



August 25, 2008

United States District Court
Office of the Probation Officer
Western District of Virginia
Attention: Thomas V. H. O'Neil
Richard H. Poff Federal Building
P.O. Box 1563
Roanoke, VA 24007

CLERK'S OFFICE U.S. DIST. COURT
AT BIG STONE GAP, VA
FILED

OCT 09 2008

JOHN F. CORCORAN, CLERK
BY: *J. Clark*
DEPUTY CLERK

Re: Request for Restitution in case of Daniel Dove, Docket No. 2:07CR00015-001

To Whom It May Concern:

My name is Carlos Linares. I serve as Vice President, Anti-Piracy Legal Affairs, for the Recording Industry Association of America (the "RIAA"). Please accept this letter as a victim impact statement from the RIAA on behalf of its members in the matter concerning Daniel Dove. Mr. Dove was an administrator for EliteTorrents.org, an Internet piracy site responsible for the unauthorized distribution of thousands of records owned by RIAA member companies. The RIAA respectfully requests that it be awarded restitution in the above-captioned case of \$47,000 to compensate its members for the loss incurred, and that the Court order the defendant to participate in a public service announcement designed to discourage others from engaging in music piracy.

The RIAA is the trade association that represents the United States recording industry. RIAA member companies create, manufacture and distribute approximately 90% of all legitimate sound recordings produced and sold in the United States. A primary function of the RIAA is to investigate the illegal production and distribution of sound recordings, and to assist law enforcement agencies – including prosecutors' offices – in seeking justice when the decision is made to pursue criminal remedies. The RIAA has been granted specific authority by its members to represent their interests in criminal music piracy matters in federal, state and local courts. When restitution is ordered, the RIAA receives the payments on behalf of its members pursuant to their authorization.

A. Components of the Requested Restitution

Restitution for economic harm to the victims of crime is authorized by the Mandatory Restitution Act of 1996. In the case of digital music piracy, losses are sustained when downloads of music files are made without the authorization of the owners of the sound recordings rather than purchased through legitimate online retailers. Lost sales are an appropriate measure of restitution in criminal cases involving the misappropriation of intellectual property. *See U.S. v. Milstein*, 481 F.3d 132 (2007); 2007 U.S. App. LEXIS 7034. The loss of legitimate sales is the main reason that music piracy costs the United States recording industry more than \$5.33 billion per year.

The economic loss to RIAA's member companies in this case is no less than \$47,132.16. This amount is based on a review of a small number of unauthorized music files (20) containing full albums of music that were transferred through defendant's server a combined total of 6,528 times, multiplied by their estimated wholesale value of \$7.22. It is important to note this analysis represents a mere fraction of the unauthorized transfers of RIAA member company music the defendant is responsible for. In fact, the records cited above are just 20 of 183 records the defendant facilitated the transfer of through his server a total of 17,281 times. The corresponding value of all unauthorized transfers of these albums may be estimated at just under \$125,000 (17,281 albums transferred x average wholesale price of digital album in 2005 of \$7.22 = \$124,768.82). Pursuant to 18 U.S.C. §3663, if the victim consents, the court may order the defendant to make restitution in services in lieu of money. Accordingly, the RIAA would be willing to accept a lesser amount of restitution on behalf of its member in this case, \$47,000, if the defendant will agree to participate in a public service announcement designed to educate the public that music piracy is unlawful and has the potential to result in stiff criminal penalties.

B. Restitution is an Important Deterrent to Prevent Further Victimization

The illegal duplication and distribution of sound recordings is not a victimless crime. Music piracy deprives musicians, record companies, producers, songwriters, publishers, and legitimate retailers of the profits to which they are entitled, causing the loss of jobs and diminishing the opportunities available to aspiring artists. Local, state and federal governments suffer due to lost revenue from income and sales taxes. Moreover, consumers are victimized when they purchase merchandise that is of inferior quality to genuine sound recordings. (See attached document for more information on the harms of music piracy and its victims).

Please contact me at (202) 857-9643 or at clinares@riaa.com if I may be of any assistance. If asked by your office, we will readily provide in-court testimony in support of our request for restitution. Thank you for your attention in this important matter.

Sincerely,



L. Carlos Linares, Jr., Esq.
Vice President, Anti-Piracy Legal Affairs
Recording Industry Association of America