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Internet Archive  
300 Funston Avenue  
San Francisco, CA 94118

## AFFIDAVIT OF CHRISTOPHER BUTLER

1. I am the Office Manager at the Internet Archive, located in San Francisco, California. I make this declaration of my own personal knowledge.

2. The Internet Archive is a website that provides access to a digital library of Internet sites and other cultural artifacts in digital form. Like a paper library, we provide free access to researchers, historians, scholars, and the general public. The Internet Archive has partnered with and receives support from various institutions, including the Library of Congress.

3. The Internet Archive has created a service known as the Wayback Machine. The Wayback Machine makes it possible to surf more than 450 billion pages stored in the Internet Archive's web archive. Visitors to the Wayback Machine can search archives by URL (i.e., a website address). If archived records for a URL are available, the visitor will be presented with a list of available dates. The visitor may select one of those dates, and then begin surfing on an archived version of the Web. The links on the archived files, when served by the Wayback Machine, point to other archived files (whether HTML pages or images). If a visitor clicks on a link on an archived page, the Wayback Machine will serve the archived file with the closest available date to the page upon which the link appeared and was clicked.

4. The archived data made viewable and browseable by the Wayback Machine is compiled using software programs known as crawlers, which surf the Web and automatically store copies of web files, preserving these files as they exist at the point of time of capture.

5. The Internet Archive assigns a URL on its site to the archived files in the format `http://web.archive.org/web/[Year in yyyy][Month in mm][Day in dd][Time code in hh:mm:ss]/[Archived URL]`. Thus, the Internet Archive URL `http://web.archive.org/web/19970126045828/http://www.archive.org/` would be the URL for the record of the Internet Archive home page HTML file (`http://www.archive.org/`) archived on January 26, 1997 at 4:58 a.m. and 28 seconds (1997/01/26 at 04:58:28). A web browser may be set such that a printout from it will display the URL of a web page in the printout's footer. The date assigned by the Internet Archive applies to the HTML file but not to image files linked therein. Thus images that appear on a page may not have been archived on the same date as the HTML file. Likewise, if a website is designed with "frames," the date assigned by the Internet Archive applies to the frameset as a whole, and not the individual pages within each frame.

6. Attached hereto as Exhibit A are true and accurate copies of printouts of the Internet Archive's records of the HTML files for the URLs and the dates specified in the footer of the printout.

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

DATE: 8/2/16

  
\_\_\_\_\_  
Christopher Butler

CALIFORNIA JURAT

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See Attached Document.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Francisco

Subscribed and sworn to (or affirmed) before me on  
this

2nd day of August, 2016, by

Christopher Butler,

proved to me on the basis of satisfactory evidence to be  
the person who appeared before me.



Signature: Linda Wong

# Exhibit A



SEARCH: GO

The American Society of Composers, Authors and Publishers

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# ASCAP Membership

american society of composers, authors and publishers

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### **HOW YOU GET PAID**

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(For a full explanation, see the [Overview of the ASCAP Payment System](#).)

**ASCAP receives payment for public performances of songs and compositions** by negotiating license fees with the users of music (radio, TV, cable, bars, clubs, restaurants, shopping malls, concert halls, airlines, orchestras, etc.) and distributing these monies to members whose works were performed.

**ASCAP pays directly and fairly.** ASCAP is guided by a "follow the dollar" principle in the design of its payment system. In other words, the money collected from television stations is paid out to members for performances of their works on television; the money collected from radio stations is paid out for radio performances, and so on. ASCAP tracks music use on these and other media and live venues to determine which music has been performed, and the appropriate writers and publishers to be paid.

**The value of each performance is** determined by several factors, among them



the amount of license fees collected in a medium (television, cable, radio, etc.), the type of performance (visual vocal, background music, theme song, jingle, etc.) and the economic significance of the licensee (how much a station pays us).

**Keeping track of performances:** There are millions of performances of ASCAP music in hundreds of thousands of broadcast and live venues throughout the country each year. The cost of tracking each and every performance would be so high as to leave no money left to distribute. That is why ASCAP relies on surveys of performances. The surveys cover performances on AM, FM, public and college radio; local, network, public and cable television; airlines; MUZAK and similar background music services; live performances in



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symphony and concert halls, colleges and universities; and a wide range of other live venues. Whenever it is economically sensible, we conduct a census survey, or complete count, of performances in a medium. Where a census survey is impractical, we conduct a sample survey designed by outside experts to be a statistically accurate representation of performances in a medium.

**Accuracy and integrity are hallmarks of the ASCAP surveys**, and that is why we rely on a combination of sources of data for performance information. These include the most advanced digital tracking technologies, data provided by our licensees, and our staff of music experts. For example, our radio survey uses information provided to us by BDS-Broadcast Data Systems (ASCAP uses more BDS information than any other performing rights organization); station logs (lists of works performed) mandatorily provided to us by radio stations; and tapes of actual broadcasts (which are then analyzed by our own music experts). If a radio station's logs don't meet our criteria for accuracy, we then rely on our own more complete tapes. For television, we use cue sheets that list all of the music used in a show, along with network or station logs, computer-based program schedules and, again, our own tapes of actual broadcasts. It is this three-pronged approach, which includes human expertise, that makes ASCAP's survey superior.

We rely on our members or their representatives to provide us with complete and accurate information on all of their copyrighted songs or compositions through our title registration system. In addition, producers of television and cable shows provide us with cue sheets listing detailed information on all of the writers and publishers who have music in a show. [ASCAP's EZQ software](#) facilitates this process. Members can submit cue sheets themselves when necessary.

**TV and cable:** ASCAP census-surveys all network performances on ABC, CBS and NBC, including music in commercial, promotional and public service announcements. Programs on the Fox, Paramount and Warner Bros. networks are also census-surveyed. ASCAP surveys millions of hours of local television annually, covering syndicated series, feature films and movies of the week on a census basis. The cable services census-surveyed are A&E, American Movie Classics, Cinemax, Comedy Central, Country Music TV, The Disney Channel, Encore, Family Channel, FLIX, F/X, HBO, Lifetime, The Movie Channel, The Nashville Network, Nickelodeon, Sci-Fi Channel, Showtime, STARZ!, TNT, Turner Classic Movies and USA. The other cable services are sampled. Commercial and promotional music on local television and cable is sampled.



**Radio:** ASCAP sample-surveys hundreds of thousands of hours of radio broadcasts, covering all types of music broadcast on all types and sizes of stations across the country. In keeping with our "follow the dollar" philosophy, the more a radio station pays us, the more often it is surveyed. ASCAP conducts separate surveys of country, Latin, jazz, urban contemporary, religious, classical, ethnic, and pop music stations so that the total monies collected from those genre-specific stations is paid to the writers of works with performances on those stations. Commercial radio, National Public Radio, college radio and serious music radio are all part of the ASCAP radio sample survey. In 1979, ASCAP became the first society to license, survey and pay on college radio performances.



**Concert tours:** ASCAP conducts a 100% census survey of all songs performed in the 200 top-grossing concert tours, as well as selected other major live performance venues, using set lists provided to us by concert promoters and our own members. ASCAP was the first U.S. performing rights organization to survey and pay on these live concerts. ASCAP also conducts a census of live symphonic and recital concerts, using programs for performance information.



**Other media:** Among the many other types of performances that ASCAP surveys and pays royalties for are educational, college, university and conservatory concerts, background and foreground music services (e.g. MUZAK, AEI, and 3M Platinum Service), Internet performances, airlines, circuses, and ice shows. Set lists, computer logs and program guides are among the sources we use to identify performances on these media. Since it is impractical to monitor performances in bars, clubs, restaurants and the like, the money collected from those establishments goes into a "general" licensing fund and is paid out to members on the basis of feature performances on radio and all surveyed television performances.

**ASCAP has a Special Awards Program** to compensate those writers whose works are substantially performed in venues and media outside of our surveys. Every year, all members have an opportunity to apply for Special Awards by telling us about this performance activity, such as club and concert dates, tours, etc. An independent panel reviews the applications and makes cash awards to deserving members. Cash awards are also given to writers whose works have a unique prestige value. ASCAP is the only performing rights organization with a cash awards program of this kind.



**In accordance with the Audio Home Recording Act,**  
ASCAP will also collect and distribute home-taping  
royalties for members who wish us to represent them.

Top to bottom: 112, Alf Clausen, Beck, Garth Brooks

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