24 substantially paid down, and thus, the assigned royalty streams from Universal
25 Music Group (“UMG”) and SoundExchange soon will be available to pay down
26

27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 5

1 Clinton's new obligations.

2
3 17. H&L currently has two pending judgment enforcement actions outside
4 this District. One involves an order from the United States District Court for the
5 Western District of Washington appointing a receiver and directing the licensing
6 and/or sale of four copyrights in sound recordings to pay the Original Judgment
7 and the attorneys' fee judgment entered by that Court. The other involves a
8 garnishment of Clinton's remaining account at Broadcast Music, Inc. in the United
9 States District Court for the Middle District of Tennessee to collect the attorneys'
10 fees awarded by that court to H&L from Clinton.
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13 18. All of the payments collected on the judgment to date have been the
14 result of H&L's judgment enforcement actions. Clinton has not made any
15 voluntary payments on the judgment unconnected to H&L's enforcement efforts
16 since the judgment was entered in May 2010. Clinton also has not made any
17 voluntary payments on the awards for attorneys' fees and costs against him and in
18 favor of H&L.
19
20

21 19. Clinton has not turned over any documentation relating to his royalty
22 streams as required by the Assignment Order.
23

24 20. Under the Assignment Order, H&L receives royalty payments from
25 third-party royalty payors Universal Music Group ("UMG") and SoundExchange.
26

27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 6

1 **III. CONCLUSIONS OF LAW.**

2
3 1. H&L has registered each of the out-of-district attorneys' fee and costs
4 awards under 28 U.S.C. § 1963, and each of those awards therefore "has the same
5 effect as a judgment of the district court of the district where registered and may be
6 enforced in like manner." 28 U.S.C. § 1963.
7

8 2. Under FED. R. CIV. PROC. 69 California law governs this judgment
9 enforcement proceeding.
10

11 3. In California, all property of the judgment debtor is subject to
12 enforcement of a money judgment absent a statutory exemption. CAL. CIV. CODE
13 § 695.010(a); *Ford Motor Credit Co. v. Waters*, 166 Cal. App. 4th Supp. 1, 8, 83
14 Cal. Rptr. 3d 826 (2008).
15

16 4. Under California judgment law, "Either the judgment creditor or the
17 judgment debtor may apply to the court on noticed motion for an order to modify .
18 . . the assignment order. CAL. CIV. CODE § 708.560(a). Under CAL. CIV. CODE
19 § 708.560(b) "The court shall make an order modifying . . . the assignment order
20 upon a showing that there has been a material change in circumstances since the
21 time of the previous hearing on the assignment order." Section 708.560(b) also
22 provides that "The order shall state whether and to what extent it applies to
23 payments already made."
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 7

1 5. The awards of attorneys' fees and costs against Clinton and in favor of
2 H&L constitute a material change in circumstances that have increased Clinton's
3 total liability to H&L.

4
5 6. The substantial pay-down of the balance due on Original Judgment
6 debt and the costs of litigation consisting of awards by this Court of attorneys' fees
7 of \$119,666.50 and costs of \$13,611.19 constitute a material change in
8 circumstances that will shortly make the assigned royalty streams under the initial
9 assignment available for payment of the attorneys' fees and costs awards.
10

11
12 7. Clinton's termination of his accounts with Broadcast Music Inc.
13 ("BMI") to be effective June 30, 2017 and transfer of his performance royalties
14 from to Societe des Auteurs, Compositeurs et Editeurs de Musique ("SACEM") in
15 France, beyond the reach of traditional United States garnishment and attachment
16 procedures, constitute a material change in circumstances. This will make
17 significant revenue available to Clinton in addition to other royalty payments not
18 assigned to meet Clinton's reasonable requirements.
19
20

21 8. Based on this evidentiary record, H&L has satisfied its burden of
22 demonstrating the propriety of and need for the modification of the assignment
23 order it now seeks as well as an extension of the order restraining Clinton from
24 disposing of or otherwise transferring the royalty streams at issue and requiring
25
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 8

1 Clinton to turn over documentation relating to these royalty streams

2
3 **IT IS HEREBY ORDERED** as follows:

4 1. H&L's motion for modification of the assignment order, restraining
5 order and turnover order is GRANTED.

6
7 2. The Assignment Order dated December 5, 2014 is hereby modified
8 and amended in paragraph 2 on page 14 to provide that the specified assigned
9 accounts

10
11 are hereby ASSIGNED to Hendricks & Lewis PLLC, c/o Katherine
12 Hendricks, 1516 Federal Avenue East, Seattle, Washington 98102-4233 for
13 purposes of payment of (1) the judgment in the amount of \$1,304,340.72,
14 plus interest after September 12, 2014, plus other costs as may be allowed,
15 and (2) attorneys' fees and costs awards totaling \$430,768.35. The
16 Assignment shall remain in place until such time as the judgment including
17 accrued interest and said attorneys' fees and costs awards are paid in full, or
18 until this Order is amended.

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20
21 (Emphasis on language added.)

22
23 The Assignment Order dated December 5, 2014, is further modified and
24 amended in paragraph 3 on page 15 of the Assignment Order to provide that the
25 specified accounts

26
27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 9

1 are hereby ASSIGNED to Hendricks & Lewis PLLC, c/o/ Katherine
2 Hendricks, 1516 Federal Avenue East, Seattle, Washington 98102-4233 for
3 purposes of payment of (1) the judgment in the amount of \$1,304,340.72,
4 plus interest after September 12, 2014, plus other costs as may be allowed,
5 and (2) attorneys' fees and costs awards totaling \$430,768.35. The
6 Assignment shall remain in place until such time as the judgment including
7 accrued interest and said attorneys' fees and costs awards are paid in full, or
8 until this Order is amended.
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12 (Emphasis on language added.)

13 3. IT IS ORDERED that pursuant to CAL. CIV. PROC. CODE § 708.510,
14 all accounts, accounts receivable, rights to payment of money, contract rights,
15 rights to payment of money from third parties, contingent rights, deposits and
16 deposit accounts, claims against third parties and monies due from the following
17 third parties (referred to collectively hereinafter as "Royalty Payors"):
18
19

- 20 a. UNIVERSAL MUSIC GROUP, INC., UMG RECORDINGS,
21 INC., and all affiliated labels, 2220 Colorado Avenue, Santa
22 Monica, California 90404, and 1755 Broadway, New York,
23 New York 10019, specifically the following accounts:
24

Account No.	Account Name
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 10

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Account No.	Account Name
XXXX3068	Clinton George/Clijo Prod-310
XXXX5301	Clinton George-Paythrough Acc
XXXX6304	Parliament
XXXXP730	Tick Free Music
XXXX0297	Tick Free Music Inc.
XXXX4652	Tick Free Music

- b. CAPITOL RECORDS, EMI MUSIC, EMI MUSIC NORTH AMERICA, and all affiliated labels, 1750 Vine Street, Hollywood, California 90028, specifically the following accounts:

Account No.	Account Name
XXXX7/002	Red Hot Chili/George Clinton – 7137455
XXXX8/001	Clinton, George/Clijo Prod – 3101687
XXXX38/002	Clinton, Ge/Gregory Paul Prod – 3101689
XXXX38/003	Clinton, George/Scoop of Poop – 3101690
XXXX38/007	Clinton, George/Clijo Prod – 3601687/3651687
XXXX38/008	Clinton, George-Paythrough Acct – G.H.
XXXX98/001	Clinton, G/Scoop of Poop Prod - 3101691

- c. SOUNDEXCHANGE, 733 10th Street NW, 10th Floor, Washington D.C. 20001, specifically account for What Productions and/or The C Kunspruhzy F/S/O George Clinton.

1 and in favor of and for the benefit of Defendant and Judgment Debtor George
2 Clinton, or any of Defendant's assignees, other persons acting on his behalf, and
3 any of the following Clinton entities:
4

- 5 d. P-Funk, Inc.;
- 6 e. Clijo Productions, Inc.;
- 7 f. Disc and Dat, Inc. I;
- 8 g. Disc and Dat, Inc. II;
- 9 h. What Production Company, Inc.;
- 10 i. Tick Free Music Publishing, Inc.;
- 11 j. The Dog In Me, Inc.;
- 12 k. The C Kunspyruhzy, LLC;
- 13 l. PFunk Nation Celebration, Inc.;
- 14 m. Egmitt Productions, Inc.;
- 15 n. A Scoop of Poop Productions, Inc.; and
- 16 o. Exoskeletol Music

17 are hereby ASSIGNED to Hendricks & Lewis PLLC, c/o Katherine Hendricks,
18 1516 Federal Ave E, Seattle, Washington 98102-4233, for purposes of payment of
19 (1) the judgment in the amount of \$1,304,340.72, plus interest after September 12,
20 2014, plus other costs as may be allowed; and (2) attorneys' fees and costs award
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
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1 totaling \$430,768.35. The Assignment shall remain in place until such time as the
2 judgment is paid in full, including accrued interest, and the said attorneys' fees and
3 costs are paid in full, or until this Order is amended.
4

5 4. IT IS FURTHER ORDERED that pursuant to CAL. CIV. PROC. CODE
6 § 708.510, all accounts, accounts receivable, rights to payment of money, contract
7 rights, rights to payment of money from third parties, contingent rights, deposits
8 and deposit accounts, claims against third parties and monies due Clinton from the
9 following Clinton entities:
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- 12 a. P-Funk, Inc.;
- 13 b. Clijo Productions, Inc.;
- 14 c. Disc and Dat, Inc. I;
- 15 d. Disc and Dat, Inc. II;
- 16 e. What Production Company, Inc.;
- 17 f. Tick Free Music Publishing, Inc.;
- 18 g. The Dog In Me, Inc.;
- 19 h. The C Kunspyruhzy, LLC;
- 20 i. PFunk Nation Celebration, Inc.;
- 21 j. Egmitt Productions, Inc.;
- 22 k. A Scoop of Poop Productions, Inc.; and
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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
DATED DECEMBER 5, 2014 - 13

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1. Exoskeletol Music

and in favor of and for the benefit of Defendant and Judgment Debtor George Clinton, or any of Defendant's assignees or other persons acting on his behalf, are hereby ASSIGNED to Hendricks & Lewis PLLC, such that payments due from any of the Royalty Payors to any Clinton entity identified above may be paid directly to Plaintiff and Judgment Creditor Hendricks & Lewis PLLC, c/o Katherine Hendricks, 1516 Federal Ave E, Seattle, Washington 98102-4233, for purposes of payment of (1) the judgment in the amount of \$1,304,340.72, plus interest after September 12, 2014, plus other costs as may be allowed; and (2) attorneys' fees and costs awards totaling \$430,768.35. The Assignment shall remain in place until such time as the judgment is paid in full, including accrued interest, and said attorneys' fees and costs awards are paid in full, or until this Order is amended.

5. IT IS FURTHER ORDERED that pursuant to CAL. CIV. PROC. CODE § 708.520, Clinton, his agents, employees, attorneys, accountants, and other representatives, and any and all person(s) acting in concert or participating with any of them, are hereby stayed, prohibited, and enjoined from cashing, negotiating, advancing, collecting, assigning or encumbering any and all accounts, accounts receivable, rights to payment of money, claims for payment of money due from

[PROPOSED] FINDINGS AND CONCLUSIONS,
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1 third parties, or other rights subject to the assignment herein.

2
3 6. IT IS FURTHER ORDERED that pursuant to CAL. CIV. PROC. CODE
4 § 699.040, Clinton shall deliver all checks, cash, notes, instruments, deposits,
5 deposit accounts, drafts, accounts receivable ledgers or journals, or any other
6 tangible item of payment received by Clinton or his agents, employees, attorneys,
7 accountants, and other representatives pertaining to the rights to payment subject to
8 the assignment herein to the Marshal, Central District of California, 255 E. Temple
9 Street, Room 346, Third Floor, Los Angeles, California 90012-4798.
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12 IT IS SO ORDERED.

13 Date: January 25, 2017

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17 **OTIS D. WRIGHT, II**
18 **UNITED STATES DISTRICT JUDGE**

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27 [PROPOSED] FINDINGS AND CONCLUSIONS,
28 AND ORDER MODIFYING ASSIGNMENT ORDER
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