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Attorney for Defendants
Kelly C. Sugano and Taka-O

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SLEP-TONE ENTERTAINMENT
CORPORATION,

Plaintiff,

vs.

BACKSTAGE BAR AND GRILL, et
al.,

Defendants.

) Case No.: CV11-08305 ODW (PLAx)
)
) **DECLARATION OF CRAIG**
) **MCLAUGHLIN, ESQ. IN SUPPORT**
) **OF MOTION BY DEFENDANTS**
) **KELLY C. SUGANO AND TAKA-O**
) **FOR CONTEMPT AND**
) **SANCTIONS**
)
) Hearing Date: March 25, 2013
) Time: 1:30 p.m.
) Courtroom: 11
)
) Complaint Filed : Oct. 6, 2011
)

DECLARATION OF CRAIG MCLAUGHLIN, ESQ.

I, Craig McLaughlin, Esq. hereby declare that:

1. I am currently attorney of record for Defendants Kelly C. Sugano and Taka-O in connection with the above entitled case. I am a member in good standing of the State Bar of California and have personal knowledge of the facts set forth below and if called upon to testify to them could and would competently do so.

2. I have over 16 years of experience practicing intellectual property law in California, including litigation matters and trials. My hourly rate charged in the above entitled case was \$350 per hour. This rate is in line if not below other attorneys' rates with similar experience in the locale.

3. **Exhibit 1** hereto is a true and correct copy of this Court's order ("Order") dated January 15, 2013.

4. **Exhibit 2** hereto is a true and correct copy of an e-mail I sent to Slep-tone's counsel on January 30, 2013.

5. On February 8, 2013, I received a telephone call from Ms. Donna Boris, counsel for Slep-tone during which said counsels met and conferred over Slep-tone's failure to comply with the Order. During the conference, I asked whether Slep-tone would be complying with the Order. Ms. Boris indicated that while she was aware of the Order, she did not know whether Slep-tone would comply. I said that should the Order not be complied with by day's end, a motion for contempt would be brought. Ms. Boris urged that such a motion not be filed, but offered nothing to avoid it.

6. To date, Slep-tone has not paid the amount set forth in the Order, nor any part thereof, thus necessitating the instant motion.

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7. **Exhibit 3** hereto is a true and correct copy of a webpage copied by me on February 9, 2013, directly from the website of the Department of the Secretary of State of North Carolina.

8. I drafted the papers associated with this motion which required 6.0 hours of my work at \$350 per hour. An additional 3.0 hours is anticipated to review Slep-tone's expected opposition and prepare a reply thereto and another 2.0 hours to appear at the hearing.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on February 21, 2013, in Orange County, California.

/s/ Craig McLaughlin, Esq.
Craig McLaughlin, Esq.

EXHIBIT NO. 1

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SLEP-TONE ENTERTAINMENT
CORP.,

 Plaintiff,

 v.

BACKSTAGE BAR AND GRILL, et al.,

 Defendants.

Case No. 2:11-cv-8305-ODW(PLAx)
**ORDER GRANTING MOTION FOR
ATTORNEY’S FEES AND
SANCTIONS [97]**

Defendants Kelly C. Sugano and Taka-O filed their Motion for Attorney’s Fees and Sanctions on November 27, 2012. (ECF No. 97.) The hearing was set for January 7, 2013. Under the local rules, Plaintiff Slep-Tone Entertainment Corp.’s opposition was due on December 17, 2012. L.R. 7-9. On December 20, 2012, Slep-Tone’s newly hired counsel sought an extension of time to file opposition papers, placing the failure to oppose solely on Slep-Tone’s previous counsel, Donna Boris. (ECF No. 101.) The Court promptly denied that request. (ECF No. 103.)

To date, no opposition has been filed. Slep-Tone’s failure to timely oppose Defendants’ Motion may be deemed consent to the granting of the Motion. L.R 7-12; see L.R. 7-9.

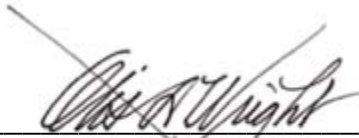
The Court is empowered to award reasonable attorney’s fees in exceptional cases to the prevailing party. 15 U.S.C. § 1117(a). An exceptional case is one that is either groundless, unreasonable, vexatious, or pursued in bad faith. *Cairns v. Franklin*

1 *Mint Co.*, 292 F.3d 1139, 1156 (9th Cir. 2002). Upon consideration of Defendants’
2 motion papers, the Court is convinced that this was nothing more than a shakedown
3 suit. This observation is based not only on evidence presented by Defendants, but
4 also on the Court’s own interaction (or lack thereof) with Slep-Tone. (*See e.g.*, ECF
5 No. 89 (dismissing case with prejudice for Slep-Tone’s failure to prosecute).)
6 Overall, the Court finds that Slep-Tone prosecuted this case to maximize settlement
7 recovery for a minimum amount of work. Ordinarily, such behavior is frowned upon
8 but acceptable. But in this case, Slep-Tone takes trolling to the next level and
9 essentially ignored all requests for discovery, explanations of exculpability, and
10 requirements to act in good faith. (Mot. 2–6.)

11 Therefore, the Court finds that Slep-Tone’s conduct was both vexatious and in
12 bad faith, and awards Defendants reasonable attorney’s fees in the sum of \$18,105.¹
13 The Court declines to additionally sanction Slep-Tone at this time.

14 **IT IS SO ORDERED.**

15 January 15, 2012

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18 **OTIS D. WRIGHT, II**
19 **UNITED STATES DISTRICT JUDGE**

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28 ¹ The award of \$18,105 includes: \$11,525 already billed to the client by J. Marie Gray; \$3,780 for
work through November 9, 2012 by Craig McLaughlin; and \$2,800 representing the eight hours
expended on this Motion.

EXHIBIT NO. 2

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Subject: Request for Payment of Fees

From: "Craig McLaughlin" <cmc@smartpropertylaw.com>

Date: Wed, Jan 30, 2013 6:10 pm

To: "Donna Boris" <donna@borislaw.com>, achen@foxrothschild.com, jdoroshow@foxrothschild.com

Attach: Order for Attorneys Fees Against Slep-tone.pdf

Dear Ms. Boris, Mr. Chen and Mr. Doroshow,

As you know, on January 15, 2013, you all were served electronically with the Court's order awarding attorneys' fees to my clients in the amount of \$18,105. (Copy of Order attached.) To date, it has not been paid. Please forward payment as soon as possible. Should full payment not arrive by February 8, 2013, please select a couple of dates and times for a meet and confer during the following week for an order to show cause why it was not. Should such a motion be necessary, please know that my client will request sanctions which the Court, in its order, has clearly made reservation for.

Thank you.

Craig McLaughlin
Intellectual Property Lawyer
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EXHIBIT NO. 3



Elaine F. Marshall
Secretary

North Carolina
DEPARTMENT OF THE
SECRETARY OF STATE

PO Box 29622 Raleigh, NC 27626-0622 (919)807-2000

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Date: 2/10/2013

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Corporation Names

Name	Name Type
NC SLEP-TONE ENTERTAINMENT CORPORATION	LEGAL

Business Corporation Information

SOSID:	0141586
Status:	Current-Active
Effective Date:	3/12/1985
Annual Report Due Date:	
Citizenship:	DOMESTIC
State of Inc.:	NC
Duration:	PERPETUAL
Annual Report Status:	CURRENT

Registered Agent

Agent Name:	SLEP, KURT J
Office Address:	14100 SOUTH LAKES DR. CHARLOTTE NC 28273
Mailing Address:	14100 SOUTH LAKES DR. CHARLOTTE NC 28273

Principal Office

Office Address:	14100 SOUTH LAKES DR. CHARLOTTE NC 28273
Mailing Address:	14100 SOUTH LAKES DR. CHARLOTTE NC 28273

Officers

Title:	PRESIDENT
Name:	KURT J SLEP
Business Address:	14100 SOUTH LAKES DR. CHARLOTTE NC 28273

Stock

#:708

STOCK

Class	Shares	No Par Value	Par Value
COMMON	100000		1

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