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Letter, 1941 February 27, from Joseph Davis to Thurman Arnold

Joseph Davis

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CI 5-7658 - JOSEPH M. DAVIS

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Send the following telegram, subject to the terms on back hereof, which are hereby agreed to

COPY

FEBRUARY 27th, 1941.

HON. THURMAN ARNOLD
 ASS'T. ATTORNEY GENERAL In Charge of
 ANTI-TRUST DIVISION
 WASHINGTON, D. C.

SIR:

AS AN ASCAP PUBLISHER-MEMBER OF LONG STANDING, AND AS ONE WHO IS DEEPLY APPRECIATIVE OF YOUR COMMENDABLE EFFORTS TO ELIMINATE CERTAIN ABUSES AND EVILS CHARGED BY THE GOVERNMENT AGAINST THE SOCIETY'S METHODS, CONDUCT, AND OPERATIONS BOTH IN ITS RELATION TO THE PUBLIC AT LARGE AND TO ITS OWN MEMBERSHIP, I HEREBY VIGOROUSLY PROTEST AND OBJECT ESPECIALLY TO PARAGRAPH NINE OF THE PROPOSED CONSENT DECREE SUBMITTED FOR APPROVAL TO THE ASCAP MEMBERSHIP AT A SPECIAL MEETING HELD ON FEBRUARY TWENTIETH, NINETEEN HUNDRED FORTY ONE. WHILE THE PROPOSED DECREE ELIMINATES THE LONG-EXISTING EVIL OF A SELF-PERPETUATING BOARD OF DIRECTORS, THE PRACTICAL EFFECT OF PARAGRAPH NINE WILL BE A PERMANENT ESTABLISHMENT AND PERPETUATION BY JUDICIAL MANDATE OF AN EQUALLY GRAVE ABUSE, NAMELY, THE UNFAIR BASIS FOR DETERMINING ROYALTY DISTRIBUTION BY THE SOCIETY TO ITS MEMBERSHIP, WHICH WILL IN NO SUBSTANTIAL MANNER DIFFER FROM THE METHOD PRESENTLY USED. IT BECOMES AT ONCE APPARENT THAT THE VERY EVIL SOUGHT TO BE REMEDIED BY THIS PROVISION, NAMELY UNFAIRNESS AND DISCRIMINATION IN ROYALTY DISTRIBUTION, IS INHERENT IN THE VAGUE TERMS SPECIFICALLY USED THEREIN TO DETERMINE THE BASIS FOR ROYALTY DISTRIBUTION, NAMELY "NUMBER, NATURE, CHARACTER, PRESTIGE, POPULARITY AND VOGUE OF SUCH WORKS", WHICH BY REASON OF THEIR ELASTICITY AND INDEFINITENESS MUST READILY LEND THEMSELVES TO THE SAME ABUSES WHICH HAVE HERETOFORE EXISTED, AS PAST EXPERIENCE HAS SO AMPLY DEMONSTRATED. ALTHOUGH A VOICE VOTE OF THE MEMBERSHIP PRESENT AT THE SAID MEETING WAS TAKEN, SUCH VOTE COULD NOT REPRESENT THE CONSIDERED JUDGMENT OF THE MEMBERSHIP SINCE THEY WERE GIVEN NO REASONABLE OPPORTUNITY TO STUDY THE PROPOSED DECREE IN ADVANCE OF THE MEETING. DURING THE COURSE OF THE MEETING A QUESTION BY A WRITER-MEMBER DIRECTED TO THIS VERY SUBJECT WAS RULED OUT OF ORDER BY THE CHAIRMAN.

IN VIEW OF THE FOREGOING, AND IN THE INTERESTS OF JUSTICE, I RESPECTFULLY URGE THAT UNLESS A MORE EQUITABLE AND SPECIFIC BASIS OR FORMULA IS ARRIVED AT FOR DISTRIBUTION OF ROYALTIES IN LIEU OF THE PRESENT PROPOSED PROVISION, NO PROVISION WITH RESPECT TO THIS SUBJECT MATTER SHOULD BE INCLUDED IN THE DECREE SO THAT IT IMPOSES UPON THE SOCIETY A JUDICIAL INJUNCTION TO DISTRIBUTE ROYALTIES IN PRACTICALLY THE SAME UNFAIR MANNER AS HAS BEEN HERETOFORE FOLLOWED.

JOSEPH M. DAVIS, President
 GEORGIA MUSIC CORP.
 1619 Broadway
 New York, New York.