

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

**IN RE COMPACT DISC MINIMUM
ADVERTISED PRICE ANTITRUST
LITIGATION**

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MDL Docket No. 1361

*(This Document Applies to John A.
Deep v. Recording Industry Ass'n of
of America, Inc., et al., No. 2:05cv118)*

ORDER DISCHARGING ORDER TO SHOW CAUSE

In response to my Order to Show Cause dated July 1, 2005, issued to determine whether I should disqualify myself from this matter, I have received three relevant filings.

First, Universal City Studios LLLP (“Universal City Studios”) has disclosed that General Electric Corporation owns 80% of NBC Universal, Inc., which, in turn, is the parent of Universal City Studios. Resp. to Order to Show Cause (Docket Item 13).

Second, the plaintiff, John A. Deep, has filed a so-called waiver of right to assert specified grounds as a basis for motion of recusal (Docket Item 7).

Third, the plaintiff, John A. Deep, has filed a notice of dismissal of Universal City Studios (Docket Item 6), pursuant to Federal Rule of Civil Procedure 41(a)(1).

General Electric Corporation’s indirect ownership of Universal City Studios would require me to disqualify myself if it remained as a party because I own stock in General Electric Corporation. 28 U.S.C. §§ 455(b)(4), (d)(4); Administrative Office of the United States Courts, Code of Conduct for United States Judges, Canons 3(C)(1)(c), 3(C)(3)(c), *in II Guide to Judiciary Policies and*

Procedures (2005). The plaintiff's attempt to waive that basis for disqualification is of no effect. 28 U.S.C. § 455(e); see also Code of Conduct for United States Judges, Canon 3(D) (permitting the parties to waive disqualification in certain circumstances but not when a judge has a financial interest in a party). A judge cannot hear a case if he or she has a financial interest in one of the parties, regardless of any attempted waiver by the parties. Here, however, the plaintiff has dismissed the defendant in question. It appears that no answer has yet been filed in this lawsuit. Therefore, the plaintiff does not require the approval of other parties or the Court to dismiss a defendant under Federal Rule of Civil Procedure 41(a)(1). (I note that no one has objected to the plaintiff's dismissal of Universal City Studios.) Moreover, this plaintiff is not part of the certified class in the consolidated lawsuits that previously settled in this District. In re Compact Disc Minimum Advertised Price Antitrust Litig., 216 F.R.D. 197 (D. Me. 2003). Therefore, court approval of voluntary dismissal is not required under Federal Rule of Civil Procedure 23(e)(1)(A).

Accordingly, I conclude that with the dismissal of the defendant Universal City Studios there is no longer a basis for my disqualification. My Order to Show Cause dated July 1, 2005, is therefore **DISCHARGED**.

SO ORDERED.

DATED THIS 27TH DAY OF JULY, 2005

/s/D. Brock Hornby
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 2:05cv118**

JOHN A. DEEP

Plaintiff

represented by **JOHN A. DEEP**, Pro Se
26 ROOSEVELT BLVD
COHOES, NY 12047
(518) 233-0225

v.

**RECORDING INDUSTRY ASSOCIATION
OF AMERICA, INC.**

represented by **TERENCE J. DEVINE
DAVID F. KUNZ**
DEGRAFF, FOY LAW FIRM
90 STATE STREET
ALBANY, NY 12207
(518) 462-5300

ARISTA RECORDS, INC.

See above

**ATLANTIC RECORDING
CORPORATION**

See above

ATLANTIC RHINO VENTURES, INC.
d/b/a RHINO ENTERTAINMENT
COMPANY

See above

BAD BOYS RECORDS

See above

ARISTA GOOD GIRLS, INC.

See above

CAPITOL RECORDS, INC.

See above

**ELEKTRA ENTERTAINMENT GROUP,
INC.**

See above

HOLLYWOOD RECORDS, INC.

See above

INTERSCOPE RECORDS

See above

LAFACE RECORDS, INC.

See above

LONDON-SIRE RECORDS, INC.

See above

MOTOWN RECORD COMPANY, LP

See above

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| RCA RECORDS LABEL <i>agent of</i> BMG MUSIC | See above |
| SONY MUSIC ENTERTAINMENT, INC. | See above |
| UMG RECORDINGS, INC. | See above |
| VIRGIN RECORDS AMERICA, INC. | See above |
| WALT DISNEY RECORDS | See above |
| WARNER BROS RECORDS, INC. | See above |
| WEA INTERNATIONAL, INC. | See above |
| WEA LATINA, INC. | See above |
| ZOMBA RECORDING CORPORATION | See above |
| METRO-GOLDWYN-MAYER STUDIOS INC | See above |
| COLUMBIA PICTURES INDUSTRIES, INC. | See above |
| DISNEY ENTERPRISES, INC. | See above |
| NEW LINE CINEMA CORPORATION | See above |
| PARAMOUNT PICTURES CORPORATION | See above |
| TIME WARNER ENTERTAINMENT COMPANY, LP | See above |
| TWENTIETH CENTURY FOX FILM CORPORATION | See above |
| UNIVERSAL CITY STUDIOS, INC. | See above |

**TRANSWORLD ENTERTAINMENT
CORPORATION**

Defendants

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**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CIVIL DOCKET FOR CASE #: 2:00-MD-1361-DBH**

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