

November 9, 2012

PUBLIC DOCUMENT

Submitted electronically to <http://www.regulations.gov>

John Melle
Assistant United States Trade Representative for the Western Hemisphere
Office of the United States Trade Representative
600 17th St., N.W.
Washington, D.C. 20508

Re: ***Comments of HBO Latin America Group on Granting Certain Trade Benefits to The Bahamas Under the Caribbean Basin Trade Partnership Act (CBTPA), Docket Number USTR-2012-0028***

Dear Mr. Melle:

These comments¹ are submitted on behalf of HBO Latin America Group (“HBO LA”) in response to the Office of United States Trade Representative’s (“USTR”) October 11, 2012 Federal Register notice² requesting public comments on whether certain countries should be designated as eligible to receive benefits under the Caribbean Basic Economic Recovery Act (“CBERA”) and under the Caribbean Basin Trade Partnership Act (“CBTPA”).³ HBO LA appreciates this opportunity to provide USTR with comments on The Bahamas’ persistent failure to distribute copyright royalties that are due to HBO LA, and as a result, its continuing violations

¹ The comments and views expressed in this submission are solely those of HBO LA and do not necessarily reflect the views of HBO USA, Time Warner, or any of their other affiliated entities, or respective management and shareholders.

² Trade Policy Staff Committee: Request for Comments from the Public Regarding Granting Certain Trade Benefits to Aruba, Curaçao, Sint Maarten, The Turks and Caicos Islands, The Bahamas, Dominica, Grenada, Montserrat, St. Kitts and Nevis, and St. Vincent and the Grenadines, 77 Fed. Reg. 61,816 (United States Trade Rep. Oct. 11, 2012).

³ 19 U.S.C. §§ 2701 *et seq.*

of HBO LA's intellectual property rights and failure to satisfy several of the eligibility criteria contained in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA.⁴

The Caribbean represents a significant source of licensing revenue for U.S. pay television programmers. As a result, The Bahamas' ongoing failure to distribute the remuneration due to U.S. pay television programmers under its prior compulsory licensing scheme is of great concern. Specifically, as discussed below and documented in the exhibits accompanying this submission, The Bahamas' Copyright Royalty Tribunal ("CRT") has continued to fail to distribute royalties to HBO LA and other U.S. claimants for the transmission of their programming under the prior compulsory licensing regime.

HBO LA had long fought against the Bahamian government's "compulsory licensing" scheme under its 1998 Copyright Law,⁵ which for years allowed the government-owned monopoly Cable Bahamas to retransmit and sell pay television programming of U.S. networks, including HBO USA, without their authorization. Much to the credit of the efforts of USTR on behalf of HBO LA and other U.S. television programmers, The Bahamas' compulsory licensing law for pay television was finally repealed, effective October 1, 2009.

However, the persistent failure of The Bahamas' CRT to distribute royalties due to HBO LA and other U.S. claimants under the prior regime continues to violate the intellectual property rights of some of America's most important exporters – the American entertainment industry. Such conduct violates The Bahamas' obligations under the Berne Convention for the Protection of Literary and Artistic Works ("Berne Convention") and is inconsistent with the World Trade Organization ("WTO") Agreement on Trade-Related Aspects of Intellectual Property Rights

⁴ 19 U.S.C. §§ 2702-03.

⁵ Copyright Law of The Bahamas (1998), § 83, Exhibit 1.

(“TRIPS”).⁶ As a result, The Bahamas fails to satisfy several of the eligibility criteria described in the CBERA. For this reason, The Bahamas’ benefits under CBERA should be revoked and it should be denied eligibility for any additional benefits under CBTPA. Indeed, the U.S. Government should exercise all of its available policy tools, including the ongoing National Trade Estimate (NTE) report⁷ and the upcoming Special 301 process, to compel The Bahamas to provide adequate remuneration for its nearly decade-long de-encryption and distribution of U.S. proprietary pay television satellite signals without authorization and to ensure that it not violate U.S. programmers’ intellectual property rights without consequence.

I. HBO LATIN AMERICA GROUP

HBO LA is composed of affiliates of Time Warner, Inc. and Olé Communications Group and is headquartered in Coral Gables, Florida. It is an affiliate of Home Box Office, Inc. (“HBO USA”), the leading premium pay television network in the United States. The company has approximately 300 employees in Florida. HBO LA owns, operates, and/or distributes the leading cable and satellite pay television programming services in the Caribbean, Latin America, and Brazil, including *HBO*, *HBO Plus*, *HBO Family*, *HBO Caribbean*, *HBO On Demand*, *HBO Go*, *Cinemax*, *Max Prime*, *A&E*, *AXN*, *E! Entertainment Television*, *Sony Entertainment Television*, *Spin*, *The Biography Channel*, *The History Channel*, and *Warner Channel*. HBO LA exports millions of dollars in American intellectual property annually through its programming

⁶ While The Bahamas is not yet a member of the WTO, it has already begun the accession process (see Section III.C.3 below), and as such, it has made public its intention to undertake obligations under the WTO Agreements. Moreover, the eligibility criteria under CBERA require that The Bahamas follow accepted rules of international trade provided for under the WTO, especially with respect to protecting intellectual property rights.

⁷ See Comments of HBO Latin America Group on Foreign Trade Barriers in The Bahamas (CRT Fund) To Compile the National Trade Estimate Report, Docket Number USTR-2012-0021 (submitted Oct. 15, 2012).

distribution and has made significant investments in its U.S. operations, including a state-of-the-art uplink and network operations facility in Sunrise, Florida.

The Caribbean represents approximately \$250 - \$270 million in licensing revenue annually for U.S. pay television programmers. HBO LA's programming content is substantially similar to that of HBO USA, and is licensed primarily from American content providers such as HBO USA, Warner Bros. Studios, Columbia Pictures, and Walt Disney Studios. Moreover, HBO LA has spent millions of dollars creating an English-language "Caribbean feed," specifically designed for the 500,000 potential pay subscribers in the Caribbean.⁸ HBO LA holds the exclusive license to distribute this programming to pay television operators in the Caribbean, including in The Bahamas. It cannot legally be downloaded, distributed, or sold in the Caribbean without authorization from HBO LA.

II. THE BAHAMIAN COMPULSORY LICENSING SCHEME AND THE COPYRIGHT ROYALTY TRIBUNAL FUND

A. The Prior Bahamian Compulsory Licensing Scheme Amounted To Signal Piracy

By means of a "compulsory licensing" scheme under its 1998 Copyright Act, the Bahamian government had previously allowed the government-owned monopoly Cable Bahamas the unauthorized right to receive, decode, retransmit, and sell pay television programming of U.S. networks, including HBO USA. Cable Bahamas charged its subscribers a full market price for this programming, while paying only a nominal fee into a government fund, which was supposedly set aside as "equitable remuneration" for the "copyright owner" of the programs.⁹

⁸ The feed is legitimately distributed in several Caribbean countries, including Aruba, Barbados, Bonaire, Curaçao, Grenada, Saint Lucia, and Trinidad & Tobago.

⁹ Copyright Law of The Bahamas (1998), § 83(d), Exhibit 1.

The Bahamian compulsory licensing scheme resulted in quite a profitable operation for the government's Cable Bahamas given program licensing fees are normally the most significant cost for pay television broadcasters. The scheme, however, created much concern among various private and U.S. Government interests who viewed it as Bahamian signal piracy.¹⁰

Shortly after the enactment of the 1998 Copyright Act, the United States and The Bahamas entered into bilateral negotiations to specifically address this issue, with the Bahamian government pledging to amend the 1998 Copyright Act to limit the compulsory license to only free over-the-air broadcasts. Nothing concrete came of this pledge and U.S. programmers continued their efforts to have the piracy actually ended. Due to continued inaction on its part, The Bahamas was placed on the USTR's Special 301 Watch List in 2001 and on the Priority Watch List in 2002. In June 2004, an amendment was passed to the 1998 Copyright Act that ostensibly removed the objectionable compulsory license provision, but no implementation resulted. USTR still lowered The Bahamas to the Special 301 Watch List in 2005 and 2006 in anticipation that it would implement the 2004 amendment. In 2007 and 2008, for reasons unknown, The Bahamas was removed from the Watch List altogether, despite not having implemented the 2004 amendment.

Then, in USTR's seventh report to Congress on CBERA in 2007, the U.S. Government expressed concerns regarding The Bahamas' failure to implement the amendment to its 1998 Copyright Act that would narrow the scope of the compulsory licensing regime to the reception and transmission of copyright works broadcast free over the air. The USTR report stated that, by

¹⁰ See *Cable Bahamas In Trouble with U.S. FCC - URCA Must Deal with Its Public Image*, Bahamas Press, Sept. 15, 2012, <http://www.bahamaspress.com/2012/09/15/cable-bahamas-in-trouble-with-us-fcc-urca-must-deal-with-its-public-image/>.

not implementing the amendment, operators such as Cable Bahamas were free to transmit any copyrighted television programming without fair market value remuneration, including pay television. The U.S. Government labeled this behavior as “piracy” and urged The Bahamas to implement the amendment.¹¹

In February 2009, U.S. programmers requested that USTR again place The Bahamas on the Special 301 Priority Watch List for its refusal to actually end the piracy of HBO USA’s signal in violation of HBO LA’s exclusive licensing rights.¹² USTR did not include The Bahamas in the 2009 Special 301 Report, but instead stated:

As part of its bi-annual review of the operation of the Caribbean Basin Economic Recovery Act, USTR will review the IPR practices of beneficiaries, including The Bahamas, to assess compliance with the preference program’s eligibility criteria, which include the extent to which a country prohibits its nationals from broadcasting U.S. copyrighted materials without permission.¹³

On May 13, 2009, Congressman Howard Berman, Chairman of the House Foreign Affairs Committee, wrote to Bahamian Ambassador Cornelius Smith concerning the piracy.¹⁴ In addition, on June 5, 2009, in questions submitted during the Senate Finance Committee’s nomination hearing for Deputy USTR nominee Miriam Sapiro, Senator Bill Nelson of Florida

¹¹ United States Trade Rep., *Seventh Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act* (Dec. 31, 2007), available at http://www.ustr.gov/archive/assets/Trade_Development/Preference_Programs/CBI/asset_upload_file373_13752.pdf, at 23-24.

¹² Letter from Sean Spencer, President, Television Association of Programmers – Latin America, to Stanford McCoy, Assistant U.S. Trade Representative for Intellectual Property and Innovation, Office of the United States Trade Representative (Feb. 17, 2009).

¹³ United States Trade Rep., *2009 Special 301 Report* (Apr. 30, 2009), available at <http://www.ustr.gov/about-us/press-office/reports-and-publications/2009/2009-special-301-report>, at 3-4.

¹⁴ Letter from Rep. Howard L. Berman, Chairman, to His Excellency Cornelius A. Smith, Ambassador Extraordinary and Plenipotentiary, Embassy of The Bahamas (May 13, 2009).

expressed his concern about the continued piracy in The Bahamas. Ms. Sapiro responded by stating that “[e]nsuring strong intellectual property protection is one of the Administration’s trade priorities” and that “[t]his year, as part of its biennial review of the operation of [CBERA], USTR will review the IPR practices of beneficiary countries to assess compliance with the eligibility criteria, which include the extent to which a country prohibits the broadcasting of U.S. copyrighted materials without permission.”¹⁵

On August 5, 2009, a high level “stakeholders” meeting was held in The Bahamas with U.S. (USTR, U.S. Embassy, and congressional staff) and Bahamian government officials, HBO LA officials, other U.S. programmers, and Cable Bahamas officials in attendance to discuss the piracy issue. USTR officials made clear the U.S. Government’s deep concern and retaliatory options if the compulsory license was not repealed. In response, on September 16, 2009, The Bahamas published the 2004 amendment¹⁶ in the Official Gazette of The Bahamas, and the amendments took effect October 1, 2009, thereby ending the compulsory licensing scheme.

B. The Bahamas CRT Has Persisted In Failing To Pay Royalties Due To HBO LA Under The Prior Compulsory Licensing Scheme

On November 17, 2010, HBO LA submitted a royalty claim to the CRT for the transmission of HBO USA’s unlicensed programming in The Bahamas under the prior compulsory licensing regime.¹⁷ Utilizing a distribution method based upon the relative market

¹⁵ Confirmation Hearing for Deputy USTR Nominee Ms. Miriam Sapiro, U.S. Senate Finance Committee (June 5, 2009).

¹⁶ Specifically, The Copyright Law amendment of 2004 provided as follows:

“Section 83 of the principal Act is amended by renumbering the section as subsection (1) and then renumbering the insertion thereafter of the following-

(2) For the purposes of this section “transmission” means communication and reception over the air and not encrypted.”

¹⁷ HBO LA’s Royalty Claim to The Bahamas CRT (submitted Nov. 17, 2010), Exhibit 2.

value of the retransmitted channels, HBO LA requested \$600,000 out of the CRT fund, which reportedly holds just over \$3,000,000.¹⁸ HBO LA received a confirmation letter from the CRT dated November 29, 2010. The following summarizes the key actions taken by HBO LA in pursuing its royalty claim with The Bahamas CRT.¹⁹

- **December 2010:** After trying to follow up with the CRT on the progress of the claim, HBO LA was informed that an audit of the funds paid into the royalty fund by Cable Bahamas was being completed and that funds could not be distributed until the audit was completed.
- **August 2011:** By letter from the CRT dated August 12, 2011, HBO LA was informed that the CRT was not making progress on the audit with Ernst & Young and had switched to Deloitte Touche.²⁰
- **October - December 2011:** HBO LA was informed that the audit of the royalty fund had been substantially completed, but that a prescribed rate of payout from the royalty fund must be published in The Bahamas Gazette. The Office of the Attorney General was said to be overseeing the calculation of the prescribed rate, and after contacting the office numerous times, HBO LA was informed only that the office was still in talks about the matter.
- **December 2011:** The Tribune published an article on the delays experienced by claimants with the CRT.²¹
- **January 2012:** By letter from the CRT dated January 26, 2012, HBO LA was informed that the CRT had engaged the accounting firm Baker Tilly Gomez (“BTG”) to provide consultancy services to the CRT, in order to assist it in arriving at an equitable distribution of the funds available for royalty payments.²²
- **March 2012:** HBO LA was informed that BTG was trying to obtain viewership information from Cable Bahamas but that their meeting was rescheduled. BTG did

¹⁸ *Id.*

¹⁹ Confidential internal correspondence and email communications confirming the below set of events are available, which HBO LA would be willing to provide to USTR upon request and on a confidential basis.

²⁰ CRT Letter Confirming Change to Deloitte Touche (Aug. 12, 2011), Exhibit 3.

²¹ The article has been taken off The Tribune website, but for a reference to that article, please see Victoria Slind-Flor, *IBM, LVMH, Bahamas Copyright Fund: Intellectual Property*, Bloomberg, Dec. 29, 2011, <http://www.bloomberg.com/news/2011-12-29/ibm-lvmh-bahamas-copyright-fund-intellectual-property.html>.

²² HBO LA Email Correspondence with CRT (January-July, 2012), Exhibit 4.

not provide details and was generally non-responsive to HBO LA's requests for information.

- **June 2012:** By email correspondence dated June 27, 2012, HBO LA was informed by the CRT that BTG still had not received the required information from Cable Bahamas and that the CRT was following up with Utilities Regulation and Competition Authority ("URCA") to see if this would produce results.²³
- **July 2012:** By email dated July 11, 2012, HBO LA was informed that due to the May 2012 elections and resulting change in government, Mr. Kirkwood Seymour was being replaced by Obie Pindling as Chairman of the CRT. HBO LA again was informed that the CRT was still attempting to see if URCA could cause Cable Bahamas to assist in distributing royalty payments to claimants.²⁴
- **October 2012:** On October 15, 2012, HBO LA submitted comments in response to USTR's Federal Register Notice²⁵ requesting information on foreign trade barriers to be compiled into the NTE report. HBO LA described The Bahamas' failure to distribute royalties from its CRT fund and thus its ongoing violations of HBO LA's intellectual property rights.

HBO LA's efforts to obtain rightful payments on its CRT claims have now been ongoing for two years. Despite the numerous correspondence and follow up conducted by HBO LA and its attorney in The Bahamas, HBO LA still has yet to receive any royalty payments from the CRT fund. As the multi-year efforts undertaken by U.S. programmers to end the compulsory license scheme teaches, absent firm U.S. Government action there is no reason to believe that continued failure to honor claims on the CRT fund is soon to change and the delaying tactics end.

²³ *Id.*

²⁴ *Id.*

²⁵ Request for Public Comments To Compile the National Trade Estimate Report on Foreign Trade Barriers, 77 Fed. Reg. 49,055 (United States Trade Rep. Aug. 15, 2012).

C. The Bahamas CRT's Persistent Failure To Pay Royalties Due To HBO LA Represents A Continuing Violation Of Its Intellectual Property Rights And Should Result In Revocation of CBERA Benefits And Denial Of CBTPA Eligibility

While the prior compulsory licensing regime was repealed on October 1, 2009 and HBO LA subsequently entered into a program license agreement with Cable Bahamas,²⁶ the CRT's persistent failure to pay HBO LA the royalties due under the prior scheme continues to violate HBO LA's intellectual property rights. Intellectual property rights are of no use if they are not enforced, and the lack of compensation due to HBO LA only condones the prior signal piracy and continues to violate those rights.

In addition, the fear of a domino effect occurring in the region is not mere conjecture; the specter had already arisen before in HBO LA's commercial dealings in Trinidad & Tobago, Jamaica, and elsewhere in the Caribbean. For example, in 2007, Trinidad & Tobago proposed a similar compulsory licensing scheme in response to HBO LA's efforts to enter into a legitimate licensing agreement for programming distribution. Ultimately, through the combined efforts of HBO LA, other U.S. programmers, and the U.S. Embassy, the Government of Trinidad & Tobago dropped the compulsory licensing proposal.²⁷ In another example, Jamaica threatened to replicate The Bahamas' prior piracy scheme, stating that it "could prove an attractive legal solution."²⁸ This threat had an immediate "chilling effect" on HBO LA's negotiations with operators on that island. Additionally, on this same date in this proceeding, HBO LA has also filed with USTR objections to extending CBTPA benefits to St. Kitts and Nevis because of its

²⁶ HBO LA's Royalty Claim to The Bahamas CRT (submitted Nov. 17, 2010), Exhibit 2.

²⁷ Letter from Jose Sario, Senior Vice President – Business and Legal Affairs, HBO LA, to Mazina Kadir, Controller, Intellectual Property Office, Trinidad Ministry of Legal Affairs (July 6, 2005).

²⁸ *Id.* (Letter from Cordel Green, Executive Director, Jamaican Broadcasting Commission, to Cinemax Cable Channel (Jan. 8, 2007)).

violations of the same treaty rights of HBO LA due to a cable television compulsory licensing scheme, the primary beneficiaries of which are government-owned cable operators in St. Kitts and Nevis.²⁹ Thus, even if The Bahamas has repealed its compulsory licensing regime, the continuing lack of material consequences now for its actions taken then only strengthen the appeal of such a scheme in the region.³⁰

Under the relative market value calculation method, The Bahamas' prior compulsory licensing regime has already cost HBO LA around \$600,000 in lost licensing revenue, which it is still trying to claim from the CRT fund.³¹ However, if The Bahamas persists in failing to pay royalties and this lack of consequences induces a domino effect throughout the region, this could jeopardize much or all of HBO LA's licensing revenues generated from the Caribbean, which amounted to several million dollars in 2011.

Prior to granting any country benefits under CBTPA, USTR assesses whether the country has met the eligibility criteria in sections 212(b), 212(c), and 213(b)(5)(B) under CBERA. The eligibility criteria includes various provisions on the protection of intellectual property rights, and as such, The Bahamas' prior piracy of HBO LA's television programming signals and ongoing failure to provide compensation falls squarely within the statutory ambit of the agency's assessment. Because The Bahamas has continued to violate several of the intellectual property-

²⁹ See Comments of HBO Latin America Group on Granting Certain Trade Benefits to St. Kitts and Nevis under the Caribbean Basin Trade Partnership Act (CBTPA), Docket Number USTR-2012-0028 (submitted Nov. 9, 2012).

³⁰ Please note that many countries in the Caribbean region whose eligibility under the CBERA and/or CBTPA is also being considered already have compulsory licenses for patents, including: Aruba (see http://www.arubaeconomicaffairs.aw/index.php?option=com_content&task=view&id=35&Itemid=48), Dominica (see http://www.wipo.int/edocs/mdocs/mdocs/en/cdip_5/cdip_5_4_rev-annex2.pdf), Grenada (see same site), and St. Vincent and the Grenadines (<http://apps.who.int/medicinedocs/documents/s19744en/s19744en.pdf>). The area obviously is fertile ground for such schemes extending to television programming piracy and copyright violations.

³¹ HBO LA's Royalty Claim to The Bahamas CRT (submitted Nov. 17, 2010), Exhibit 2.

related criteria under the CBERA statute, the United States should take action to ensure that the CRT distributes royalties due to HBO LA and other U.S. claimants. Until then, The Bahamas's benefits under the CBERA should be revoked and it should not be designated as eligible to receive additional benefits under the CBTPA.

III. THE BAHAMAS' FAILURE TO MEET THE CBTPA ELIGIBILITY CRITERIA

A. The Bahamas Already Receives Substantial Benefits From The CBERA Program

The CBERA currently provides beneficiary countries, such as The Bahamas, duty-free access to the U.S. market for certain goods.³² Another CBERA benefit concerns income tax deductions under Section 274 of the Internal Revenue Code. In 1983, Congress enacted P.L. 98-67, which extended to CBERA countries, including The Bahamas, this income tax benefit such that U.S. taxpayers can deduct the expense of attending a business meeting or convention in an eligible CBERA country without regard to the more stringent requirements usually applied to such foreign expenses.³³ To qualify, a CBERA country must sign a Tax Information Exchange Agreement with the United States. The Bahamas was first eligible for the Section 274 tax benefit in 2006. Since tourism accounts for 60% of The Bahamas' GDP³⁴ and a majority of those tourists each year are from the United States,³⁵ the cost to U.S. Government revenues from the Section 274 benefit is likely substantial. Most importantly, if The Bahamas were to be designated as eligible to receive benefits under the CBTPA, in addition to the benefits it

³² USTR, Caribbean Basin Initiative, <http://www.ustr.gov/trade-topics/trade-development/preference-programs/caribbean-basin-initiative-cbi> (last visited Nov. 9, 2012).

³³ 26 U.S.C. § 274(h)(6).

³⁴ Central Intelligence Agency, The World Factbook (2012), <https://www.cia.gov/library/publications/the-world-factbook/geos/bf.html>.

³⁵ Bureau of W. Hemisphere Affairs, U.S. Dep't of State, *Fact Sheet: U.S. Relations With The Bahamas* (Aug. 10, 2012), available at <http://www.state.gov/r/pa/ei/bgn/1857.htm>.

currently receives under CBERA, the country would receive duty-free access to the U.S. market for most of its goods.³⁶ Applying the normal MFN duty rate to the top 20 U.S. imports by value from The Bahamas in 2011 demonstrates that approximately \$11 million could be at stake in terms of the estimated value to The Bahamas from duty free access for its major exports to the U.S. and the cost to U.S. Government revenues from the combined effect of both programs under the Caribbean Basin Initiative.

B. To Receive CBERA Trade Preferences The Bahamas Must Satisfy Several Intellectual Property-Related Criteria

Congress established eligibility criteria for the receipt of CBERA and CBTPA trade preferences; in order for The Bahamas to become eligible to receive benefits under CBTPA, it must satisfy criteria contained in sections 212(b), 212(c), and 213(b)(5)(B) of the CBERA.³⁷ Among them, CBERA expressly requires the protection of intellectual property and copyrighted material. The first set of criteria under section 212(b) are mandatory factors that preclude the President from designating a country as a beneficiary. Among these specifically, the statute indicates that the President shall not designate any country as a beneficiary country if government-owned entities have engaged in the broadcast of copyrighted material, including films and television programs, belonging to U.S. copyright owners without their express consent.³⁸

³⁶ USTR, Caribbean Basin Initiative, *supra* note 32.

³⁷ 19 U.S.C. §§ 2702-03.

³⁸ 19 U.S.C. § 2702(b)(5).

Section 212(c) of CBERA provides additional criteria that the President is required to take into account in designating beneficiary countries as eligible.³⁹ Specifically, the President must consider:

- the degree to which the country follows the accepted rules of international trade provided for under the WTO Agreement and the multilateral trade agreements;⁴⁰
- the extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property and copyright rights;⁴¹
- the extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to U.S. copyright owners without their express consent;⁴² and
- the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of CBERA.⁴³

In order to receive additional benefits under the CBTPA, section 213(b)(5)(B) requires the President to take into account other appropriate criteria that further emphasize the required protection of intellectual property rights, such as:

- whether the beneficiary country has demonstrated a commitment to undertake its obligations under the WTO Agreement;⁴⁴ and
- the extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the TRIPS.⁴⁵

³⁹ 19 U.S.C. §§ 2702(c).

⁴⁰ 19 U.S.C. § 2702(c)(4).

⁴¹ 19 U.S.C. § 2702(c)(9).

⁴² 19 U.S.C. § 2702(c)(10).

⁴³ 19 U.S.C. § 2702(c)(11).

⁴⁴ 19 U.S.C. § 2703(b)(5)(B)(i). While The Bahamas is not yet a member of the WTO, it has already begun the accession process (see Section III.C.3 below), and as such, it has made public its intention to undertake obligations under the WTO Agreements, which includes protecting intellectual property rights.

⁴⁵ 19 U.S.C. § 2703(b)(5)(B)(ii).

The Bahamas has failed to meet many of these intellectual property-related criteria with its ongoing failure to pay U.S. programmers, like HBO LA, royalties due under the prior compulsory licensing program. As a result, its benefits under the CBERA should be revoked and it should not be designated as eligible to receive additional CBTPA benefits.

C. USTR Should Revoke The Bahamas' CBERA Benefits And Should Not Designate It As A CBTPA Beneficiary Country Because It Does Not Satisfy The Intellectual Property-Related Criteria Under The Statute

1. *Cable Bahamas Is A Government-Owned Monopoly That Is Still Enjoying The Fruits of Its Previous Unauthorized Broadcast of U.S. Copyrighted Cable Programming*

CBERA excludes from designation countries in which (1) government-owned entities, (2) engage in the unauthorized broadcast of copyrighted material, including films and television programs, (3) belonging to U.S. copyright owners.⁴⁶ Cable Bahamas is indeed a government-owned entity. Recent reports suggest that Cable Bahamas is now about 30% owned by the Bahamian government, primarily through the National Insurance Board.⁴⁷

Moreover, while Cable Bahamas is no longer engaged in the unauthorized broadcast of licensed television programming belonging to HBO LA, it continues to benefit from the fruits of its prior unauthorized broadcasting by not paying HBO LA the royalties due to it under the previous compulsory licensing regime. As a result, Cable Bahamas continues to violate HBO LA's intellectual property rights in its copyrighted programming and thus fails to meet mandatory eligibility criteria for CBTPA designation.

⁴⁶ 19 U.S.C. § 2702(b)(5).

⁴⁷ Neil Hartnell, *Investor: 'My Gut Says' No Cellular Licence for Cable*, The Tribune, Oct. 29, 2012, <http://www.tribune242.com/news/2012/oct/29/investor-my-gut-says-no-cellular-licence-for-cable/>.

2. *The Bahamian Government Fails to Provide Adequate Enforcement of Intellectual Property Rights*

While the Bahamian compulsory licensing scheme has been repealed since October 2009, the Bahamian government still fails to provide adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property and copyright rights. HBO LA continues to be unable to secure its royalty payments even after nearly two years since the date it filed its claim. The Bahamian government has not made progress in disbursing payments from the CRT fund. Thus, as emphasized before, without enforcement and adequate compensation, HBO LA's intellectual property rights are not protected and the government, as well as its companies and nationals, continue to enjoy the fruits of their piracy from HBO LA. Finally, given the government's failure to enforce the distribution of royalties from the CRT fund to U.S. copyright owners, The Bahamas also continues to ignore the CBERA criterion to cooperate with the United States in the administration of CBERA's conditions.

3. *The Bahamian Government Fails to Meet Its Intellectual Property Rights Obligations Under the Berne Convention and to Demonstrate Its Commitment to Undertake WTO Obligations*

While The Bahamas is not yet a member of the WTO, it is a party to the Berne Convention⁴⁸ and is in the process of acceding to the WTO. The Bahamas submitted its Request for Accession to the WTO on May 10, 2001.⁴⁹ A Working Party to examine the application was established at the General Council meeting on July 18, 2001.⁵⁰ The Bahamas finally submitted its Memorandum on the Foreign Trade Regime on April 17, 2009, and the First Working Party

⁴⁸ For a list of contracting parties to the Berne Convention, please see: http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=15.

⁴⁹ WTO, Accessions: The Bahamas, http://www.wto.org/english/thewto_e/acc_e/al_bahamas_e.htm.

⁵⁰ *Id.*

meeting occurred in September 2010.⁵¹ As a result, by virtue of its desire to join the WTO (in addition to receive CBTPA benefits), The Bahamas is expected to demonstrate a commitment to undertake its obligations under the WTO agreements. The Chairperson of the Working Party, Ambassador Wayne McCook of Jamaica, recently remarked that The Bahamas “had considerable work ahead as adherence to WTO rules required domestic reforms as well as putting in place the necessary enforcement infrastructure.”⁵²

However, The Bahamas does not follow the accepted rules of international trade provided for under the WTO and most certainly does not protect intellectual property rights in a manner that is consistent with or greater than the protection afforded under the TRIPS. The WTO’s TRIPS greatly enhanced intellectual property rules in the multilateral trading system and established minimum levels of protection that each member government must give to the intellectual property of other WTO members. Most importantly, it incorporated Articles 1 through 21 of the Berne Convention in terms of the copyright protections members must provide.⁵³ Because The Bahamas falls far short of the minimum levels of protection required by the Berne Convention, it also fails to follow accepted intellectual property protection rules required in the TRIPS Agreement.

The Bahamas continues to violate its treaty obligations to HBO LA under the Berne Convention. Specifically, as a member of the Berne Convention, The Bahamas is obligated to provide:

⁵¹ *Id.*

⁵² WTO, *The Bahamas Praised for the Progress Made In Its Accession Process*, Press Release, June 21, 2012, http://www.wto.org/english/news_e/news12_e/acc_bhs_21jun12_e.htm.

⁵³ The TRIPS Agreement did not incorporate Article *6bis* of the Berne Convention, which provided for moral rights. Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”), art. 9(1).

- authors of dramatic works, including such works used in film, the exclusive right of authorizing “any communication to the public of the performance of their works.” **Article 11(1)(ii) Certain Rights in Dramatic and Musical Works**; and
- authors of literary and artistic works, including cinematographic works, the exclusive right of authorizing:
 - (i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images; and
 - (ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one **Article 11bis(1) Broadcasting and Related Rights**.
 - (iii) with the understanding that The Bahamas is free to determine the conditions under which the above rights mentioned in the immediately preceding paragraphs can be exercised, as long as the relevant compulsory license:
 - (a) is only available in The Bahamas;
 - (b) is not prejudicial to the moral rights of the author; and
 - (c) is not prejudicial to the author’s right to obtain equitable remuneration. **Article 11bis(2)**

Importantly, Article 11bis(1) and its exception under Article 11bis(2) apply only to broadcast programming (i.e., sent via airwaves, involving the dispatch of signals by Herzian waves), whereas Article 11(1)(ii) protects rights in works constituting cable-originated programming.⁵⁴ The exception listed in Article 11bis(2) permits the imposition of compulsory

⁵⁴ See Sam Ricketson and Jane C. Ginsburg, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* (“it should be reiterated that article 11bis(1)(ii) applies only to the cable distribution of broadcast programmes containing protected works: where an organization distributes programmes directly by cable to the public that do not originate from a broadcast or, if they do originate from a broadcast, are not distributed simultaneously with that broadcast, this will come within the public performing right and will require authorization under article 11(1)(ii). Programmes distributed in this way are sometimes referred to as ‘cable originated programmes,’ to distinguish them from ‘broadcast programmes.’”).

licenses only with respect to broadcast programming under Article 11*bis*(1), as long as certain conditions are met, but not cable programming under Article 11(1)(ii).

Regardless of which provision HBO LA's programming falls under, The Bahamas continues to violate its intellectual property rights under the Berne Convention. While the compulsory licensing scheme has been repealed, The Bahamas continues to violate Article 11(1)(ii) of the Berne Convention because affected copyright owners of cable programming (like HBO LA) still have not been able to enforce their right to royalty payments set aside as compensation for the previous violations. The exclusive rights in Article 11(1)(ii) are not subject to any exceptions, and those rights are meaningless without adequate enforcement. Thus, because HBO LA continues to not receive compensation for the prior compulsory licensing of its programming, its intellectual property rights are still being violated. Moreover, even if HBO LA's programming were considered broadcast programming under Article 11*bis*(1) that could be subject to a compulsory license under Article 11*bis* (2),⁵⁵ The Bahamas has not fulfilled HBO LA's "right to equitable remuneration" under that exception and is thus still in violation of the Berne Convention.

As a result, given The Bahamas' failure to meet several eligibility criteria and the significant cost to U.S. Government revenues of granting most Bahamian exports duty free access to the U.S. market, USTR should revoke The Bahamas's benefits under CBERA and not designate it as eligible to receive benefits under CBTPA. The Bahamian compulsory licensing law may be repealed on its face, but in reality, U.S. copyright owners' intellectual property rights

⁵⁵ Reply Comments of Cable Bahamas Ltd., In the Matter of : Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers and on Beneficiary Countries, ITC Investigation No. 332-227 (July 14, 2009), at 7-8.

continue to be violated. USTR should not reward The Bahamas so long as it remains in violation of the CBERA's and CBTPA's intended protections of U.S. intellectual property rights.

* * *

We appreciate this opportunity to submit these comments for consideration. We, and representatives of HBO LA, would welcome the opportunity to answer any questions the Trade Policy Staff Committee or Office of the Western Hemisphere may have concerning the issues raised in these comments.

Respectfully submitted,



Kenneth J. Pierce
Cynthia Y. Liu

Counsel to HBO Latin America Group

EXHIBIT 1

**Section 83 of the 1998 Copyright Law of
The Bahamas**

(Repealed October 1, 2009)

Section 83 of the Copyright Law of The Bahamas

83. Where a copyright work is transmitted with the licence of the copyright owner from a place in The Bahamas or outside The Bahamas, any person may, without obtaining the licence of the copyright owner or a waiver of moral rights from the author, incorporate the work (by means of the reception of the transmission) in a cable system:

Provided that-

- (a) the person is licensed to operate a cable system in The Bahamas;
- (b) it is a secondary transmission;
- (c) except as may be required by any applicable laws or regulations, the transmission programme in which a copyright work is incorporated is transmitted without alteration of any kind other than substitutions made with the written consent of the primary transmitter; and
- (d) the copyright owner shall be entitled to receive from the person providing the cable service, equitable remuneration at the prescribed rate in respect of the transmission,

and for the purposes of this section, an alteration to a transmission or transmission programme includes the addition thereto of new material not contained in the primary transmission, or the omission from the transmission of any material contained in the primary transmission; and the term material includes a commercial advertisement.

EXHIBIT 2

HBO LA's Royalty Claim to The Bahamas CRT

(Submitted November 17, 2010)

COPY



BAHAMAS LAW CHAMBERS

COUNSEL & ATTORNEYS-AT-LAW . NOTARIES PUBLIC

16th November, 2010



MEMBER

BAHAMAS BAR

ENGLISH BAR

DAVID F. ALLEN
BA, LLB, LLM

Affiliates

Thomas A.E. Evans, Q.C.
Milton A. Evans
Khalila W. Astwood-Dorsett
Veronique J. N. Evans
Vivienne E. Evans
Tamica D. Lockhart-Sawyer

Copyright Royalty Tribunal
101 East Hill Place
East Hill & Market Streets
Nassau, The Bahamas

Attention: Kirkwood Seymour
Chairman of the Copyright Royalty Tribunal

Dear Sir:

Re: HBO Royalty Claim

We write on behalf of our client HBO Ole Distribution, L.L.C. a Delaware limited liability company with its office in Florida ("HBO"). HBO is the exclusive authorized distributor of the audiovisual programming services known as *HBO*, *Cinemax* and *Max* throughout the Caribbean, including the Bahamas. HBO recently entered into a program license agreement with Cable Bahamas, authorizing Cable Bahamas to distribute these programming services in the Bahamas.

HBO hereby makes a claim for the payment of royalties by the Copyright Royalty Tribunal ("the Tribunal") for the transmission of HBO's programming in the Bahamas under the prior compulsory licensing regime, which was repealed in October 2009. With reference to HBO's claim, the Tribunal requested that HBO recommend an equitable distribution method for such royalties based upon other jurisdictions with compulsory licensing and copyright tribunals.

Having completed a review of other jurisdictions with copyright tribunals, which included: Barbados, Jamaica, North America, Australia and New Zealand, we are of the view that the only regime with a relevant distribution method is the USA. Unlike the other jurisdictions, there is currently a statutory provision for compulsory licensing in the USA.

No. 207 Lagoon Court
Olde Towne Mall, Sandysport
P.O. Box SP60006
New Providence, The Bahamas

Telephone:
(242) 677-5500

Facsimile:
(302) 394-3748

Email:
info@legalbahamas.com

Website:
www.legalbahamas.com

The USA compulsory licensing scheme is similar to The Bahamas; it provides a statutory rate of payment for the retransmission of cable channels by cable suppliers. However, the USA system only pertains to non-fee channels. Therefore, The Bahamas was unique as the only jurisdiction that provided for the compulsory licensing of *for pay* network television and premium cable channels.

The USA distribution method is based upon the relative market value of the retransmitted channels. Relative market value is the accepted and equitable method of distributing royalties.

We are of the view that the most accurate and equitable way to determine the relative market value of cable channels offered by Cable Bahamas is using the actual retail price that Cable Bahamas charges its subscribers for the channels as an indicator of the real value and weight of the channels. This is the amount the consumers, who are the market, are willing to pay for cable channels.

Cable Bahamas partitions its channels into groups; each group has a set fee paid by consumers who subscribe to the group. Cable Bahamas groups and respective pricing thereof are reprinted from a Cable Bahamas brochure below (see APENDIX 1); the combined amount of all Cable Bahamas consumer cable fees is US\$108.80¹.

Cable Bahamas charges consumers US\$13.25 to subscribe to the HBO package. The HBO package includes: HBO HD, HBO (East), HBO (West), HBO Signature, HBO2 (East), HBO2 (West), HBO Comedy, HBO Family (East), HBO Family (West). The \$13.25 that Cable Bahamas charges for the HBO package taken as a percentage of \$108.80 equals 12%. Based on the aforesaid distribution method, HBO should receive 12% of the Tribunal fund for the HBO package.

Cable Bahamas charges consumers US\$8.50 to subscribe to the Max package, which is owned by HBO and includes: Max (East), Max (West), Outer Max, W Max, Action Max, 5 Star Max, More MAX. The \$8.50 that Cable Bahamas charges for the MAX package taken as a percentage of \$108.80 equals 8%. Based on the aforesaid distribution method, HBO should receive 8% of the Tribunal fund for the MAX package.

Adding the two percentages together provides the total percentage payable to HBO out of the Tribunal fund: 20%.

We are informed the total holdings of the Tribunal fund are currently just over \$3,000,000. According to the percentage specified above, HBO should receive \$600,000 out of the Tribunal fund.

¹ Nine foreign language channels "Choices" were not included in the calculation of relative market value, as they likely have a very small subscribership and would distort the overall outcome due to their high retail price.

Please confirm this amount and make payment at your earliest convenience to:

Bank Name: Citibank, N.A.
Bank Address: 111 Wall Street
New York, NY 10043
Account Name: DMS Media Services, L.L.C.
ABA Routing No.: 021000089
Account Number: 36173712

Yours Faithfully,
Bahamas Law Chambers


David F. Allen

APENDIX 1

HBO \$13.25 HBO HD HBO (East) HBO (West) HBO Signature HBO2 (East) HBO2 (West) HBO Comedy HBO Family (East) HBO Family (West)	SHOWTIME \$11.75 FLIX SHOWTIME HD SHOWTIME (EAST) SHOWTIME (WEST) SHOWTIME Extreme SHOWTIME Showcase SHOWTIME TOO SHOWTIME Beyond The Movie Channel	MAX \$8.50 Max (East) Max (West) Outer Max W Max Action Max 5 Star Max More MAX	STARZ \$8.50 STARZ! STARZ! (West) STARZ! Edge STARZ! In Black STARZ! Action STARZ! Cinema East STARZ! Cinema West Encore Westerns Encore Mystery
---	--	---	--

Super Basic \$30 50 Digital Channels Cable Guide Cable 12 NTV TBN MTV VH1 3ABN EWTN Speed Bloomberg Boomerang Nickelodeon USA Network Cartoon Network E! Entertainment Discovery Channel CNN Headline News National Geographic	Sports \$9.95 14 Digital Channels TSN Fuel CSTV ESPN ESPN2 ESPNEWS ESPN HD ESPN2 HD Golf Channel ESPN CLASSIC Tennis Channel Fox Soccer Channel Madison Square Garden New England Sports Network	Digital 125 \$5.95 20 Digital Channels, 21 Radio Channels, 50 Music Channels BET Hype TV Gospel Music CNN Word Network Hope Channel Church Channel Daystar Tropik Network NFL Network NBA TV Tempo CityTV Toronto Animal Planet Caribvision Discovery Kids NBC-W FOX-W CBS-W ABC-W	Pacific \$9.95 24 Digital Channels Bravo BBC America Travel Channel History Channel Disney Channel Comedy Central Discovery Health G4 FX DiY Fit TV MTV2 iLife TV BBC Kids Toon Disney Noggin ABC Family TV Land Cooking Channel Sound Track CNBC Spike	Atlantic \$10.95 33 Digital Channels The Biography Channel Science Channel Discovery Turbo Discovery Civilization Wealth TV Africa Channel Euro Channel PBS Sprout YTV Treehouse Family.ca Nicktoons Maverick Lifetime Real Women SOAP NET Hallmark Channel American Movie Classics Independent Film Channel Fox Movie Channel Game Show Network Sundance The N
---	---	---	---	---

<p> ESPN International Fox News Network BBC World, London The Weather Channel New Inspiration Network CNN CBMT ZNS PBS-E JCN TBS BCN MY9 A&E TLC LMN TNT SciFi Tru TV HGTV KTLA WPIX WGN NBC-E FOX-E CBS-E ABC-E Oxygen Lifetime Food TV MSNBC </p>			<p> Turner Classic Movies Country Music Television </p>	<p> Baby First E! Style MTV Jams MTV Hits VH1 Soul BET Jazz BET Gospel Link TV C-SPAN Euro News Versus </p>
---	--	--	--	---

EXHIBIT 3

**The Bahamas CRT Letter
Confirming Change to Deloitte Touche**

(Dated August 12, 2011)



COPYRIGHT ROYALTY TRIBUNAL
Royal Victoria Gardens
East Hill & Parliament Streets
P.O.Box N-7090
Nassau, The Bahamas
Telephone: (242) 326-4114
Fax: (242) 326-1736

August 12, 2011

Mr. David F. Allen
Bahamas Law Chambers
No. 27 Lagoon Court
Olde Towne Mall, Sandypport
P.O. Box SP60006
New Providence, The Bahamas

Dear Mr. Allen,

Re: HBO Royalty Claim

I write further to various telephone conversations in this regard. To update, unfortunately, we were not making progress with the Ernest & Young engagement and switched to Deloitte & Touche. We are expecting a report at the end of this month.

In the meantime, your claim based on relative market value is being considered alongside a claim based upon a percentage of Cable Bahamas revenue from Cable TV (apparently based upon the model in the UK). An issue of synchronization rights has arisen from another claim and we may ask you to also address the issue, should the need arise.

Thank you for your assistance.

Yours faithfully,

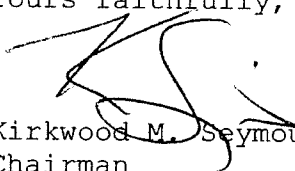

Kirkwood M. Seymour
Chairman

EXHIBIT 4

**HBO LA Email Correspondence
With The Bahamas CRT**

(Dated January - July 2012)

From: David F. Allen [lawbahamas@gmail.com]
Sent: Thursday, July 12, 2012 11:58 AM
To: Rainer Lorenzo
Subject: Fwd: FW: Consultants

Please find.

----- Forwarded message -----
From: Kirkwood Seymour <kseymour@seymourlaw.com>
Date: Wed, Jul 11, 2012 at 5:07 PM
Subject: FW: Consultants
To: "David F. Allen" <lawbahamas@gmail.com>

Dear Mr. Allen,

On Monday past the new Public Boards were announced, including a new Copyright Royalty Tribunal. I called the new Chairman on Monday morning to arrange the turnover. He is tied up for the remainder of this week and will take delivery on Monday.

During the previous week I spoke with Mr. Wallace-Whitfield at URCA to see what pressure could be brought to bear on Cable Bahamas. The new Tribunal will be briefed on this as well.

Thank you for your assistance and co-operation; and best wishes!

Regards,
Kirk Seymour

KIRKWOOD MILLER SEYMOUR

Chambers: 101 East Hill Place, East Hill & Market Streets
P.O. Box N-9965 Nassau, The Bahamas
Tel: (242) 356-0991 (242) 356-0992
(242) 326-3966; Fax: (242) 356-0993
e-mail: kseymour@seymourlaw.com <http://www.seymourlaw.com>

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from your computer.

-----Original Message-----
From: Kirkwood Seymour [mailto:kseymour@seymourlaw.com]
Sent: Wednesday, June 27, 2012 9:24 AM
To: 'David F. Allen'
Subject: FW: Consultants

Dear Mr. Allen,

Just a note to say that the consultants having not received the information

from Cable Bahamas, we are following up with URCA to see if this will produce results.

Regards,

Kirkwood Seymour
Chairman
Copyright Royalty Tribunal
Tel: c/o (242) 356-0991; (242) 328-6310

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from your computer.

-----Original Message-----

From: Kirkwood Seymour [mailto:kseymour@seymourlaw.com]
Sent: Wednesday, June 13, 2012 1:36 PM
To: 'David F. Allen'
Subject: RE: Consultants

Dear Mr. Allen,

The Consultants require additional information from Cable Bahamas and there has been a delay in receiving the information. The Tribunal is taking steps in this respect and hope we can receive the additional information from Cable Bahamas with dispatch.

We will keep you updated (and advise again within a week).

Regards,

Kirkwood Seymour
Chairman
Copyright Royalty Tribunal
Tel: c/o (242) 356-0991; (242) 328-6310

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, re-transmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from your computer.

-----Original Message-----

From: David F. Allen [mailto:lawbahamas@gmail.com]
Sent: Tuesday, June 12, 2012 10:55 PM
To: Kirkwood Seymour
Subject: Re: Consultants

Dear Mr. Seymour,

The client has asked for an update on the status of this matter. Kindly provide the same at your earliest convenience.

Regards,
David

On Thu, Apr 26, 2012 at 3:00 PM, Kirkwood Seymour <kseymour@seymourlaw.com>
wrote:

> Dear Mr. Allen,

>
>
>
> Thank you for yours below. The Tribunal will be meeting with the
> Consultants this afternoon. I will update you thereafter.

>
>
>
> Regards

>
>
>
> Kirkwood Seymour
>
> Chairman
>
> Copyright Royalty Tribunal
>
> Tel: c/o (242) 356-0991; (242) 328-6310

>
> _____
> _____

> The information transmitted is intended only for the person or entity
> to which it is addressed and may contain confidential and/or
> privileged material. Any review, re-transmission, dissemination or
> other use of, or taking of any action in reliance upon, this
> information by persons or entities other than the intended recipient
> is prohibited. If you received this in error, please contact the
> sender and delete the material from your computer.

>
>
>
>
> From: David F. Allen [mailto:lawbahamas@gmail.com]
> Sent: Friday, April 20, 2012 11:13 AM
> To: Kirkwood Seymour
> Subject: Re: Consultants

>
>
>
> Dear Mr. Seymour,

>
>
> We write concerning the payment of royalties out of the Royalty Fund
> to our client, HBO. We were informed by a letter dated 26th January,
> 2012 that Baker Tilly Gomez had been retained to assist with the
> process. We made contact with the persons involved at BTG, Ms V. Rahming
> and Ms.
> Ilzhem Aragundi on numerous occasions. While they have asserted an
> intention to liaise with Cable Bahamas to obtain information, these
> meetings do not appear to have occurred. Further, they have not been
> timely and forthcoming in their correspondence with us. We are

> completely dissatisfied by the delay experienced in this matter.
>
>
>
> The client is very concerned by the delay and has considered all
> options, which could have international and national repercussions on The
Bahamas'
> reputation as a reputable copyright jurisdiction. We would hope you
> would assist us in progressing this matter on an urgent basis, as time
> appears to be running out.

>
>
>
> Please revert at your earliest convenience.

> Sincerely,

> David Allen

>
> On Thu, Jan 26, 2012 at 4:08 PM, Kirkwood Seymour
> <kseymour@seymourlaw.com>
> wrote:

> Dear Mr. Allen,

>
>
>
> We spoke. Please see letter, attached.

> Regards,

>
>
>
> Kirkwood Seymour

> Chairman

> Copyright Royalty Tribunal

> Tel: (242) 326-4114; Fax: (242) 326-1736

>
> _____
> _____
>
> The information transmitted is intended only for the person or entity
> to which it is addressed and may contain confidential and/or
> privileged material. Any review, re-transmission, dissemination or
> other use of, or taking of any action in reliance upon, this
> information by persons or entities other than the intended recipient
> is prohibited. If you received this in error, please contact the
> sender and delete the material from your computer.

>
>
>
>
>
> --
> Bahamas Law Chambers
> No. 207 Lagoon Court
> Olde Towne Mall, Sandypport
> P.O. Box SP60006
> New Providence, The Bahamas
>
> Telephone: 1 (242) 456-0012
> Facsimile: 1 (302) 394-3748
>
> Website: www.legalbahamas.com
>
> Bahamas Law Chambers cares for our environment.
> Please don't print this e-mail unless you really need to.
> --
> NOTICE OF CONFIDENTIALITY
> The information contained in and transmitted with this e-mail is:
> (I) Subject to the Attorney-client Privilege; (II) Attorney Work
> Product; or (III) Confidential.
>
> It is intended only for the individual or entity designated above. You
> are hereby notified that any dissemination, distribution, copying, or
> use of or reliance upon the information contained in and transmitted
> with this e-mail by or to anyone other than the recipient designated
> above by the sender is unauthorized and strictly prohibited. If you
> have received this e-mail in error, please notify the sender by e-mail
> or telephone at 1 (242) 677-5500 immediately.
>
> Any e-mail erroneously transmitted to you should be immediately
> deleted and removed entirely from all systems, and any paper copies of
> such e-mail should be returned to the sender by mail, or destroyed.
> Thank you.

--
Bahamas Law Chambers
No. 207 Lagoon Court
Olde Towne Mall, Sandypport
P.O. Box SP60006
New Providence, The Bahamas

Telephone: 1 (242) 456-0012
Facsimile: 1 (302) 394-3748

Website: www.legalbahamas.com

Bahamas Law Chambers cares for our environment.
Please don't print this e-mail unless you really need to.

--
NOTICE

The information contained in and transmitted with this e-mail is:
(I) Subject to the Attorney-client Privilege; (II) Attorney Work Product; or
(III) Confidential. All free advice, which includes any advice which is not
specifically instructed and paid for, is provided without recourse or
liability for its correctness whatsoever. The receiver of any such free
advice uses the same at his/her/its own risk.

It is intended only for the individual or entity designated above. You are hereby notified that any dissemination, distribution, copying, or use of or reliance upon the information contained in and transmitted with this e-mail by or to anyone other than the recipient designated above by the sender is unauthorized and strictly prohibited. If you have received this e-mail in error, please notify the sender by e-mail or telephone at 1 (242) 677-5500 immediately.

Any e-mail erroneously transmitted to you should be immediately deleted and removed entirely from all systems, and any paper copies of such e-mail should be returned to the sender by mail, or destroyed. Thank you.

--
Bahamas Law Chambers
No. 207 Lagoon Court
Olde Towne Mall, Sandypport
P.O. Box SP60006
New Providence, The Bahamas

Telephone: 1 (242) 456-0012
Facsimile: 1 (302) 394-3748

Website: www.legalbahamas.com

Bahamas Law Chambers cares for our environment.
Please don't print this e-mail unless you really need to.

--
NOTICE

The information contained in and transmitted with this e-mail is:
(I) Subject to the Attorney-client Privilege; (II) Attorney Work Product; or (III) Confidential. All free advice, which includes any advice which is not specifically instructed and paid for, is provided without recourse or liability for its correctness whatsoever. The receiver of any such free advice uses the same at his/her/its own risk.

It is intended only for the individual or entity designated above. You are hereby notified that any dissemination, distribution, copying, or use of or reliance upon the information contained in and transmitted with this e-mail by or to anyone other than the recipient designated above by the sender is unauthorized and strictly prohibited. If you have received this e-mail in error, please notify the sender by e-mail or telephone at 1 (242) 677-5500 immediately.

Any e-mail erroneously transmitted to you should be immediately deleted and removed entirely from all systems, and any paper copies of such e-mail should be returned to the sender by mail, or destroyed. Thank you.