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16 Attorneys for Plaintiff
 BRYAN PRINGLE
 17

18 **UNITED STATES DISTRICT COURT**
 19 **CENTRAL DISTRICT OF CALIFORNIA**
 20 **SOUTHERN DIVISION**

21 BRYAN PRINGLE, an individual, 22 Plaintiff, 23 v. 24 WILLIAM ADAMS, JR.; STACY 25 FERGUSON; ALLAN PINEDA; and 26 JAIME GOMEZ, all individually and collectively as the music group The Black Eyed Peas, <i>et al.</i> , 27 Defendants.) Case No. SACV 10-1656 JST(RZx))) DECLARATION OF) DEAN A. DICKIE IN SUPPORT) OF MOTION TO RECONSIDER) THE COURT'S APRIL 12, 2011) ORDER AWARDING SANCTIONS) PURSUANT TO 28 U.S.C. § 1927)) DATE: June 13, 2011) TIME: 10:00 a.m.) CTRM: 10A
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1 Dean A. Dickie, having personal knowledge of the facts contained within this
2 declaration, states that if called as a witness, he could testify regarding the
3 following:

4 1. I am a partner at the law firm of Miller, Canfield, Paddock and Stone,
5 P.L.C. (“Miller Canfield”) and am lead counsel for Plaintiff, Bryan Pringle
6 (“Plaintiff” or “Pringle”) in the above-captioned action. I am a member in good
7 standing of the State Bar of Illinois.

8 2. The litigation team for Pringle includes Dean A. Dickie, Katharine N.
9 Dunn and Kathleen E. Koppenhoefer from Miller Canfield, Ryan Greely and Ira
10 Gould from Gould Law Group, and George Hampton and Colin Holley of
11 HolleyHampton LLP.

12 3. On March 9, 2011, the entire litigation team for Plaintiff met to discuss
13 a variety of issues regarding this case, including a review of this Court’s Order of
14 January 27, 2011.

15 4. In connection with that review, one of the issues that the litigation
16 team discussed was the status of Plaintiff’s efforts in attempting service of Rister
17 Editions and Frederic Riesterer.

18 5. Prior to the March 9, 2011 meeting, the litigation team considered
19 options of service on Rister Editions pursuant to the Hague Convention and agreed
20 given the requirements of such service, it was not the best option for “promptly”
21 achieving service on Rister Editions.

22 6. Accordingly, during the March 9th meeting, the team examined the
23 language of the Court’s January 27, 2011 order for purposes of discussing exactly
24 what the Court had determined was improper about the prior service of Rister
25 Editions by serving Shapiro Bernstein & Co. (“Shapiro”).

26 7. The team discussed the fact that the Court specifically noted
27 “Defendants argue that Plaintiff’s proofs of service on Rister state that service was
28 made not on any employee or service agent of Rister, but rather on Defendant

1 Shapiro. Plaintiff does not dispute this.” (emphasis added) [Doc. #95] and that the
2 Court included no further analysis or comment regarding any other service
3 deficiency.

4 8. Based upon their review of the January 27, 2011 order, the attorneys
5 all agreed that the Court had clearly taken issue with the fact that the proof of
6 service documentation itself failed to state that Shapiro had been served as the agent
7 or representative of Rister Editions in the United States.

8 9. This interpretation of the Court’s January 27, 2011 order was a
9 consensus and the entire litigation team was in agreement as to what needed to be
10 remedied with respect to the proof of service, which was to include a designation of
11 Shapiro as “agent” or “representative” of Rister Editions in the United States.

12 10. Shapiro’s disavowal of its agency relationship with Rister Editions was
13 also discussed during that litigation team meeting.

14 11. On that subject, the litigation team discussed: (i) the difficulties
15 experienced in attempting to obtain Frederic Riesterer’s contact information from
16 Shapiro; (ii) the apparent efforts of Shapiro to assist in Riesterer’s effort in avoiding
17 service; and (iii) the fact that Shapiro was most likely doing the same with respect
18 to Rister Editions.

19 12. The team further discussed the fact that based upon the evidence which
20 had been obtained and was now available to them - as set forth on both Shapiro’s
21 own website and in the liner notes for “The E.N.D.” CD - Shapiro was at the very
22 least the implied agent of Rister in the United States despite its position otherwise.
23 [See Declaration of Jeremy Katz, Doc. #123.]

24 13. Further, the team reviewed relevant case law holding that despite
25 Shapiro’s express denial of its agency relationship with Rister Editions, there was a
26 good faith basis for asserting that Shapiro it undoubtedly the implied agent as a
27 matter of law and that service upon Shapiro was still appropriate if the proofs of
28

1 service made it clear that service of process was being effectuated on Shapiro as the
2 “Agent” under Rule 4 of the Federal Rules of Civil Procedure.

3 14. Accordingly, the litigation team concluded that upon the clear
4 evidence available, service of Rister Editions via Shapiro was proper as a matter of
5 law.

6 15. The team then agreed that in order to best comply with the Court’s
7 order, the proof of service on Shapiro should specifically designate Shapiro as agent
8 and representative of Rister Editions in the United States.

9 16. Thereafter, the team amended the proof of service to specifically state
10 that Shapiro was being served as “the agent, United States representative for and
11 United States administrator of Rister Editions” and service was promptly
12 effectuated on Shapiro.

13 17. At no point did the litigation team conclude that the Court’s
14 January 27, 2011 order suggested that Shapiro was not the agent or representative
15 for Rister Editions or that the Court had previously determined that the provision of
16 Rule 4 of the Federal Rules of Civil Procedure were not to be used in completing
17 service of process on Rister Editions promptly. To the contrary, since the entire
18 litigation team agreed that in its January 27, 2011 Order, the Court appeared to be
19 taking issue with the “proof of service” documentation, not the method, as
20 appropriately proof of service document, as amended, would be proper.

21 18. Attached to this Declaration as Exhibit A is a true and correct copy of
22 Shapiro’s Initial Rule 26 Disclosures served on February 28, 2011, in which
23 Frederic Riesterer is identified as having discoverable information but no address
24 was provided.

25 19. Attached to this Declaration as Exhibit B is a true and correct copy of
26 the Black Eyed Peas Defendants’ Initial Rule 26 Disclosures, which also identified
27 Frederic Riesterer as a person with discoverable information, but which identified
28 Loeb & Loeb, counsel for Shapiro, as the address for Riesterer.

1 20. Attached to this Declaration as Exhibit C is a true and correct copy of
2 a letter I received on March 16, 2011 from Barry Slotnick.

3 21. Attached to this Declaration as Exhibit D is a true and correct copy of
4 a letter I sent to Barry Slotnick and Kara Cenar on March 18, 2011.

5 22. Attached to this Declaration as Exhibit E is a true and correct copy of a
6 letter I received on March 21, 2011 from Barry Slotnick.

7 I declare under penalty of perjury that the statements contained in this
8 Declaration are true and correct.

9 Executed this 10th day of May, 2011.

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12 _____
13 Dean A. Dickie
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7 Attorneys for Defendants SHAPIRO,
BERNSTEIN & CO., INC. (incorrectly
8 sued as Shapiro, Bernstein & Co.);
RISTER EDITIONS and DAVID
9 GUETTA

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

BRYAN PRINGLE, an individual,

Plaintiff,

v.

WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
JAIME GOMEZ, all individually and
collectively as the music group The
Black Eyed Peas, et al.,

Defendants.

Case No. SACV 10-1656 JST(RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

**DEFENDANTS SHAPIRO,
BERNSTEIN & CO., INC.'S AND
DAVID GUETTA'S INITIAL
DISCLOSURES PURSUANT TO
RULE 26(A)(1)**

EXHIBIT A

DEFENDANTS SHAPIRO BERNSTEIN AND
DAVID GUETTA'S RULE 26(A)(1) INITIAL
DISCLOSURES

1 Defendants Shapiro Bernstein & Co., Inc. (“Shapiro Bernstein”) and David
2 Guetta (“Guetta”), by and through their undersigned counsel, Loeb & Loeb LLP,
3 make the following initial disclosures pursuant to Federal Rule of Civil Procedure
4 26(a)(1)(A).

5 **I. Introductory Statement**

6 The following disclosures are based upon the information reasonably
7 available to Shapiro Bernstein and Guetta as of this date. Shapiro Bernstein and
8 Guetta’s disclosures represent a good faith effort to identify information and
9 documents called for by Rule 26(a)(1)(A). By making these disclosures, Shapiro
10 Bernstein and Guetta do not represent that they are identifying every document,
11 electronically stored information, tangible thing or witness possibly relevant to this
12 action, including such documents, electronically stored information or tangible
13 things that may be in the possession, custody or control of other parties or non-
14 parties. Shapiro Bernstein and Guetta reserve the right to amend or supplement
15 these initial disclosures as provided by the Federal Rules of Civil Procedure.

16 **II. Initial Disclosures**

17 1. Pursuant to Rule 26(a)(1)(A)(i), Shapiro Bernstein and Guetta identify
18 the following individuals who are likely to have discoverable information that may
19 be used to support their claims or defenses, unless solely for impeachment:

- 20 a. Bryan Pringle – likely has knowledge or information regarding: (i)
21 the alleged creation of the original and/or derivative versions of “Take a
22 Dive,” (ii) the alleged distribution and/or publication of the original and/or
23 derivative versions of “Take a Dive,” (iii) his communications and
24 correspondence, if any, with the Defendants, (iv) his dealings with the United
25 States Copyright Office, including any dealings related to the alleged
26 registration of the original and/or derivative versions of “Take a Dive.”

1 b. David Guetta – likely has knowledge or information regarding the
2 creation of the musical composition and/or sound recording of the song “I
3 Gotta Feeling.”

4 c. Frederic Riesterer – likely has knowledge or information regarding
5 the creation of the musical composition and/or sound recording of the song “I
6 Gotta Feeling.”

7 d. All persons identified by Plaintiff and/or other Defendants as likely
8 to have discoverable information.

9 Shapiro Bernstein and Guetta reserve the right to rely upon, at any time,
10 including trial, any individual, and any category of information known to any
11 individual, that they discover as a result of their continuing investigation of the
12 claims and defenses in this action, or that was omitted from this disclosure by
13 inadvertence or otherwise.

14 2. Pursuant to Rule 26(a)(1)(A)(ii), Shapiro Bernstein and Guetta state
15 that they do not have any documents, electronically stored information, or tangible
16 things in their possession, custody, or control that they may use to support their
17 claims or defenses, other than solely for impeachment.

18 Shapiro Bernstein and Guetta reserve the right to rely upon any documents,
19 electronically stored information or tangible things that they discover as a result of
20 their continuing investigation of the claims and defenses in this action, or that were
21 omitted from this disclosure by inadvertence or otherwise.

22 3. Pursuant to Rule 26(a)(1)(A)(iii), Shapiro Bernstein and Guetta state
23 that, pursuant to 17 U.S.C. § 505 and other applicable law, they seek an award of
24 their attorneys’ fees and expenses incurred in defending this action, which fees and
25 expenses continue to accrue and cannot be computed at this time.

26 4. Pursuant to Rule 26(a)(1)(A)(iv), Shapiro Bernstein and Guetta state
27 that they are not aware of any insurance agreement under which an insurance
28

1 business may be liable to satisfy all or party of a possible judgment in the action or
2 to indemnify or reimburse for payments made to satisfy the judgment.

3 Shapiro Bernstein and Guetta reserve the right to supplement this disclosure
4 after further investigation.

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8 Dated: February 28, 2011

LOEB & LOEB LLP

9

By: /s/ Donald A. Miller

10

Donald A. Miller

Barry I. Slotnick

Tal E. Dickstein

11

12

Attorneys for Defendants

SHAPIRO, BERNSTEIN & CO., INC.

(incorrectly sued as Shapiro, Bernstein &
Co.) and DAVID GUETTA

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1 **PROOF OF SERVICE**

2 I, Tal E. Dickstein, the undersigned, declare that:

3 I am employed in the County of New York, State of New York, over the age of 18, and not
4 a party to this cause. My business address is Loeb & Loeb LLP, 345 Park Avenue, New York,
5 New York, 10154.

6 On February 28, 2011, I caused a true copy of the foregoing **DEFENDANTS SHAPIRO,**
7 **BERNSTEIN & CO., INC.'S AND DAVID GUETTA'S INITIAL DISCLOSURES**
8 **PURSUANT TO RULE 26(A)(1)** to be served on the counsel for all parties in this case by
9 placing the above named document in a sealed envelope addressed as set forth on the attached
10 service list and by then placing such sealed envelope for collection and mailing with the United
11 States Postal Service in accordance with Loeb & Loeb LLP's ordinary business practices.

12 I am familiar with Loeb & Loeb LLP's practice for collecting and processing
13 correspondence for mailing with the United States Postal Service and Overnight Delivery Service.
14 That practice includes the deposit of all correspondence with the United States Postal Service
15 and/or Overnight Delivery Service the same day it is collected and processed.

16 I declare under penalty of perjury that the foregoing is true and correct.

17 Executed on February 28, 2011, at New York, New York.

18
19 /s/ Tal Dickstein
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SERVICE LIST

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4 225 W. Washington, Suite 2600
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16 *Attorneys for Plaintiff Bryan Pringle*

17 Kara E. F. Cenar
18 BRYAN CAVE LLP
19 161 North Clark Street, Suite 4300
20 Chicago, IL 60601

21 *Attorneys for Defendants William Adams, Jr., Stacy Ferguson,*
22 *Jamie Gomez, and Allan Pineda, all individually and collectively as the music*
23 *group the Black Eyed Peas; EMI April Music, Inc.; Headphone*
24 *Junkie Publishing, LLC; Will.I.Am Music, LLC; Jeepney Music, Inc.;*
25 *Tab Magnetic Publishing; and Cherry River Music Co.*

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*Attorneys for Defendants UMG Recordings Inc. and Interscope
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EXHIBIT A



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10 Attorneys for Defendants
WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA; and JAIME
11 GOMEZ, all individually and collectively as the music group THE BLACK EYED
PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING; CHERRY RIVER
12 MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**
15

16 BRYAN PRINGLE, an individual,
17 Plaintiff,
18 v.

19 WILLIAM ADAMS, JR.; STACY
FERGUSON; ALLAN PINEDA; and
20 JAIME GOMEZ, all individually and
collectively as the music group the
21 Black Eyed Peas; DAVID GUETTA;
FREDERICK RIESTERER; UMG
22 RECORDINGS, INC.; INTERSCOPE
RECORDS; EMI APRIL MUSIC,
23 INC.; HEADPHONE JUNKIE
PUBLISHING, LLC; WILL.I.AM.
24 MUSIC, LLC; JEEPNEY MUSIC,
INC.; TAB MAGNETIC
25 PUBLISHING; CHERRY RIVER
MUSIC CO.; SQUARE RIVOLI
26 PUBLISHING; RISTER EDITIONS;
and SHAPIRO, BERNSTEIN & CO.,
27
28 Defendants.

Case No. SACV10-1656 JST (RZx)

Hon. Josephine Staton Tucker
Courtroom 10A

INITIAL DISCLOSURES

Complaint Filed: October 28, 2010
Trial Date: Not Assigned

1 Defendants WILLIAM ADAMS; STACY FERGUSON; ALLAN PINEDA;
2 and JAIME GOMEZ, all individually and collectively as the music group THE
3 BLACK EYED PEAS; will.i.am music, llc; TAB MAGNETIC PUBLISHING;
4 CHERRY RIVER MUSIC CO.; HEADPHONE JUNKIE PUBLISHING, LLC;
5 JEEPNEY MUSIC, INC.; EMI APRIL MUSIC, INC. hereby submit their Initial
6 Disclosures pursuant to Fed. R. Civ. P. 26(a)(1).

7
8 **INITIAL DISCLOSURES**

9
10 *(i) the name and, if known, the address and telephone number of each*
11 *individual likely to have discoverable information – along with the subjects of that*
12 *information – that the disclosing party may use to support its claims or defenses,*
13 *unless the use would be solely for impeachment;*

14 **1. Bryan Pringle**, c/o Hampton Holley LLP, 2101 East Coast Highway,
15 Ste 260, Corona del Mar, CA 92625. Subject Matter: Mr. Pringle is believed to
16 have knowledge regarding, among other things, the validity of the copyright being
17 asserted, deficiencies in the copyright registration and related copyright misuse,
18 factual information regarding the creation and dissemination of “Take a Dive” and
19 all derivative works thereof, including what he refers to as to the “guitar twang”).
20 Mr. Pringle also is believed to have knowledge regarding Plaintiff’s improper
21 dissemination and manipulation of Defendants’ musical composition and recording
22 thereof, Plaintiff’s use of a fabricated claim to use The Black Eyed Peas’ reputation
23 for personal gain, and Plaintiff’s communications with Ebony LaTrice Batts and/or
24 Manfred Mohr in furtherance of the same.

25 **2. UMG Recordings, Inc.**, c/o Caldwell Leslie & Proctor, PC, 1000
26 Wilshire Boulevard, Suite 600, Los Angeles, CA 90017. (213) 629-9040. Subject
27 Matter: The issues raised by Plaintiff regarding his claims that recordings of certain
28 musical compositions he alleges to have authored were sent to and received by

1 UMG, and financial issues related to the challenged musical composition and sound
2 recording.

3 **3. Interscope Records**, c/o Caldwell Leslie & Proctor, PC, 1000 Wilshire
4 Boulevard, Suite 600, Los Angeles, CA 90017. (213) 629-9040. Subject Matter:
5 The issues raised by Plaintiff regarding his claims that certain recordings of musical
6 compositions he alleges to have authored were sent to and received by UMG, and
7 financial issues related to the challenged musical composition and sound recording

8 **4. David Guetta**, c/o Loeb & Loeb LLP, 345 Park Avenue, New York,
9 NY 10154. (212) 407-4000. Subject Matter: Mr. Guetta is believed to have
10 knowledge regarding, among other things, the musical material employed in the
11 musical composition “I Gotta Feeling,” including the independent and anterior
12 creation of what Plaintiff refers to as the “guitar twang,” as well as the recording
13 thereof.

14 **5. Frederick Riesterer**, c/o Loeb & Loeb LLP, 345 Park Avenue, New
15 York, NY 10154. (212) 407-4000). Subject Matter: Mr. Riesterer is believed to
16 have knowledge regarding, among other things, the musical material employed in
17 the musical composition “I Gotta Feeling,” including the independent and anterior
18 creation of what Plaintiff refers to as the “guitar twang,” as well as the recording
19 thereof.

20 **6. Shapiro, Bernstein & Co.**, c/o Loeb & Loeb LLP, 345 Park Avenue,
21 New York, NY 10154. (212) 407-4000). Subject Matter: A representative of this
22 company is believed to have knowledge regarding, among other things, the
23 ownership and exploitation of the musical material employed in the musical
24 composition “I Gotta Feeling,” including the independent and anterior creation of
25 what Plaintiff refers to as the “guitar twang.”

26 **7. Williams Adams**, Bryan Cave LLP, 161 N. Clark Street, Suite 4300,
27 Chicago, Illinois, 60601-3305. (312) 602-5000. Subject Matter: Mr. Adams is
28 believed to have knowledge regarding, among other things, the authorship of the

1 musical composition “I Gotta Feeling,” including the independent and anterior
2 creation of what Plaintiff refers to as the “guitar twang” as well as the performance
3 thereof embodied in the challenged sound recording. Mr. Adams is also believed to
4 have information concerning reputational suffered by The Black Eyed Peas in
5 connection with Plaintiff’s action, as well as financial issues related to the
6 challenged musical composition and challenged sound recording thereof.¹

7 *(ii) a copy—or a description by category and location—of all documents,*
8 *electronically stored information, and tangible things that the disclosing party has*
9 *in its possession, custody, or control and may use to support its claims or defenses,*
10 *unless the use would be solely for impeachment;*

11 1. Audio exhibits of the sound recording of the musical composition,
12 “Take a Dive.” (provided in connection with Preliminary injunction proceedings).

13 2. Audio exhibits of the sound recording of the musical composition,
14 “Take a Dive (Dance Version).” (provided in connection with Preliminary
15 injunction proceedings).

16 3. Other audio exhibits (provided in connection with Preliminary
17 injunction proceedings).

18 4. Documents, references, and other public information cited to or
19 submitted by Defendants in connection with the preliminary injunction proceedings.

20 5. Documents, electronically stored information, and tangible things
21 related to the creation, constituent elements, performance, recording of and/or
22 financial information related to the musical composition, “I Gotta Feeling” are
23 located in whole or in part at the addresses of the various Defendants or their
24 counsel’s offices. To the extent the aforementioned documents and things contain
25 proprietary and confidential information, a mutual agreement governing
26 confidentiality will be required.

27 _____
28 ¹ These disclosing parties reserve the right to supplement this list of witnesses to include, among others, witnesses disclosed by other parties.

1 6. Documents, electronically stored information, and tangible things
2 related to the various subject matters identified under Plaintiff above are believed to
3 be located at his address as identified in the Complaint, or pursuant to preservation
4 requests, in Plaintiff's counsel's office in Chicago.

5 7. Documents, electronically stored information, and tangible things
6 related to the applications and registrations of claims to copyright in the works at
7 issue in this case, are located in the U.S. Copyright office, as well as the files of the
8 owners of the respective applications and registration certificates.

9 8. Documents, electronically stored information, and tangible things
10 related to statements that Plaintiff made to various media outlets relating to, among
11 other things, this lawsuit and the alleged infringement of Plaintiff's musical
12 composition(s) and sound recording(s) thereof, and postings by Mr. Pringle are
13 believed to be located at his address or, pursuant to preservation requests, in
14 Plaintiff's counsel's office in Chicago.

15 9. Given the current status of the litigation, and the lack of specificity to
16 the basis for Plaintiff's claim, including which particular musical composition and
17 recording thereof he claims were infringed, it is not yet believed that each category
18 set forth above may be used to support a defense or that such defense may be
19 necessary. The categories have therefore been provided conditionally. To the
20 extent the aforementioned documents, electronically stored information, or tangible
21 things contain proprietary and confidential information, a mutual agreement
22 governing confidentiality may be required. Also, it is anticipated that additional
23 documents will be located through further investigation and discovery.
24 Accordingly, Defendants may provide a supplemental disclosure at a later date.

25 *(iii) a computation of each category of damages claimed by the disclosing*
26 *party—who must also make available for inspection and copying as under Rule 34*
27 *the documents or other evidentiary material, unless privileged or protected from*
28 *disclosure, on which each computation is based, including materials bearing on the*

1 *nature and extent of injuries suffered; and*

2 Defendants will seek to recover all attorneys' fees and costs incurred herein.
3 To date, Defendants have not alleged any claims against Plaintiff for damages but
4 would seek to off set any damage claim of Plaintiff by the value of the unjust
5 enrichment obtained, and or the value and benefit obtained by Plaintiff beyond the
6 scope of the copyright registration. Notwithstanding these initial disclosures,
7 Defendants reserve the right to allege a claim against Plaintiff for damages. If
8 Defendants assert such a claim, Defendants will provide a computation of damages,
9 to the extent that such a computation is possible, and to the extent required by the
10 Federal Rules of Civil Procedure.

11 *(iv) for inspection and copying as under Rule 34, any insurance agreement*
12 *under which an insurance business may be liable to satisfy all or part of a possible*
13 *judgment in the action or to indemnify or reimburse for payments made to satisfy the*
14 *judgment.*

15 Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iv), these responding defendants are
16 not aware of any applicable insurance agreement at this time. If any agreements that
17 may provide coverage are discovered in the future, Defendants will provide a
18 supplemental disclosure.

19 Dated: February 28, 2011

BRYAN CAVE LLP

Kara E.F. Cenar

Jonathan Pink

20
21
22 By: 

Jonathan Pink

Attorneys for Defendants

23
24 WILLIAM ADAMS; STACY FERGUSON;
25 ALLAN PINEDA; and JAIME GOMEZ, all
26 individually and collectively as the music
27 group THE BLACK EYED PEAS; will.i.am
28 music, llc; TAB MAGNETIC
PUBLISHING; CHERRY RIVER MUSIC
CO.; HEADPHONE JUNKIE
PUBLISHING, LLC; JEEPNEY MUSIC,
INC.; EMI APRIL MUSIC, INC.

**PROOF OF SERVICE
CCP 1013A(3) REVISED 5/1/88**

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is: 3161 Michelson Drive, Suite 1500, Irvine, CA 92612-4414.

On February 28, 2011, I served the foregoing document(s) described as:

INITIAL DISCLOSURES

on all interested parties in this action by placing a true copy the original thereof enclosed in sealed envelopes addressed as follows:

Dean A. Dickie
Miller Canfield Paddock and Stone, P.L.C.
225 West Washington Street, Suite 2600
Chicago, IL 60606

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Donald A. Miller
Loeb & Loeb LLP
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BY CM/ECF NOTICE OF ELECTRONIC FILING: I caused said document(s) to be served by means of this Court's electronic transmission of the Notice of Electronic filing through the Court's transmission facilities, to the parties and/or counsel who are registered CM/ECF Users set forth in the service list obtained from this Court.

BY MAIL - As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

BY FACSIMILE - I caused said document to be transmitted to a facsimile machine maintained by the office of the addressee(s) at the facsimile machine number(s) indicated. Said facsimile number(s) are the most recent numbers appearing on documents filed and served by the addressee(s). I received electronic confirmation from the facsimile machine that said document was successfully transmitted without error.

BY OVERNIGHT DELIVERY - Depositing the above document(s) in a box or other facility regularly maintained by FedEx in an envelope or package designated by FedEx with delivery fees paid or provided for.

BY PERSONAL DELIVERY - I caused such envelope to be hand delivered to the offices of the addressee.

BY EMAIL - I caused a true copy of the foregoing document(s) to be served by electronic email transmission at the time shown on each transmission, to each interested party at the email address shown above. Each transmission was reported as complete and without error.

FEDERAL - I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on February 28, 2011, at Irvine, California.



Elaine Hellwig



BARRY I. SLOTNICK
Partner

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Fax 212.202.7942
bslotnick@loeb.com

Via E-mail

March 16, 2011

Dean A. Dickie, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
225 W. Washington, Suite 2600 Chicago,
Illinois 60606

Re: *Pringle v. Adams, et al.*, Case No. SACV10-1656 (JST)

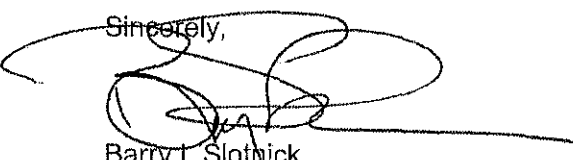
Dear Mr. Dickie:

This is in response to your March 15, 2011 letter. As you know from our February 13, 2010 Memorandum in Support of Motion to Dismiss, neither we nor any defendants are authorized to accept service on Mr. Riesterer's behalf. Neither the Rule 26 initial disclosures (which are not a pleading) nor any declaration submitted by another party changes that fact. Certainly you must be aware that a lawyer, merely by the fact of generally representing a client, does not become an agent for service of process.

Your letter contains numerous errors of fact, which we will assume were the result of misstatements to you by your process server. The person with whom your process server spoke did not identify himself as our managing partner, but as our managing clerk. While both are valuable members of our firm, they are hardly interchangeable or likely to be confused with one another. Indeed, our clerk advised me that he has had many prior dealings with your process server. Our clerk then spoke with me, not Mr. Riesterer, and confirmed to your process server only that, as you already knew, we are not authorized to accept service on Mr. Riesterer's behalf.

Lastly, with respect to your request that we provide Mr. Riesterer's address in France, even assuming we had that information, which we do not, we are not aware of any requirement that we provide that information to you. I think it fitting that on numerous occasions when other counsel for a defendant requested the most basic information regarding your client's claims, you adamantly rejected out of hand any such "expedited discovery".

Sincerely,



Barry I. Slotnick
Partner

cc: Kara Cenar, Esq.

MILLER CANFIELD

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CANADA: Toronto • Windsor

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MEXICO: Monterrey

POLAND: Gdynia

Warsaw • Wrocław

March 18, 2011

Via Email

Barry I. Slotnick, Esq.
LOEB & LOEB LLP
345 Park Avenue
New York, NY 10154

Kara Cengar, Esq.
BRYAN CAVE LLC
161 North Clark Street
Suite 4300
Chicago, IL 60601

Re: Pringle v. William Adams Jr., et al. - Case No. SACV10-1656
JST—Service on Riesterer

Dear Mr. Slotnick and Ms. Cengar:

We are writing you both to respond to Mr. Slotnick's letter dated March 16, 2011 in which he claims he is unaware of any obligation to provide contact information for Mr. Riesterer.

As you know, Rule 26 of the Federal Rules of Civil Procedure provides, in pertinent part:

(1) Initial Disclosures.

(A) In General. Except as exempted by Rule 26(a)(1)(B) or as otherwise stipulated or ordered by the court, a party must, without awaiting a discovery request, provide to the other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information — along with the subjects of that information — that the disclosing party

may use to support its claims or defenses, unless
the use would be solely for impeachment.

On February 28, 2011, Donald Miller of Loeb & Loeb signed Rule 26 disclosures identifying Mr. Riesterer as a person with knowledge but did not provide an address for him. Mr. Pink of Bryan Cave also signed Rule 26 disclosures identifying Mr. Riesterer as a person with knowledge, and for his address, provided your office address.

Plaintiff also identified Mr. Riesterer in his Rule 26 disclosures, but we do not have an address for him, thus are not capable of complying with the requirements of the Rule as plainly stated. If you— Mr. Slotnick and Ms. Cenar— are both making the affirmative representation that you are likewise incapable of obtaining Mr. Riesterer's address and telephone number and cannot comply with Rule 26, please say so, and provide an explanation as to how it is that Bryan Cave was able to obtain a Declaration from him but is unable to obtain an address or telephone number for him.

In response to your statement that you are not aware of any requirement that you provide the information to us, we have just identified the source of that requirement and I trust this eliminates your concern that Plaintiff is seeking "expedited discovery." If you are capable of obtaining Mr. Riester's address and phone number but do not intend to comply with your obligations under Rule 26, please let us know and we will set up a formal meet and confer call before seeking court intervention. Otherwise, we look forward to hearing from you by the close of business today - Friday, March 18, 2011 - with the requested information. If you have any questions, do not hesitate to contact us.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.



Dean A. Dickie

DAD/mbs



BARRY I. SLOTNICK
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March 21, 2011

Dean A. Dickie, Esq.
Miller, Canfield, Paddock and Stone, P.L.C.
224 W. Washington, Suite 2300
Chicago, Illinois 60606

Re: Pringle v. Adams, et al., Case No. SACV10-1656 (JST)

Dear Mr. Dickie:

This is in response to your March 18, 2011 letter which seeks contact information for Frederic Riesterer,¹ with reference to your March 15 letter, and our March 16 letter, regarding your improper attempt to serve Mr. Riesterer via our offices. Because your March 15 letter sought Mr. Riesterer's contact information from Loeb & Loeb LLP in its own capacity, and not as counsel for Shapiro Bernstein, we properly informed you by letter dated March 16 that we did not have Mr. Riesterer's contact information and were under no obligation to provide it to you.

Your March 18 letter now appears to request Mr. Riesterer's contact information from us as counsel for Shapiro Bernstein. We have therefore consulted with our client and will agree to furnish Mr. Riesterer's contact information to you in that capacity.

We note, however, that on January 27, 2011, the Court ruled that you had 120 days from the October 28, 2010 commencement of this action (*i.e.*, until February 28, 2011) to serve the summons and complaint(s). As such, our agreement to provide you with Mr. Riesterer's contact information is without prejudice to his rights to challenge any subsequent service of process.

We presume that this addresses the concerns raised in your March 18, 2011 letter. If you wish to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Barry I. Slotnick", written over a horizontal line.

Barry I. Slotnick
Partner

¹ Although your letter demanded a response by the close of business on March 18 (the same day it was sent), we did not receive your letter until it was transmitted to us by email after the close of business on that date. Consequently, we were not in a position to respond in the time frame you demanded.