

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

-----X
 BROADCAST MUSIC, INC.;)
 MICHAEL BALZARY, JOHN ANTHONY)
 FRUSCIANTE, ANTHONY KIEDIS)
 and CHAD GAYLORD SMITH, a)
 partnership d/b/a MOEBETOBLAME)
 MUSIC; HOUSE OF FUN MUSIC,)
 INC.; SPIRIT ONE MUSIC, a)
 division of SPIRIT MUSIC)
 GROUP, INC.; WARNER-TAMERLANE)
 PUBLISHING CORP.; UNIVERSAL-)
 SONGS OF POLYGRAM)
 INTERNATIONAL, INC.; SONGS OF)
 UNIVERSAL, INC.; BRADLEY KIRK)
 ARNOLD, ROBERT TODD HARRELL,)
 MATTHEW DARRICK ROBERTS and)
 CHRISTOPHER LEE HENDERSON,)
 a partnership d/b/a ESCATAWPA)
 SONGS; EMI BLACKWOOD MUSIC)
 INC.; JASON L. ROSS, JASON)
 KNOWLES POLLOCK, CASEY S.)
 DANIEL and GURPREET J. KHALS,)
 a partnership d/b/a SEVEN)
 MARY THREE MUSIC; ANTHONY L.)
 RAY, an individual d/b/a)
 MIX-A-LOT PUBLISHING; EMI)
 VIRGIN SONGS, INC.; THE END OF)
 MUSIC, LLC d/b/a THE END OF)
 MUSIC; ENSIGN MUSIC LLC; MAD)
 DOG WINSTON MUSIC, LTD.;)
 PLEASE GIMME MY PUBLISHING)
 INC.; UNICHAPPELL MUSIC, INC.;)
 RIVERS CUOMO, an individual)
 d/b/a E.O. SMITH MUSIC,)
)
 Plaintiffs,)
)
 v.)
)
 STILLWATER RESTAURANTS, INC.,)
 ST. CROIX CRAB HOUSE and)
 PAUL J. AUGUSTYN,)
 individually,)
)
 Defendants.)
 -----X

CIVIL ACTION NO.:

COMPLAINT

Plaintiffs, by their attorneys, for their Complaint against Defendants, allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is a suit for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 *et seq.* (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff, Broadcast Music, Inc. ("BMI"), is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 320 West 57th Street, New York, New York 10019. BMI has been granted the right to license the public performance rights in approximately 6.5 million copyrighted musical compositions (the "BMI repertoire"), including those which are alleged herein to have been infringed.

4. The other Plaintiffs are the owners of the copyrights in the musical compositions which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Defendant Stillwater Restaurants, Inc. is a corporation organized and existing under the laws of the state of Minnesota, which operates, maintains and controls an establishment known as St. Croix Crab House, located at 317 Main Street South, Stillwater, Minnesota 55082-5188, in this district (the "Establishment").

6. In connection with the operation of this business, Defendant Stillwater Restaurants, Inc. publicly performs musical compositions and/or causes musical compositions to be publicly

performed.

7. Defendant Stillwater Restaurants, Inc. has a direct financial interest in the Establishment.

8. Defendant, Paul J. Augustyn is the President of Defendant Stillwater Restaurants, Inc. with primary responsibility for the operation and management of that corporation and the Establishment.

9. Defendant, Paul J. Augustyn, has the right and ability to supervise the activities of Defendant Stillwater Restaurants, Inc. and a direct financial interest in that corporation and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

10. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 9.

11. Plaintiffs allege thirteen (13) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

12. Annexed as the Schedule (attached hereto as Ex. 1) and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the thirteen (13) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information: Line 1 providing the claim number; Line 2 listing the title of the musical

composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 noting the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the Registration number(s); Line 7 showing the date(s) of infringement; and Line 8 identifying the location of the establishment where the infringement occurred.

13. Each of the musical compositions identified on the Schedule, Line 2, were created by the persons named on Line 3 (all references to Lines are lines on the Schedule).

14. On or about the dates indicated on Line 5, the publishers named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the numbers listed on Line 6.

15. On the dates listed on Line 7, Plaintiff BMI was and still is the licensor of the public performance rights in the musical compositions identified on Line 2. On the dates listed on Line 7, the Plaintiffs listed on Line 4 were and still are the owners of the copyright in the respective musical composition listed on Line 2.

16. On the dates listed on Line 7, Defendants performed and/or caused the musical compositions identified on Line 2 to be publicly performed at St. Croix Crab House without a license or permission to do so. Thus, Defendants have committed copyright infringement.

17. The specific acts of copyright infringement alleged, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI repertoire at St. Croix Crab House, Defendants threaten to continue committing copyright infringement. Unless

this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and

(IV) That Plaintiffs have such other and further relief as is just and equitable.

MERCHANT & GOULD

Dated: May 8, 2007

By: s/ William D. Schultz
Ernest W. Grumbles, MN # 274793
William D. Schultz, MN # 0323482
3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2215
Telephone: (612) 332-5300
Facsimile: (612) 332-9081

Attorneys for Plaintiffs