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**United States District Court
Central District of California
Western Division**

RADIO MUSIC LICENSE
COMMITTEE, INC.,

Plaintiff,

v.

GLOBAL MUSIC RIGHTS, LLC,

Defendant.

CV 19-03957 TJH (ASx)

Order

[167]

The Court has considered Defendant Global Music Rights, LLC’s [“GMR”] motion to dismiss for lack of subject matter jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6), together with the moving and opposing papers.

Plaintiff Radio Music License Committee, Inc. [“RMLC”] filed a Second Amended Complaint [“SAC”] alleging that GMR violated: (1) Section 1 of the

1 Sherman Act, 15 U.S.C. § 1; (2) § 2 of the Sherman Act, 15 U.S.C. § 2; and (3)
2 California Cartwright Act, Cal. Bus. & Prof. Code § 16720, *et seq.*

3 GMR, now, moves to dismiss for lack of subject matter jurisdiction and failure
4 to state a claim.

5 GMR argued that RMLC lacks associational standing for its members because
6 RMLC seeks restitution or disgorgement of profits to be distributed *pro rata* among
7 RMLC's members. Associational standing is not appropriate in actions seeking
8 monetary relief where the monetary relief would require individualized proof. *See*
9 *United Union of Roofers, Waterproofers, and Allied Trades No. 40 v. Insurance Corp.*
10 *Of Am.*, 919 F.2d 1398, 1400 (9th Cir. 1990). Here, RMLC argued that it does not
11 actually seek restitution or disgorgement of profits, but rather a method to help it obtain
12 monetary relief, if applicable. That is a distinction without a difference. Because
13 RMLC lacks standing to pursue restitution or disgorgement of profits, the Court must
14 strike that prayer for relief from the SAC. *See United Union*, 919, F.2d at 1400.

15 GMR, further, argued that RMLC failed to state a claim for any of its claims.
16 While a complaint need not include detailed factual allegations for each element of each
17 claim, it must contain enough facts to state a claim for relief that is plausible on its
18 face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007). The Court must
19 accept all allegations in a complaint as true and draw all reasonable inferences from
20 those allegations. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff cannot
21 simply restate the elements of her claim, but, rather, must allege enough facts to allow
22 the Court to draw a reasonable inference that a defendant is liable for the misconduct
23 alleged. *See Iqbal*, 556 U.S. at 678.

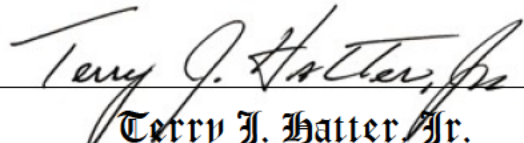
24 Here, RMLC allege sufficient facts to state a claim for each of its three claims.
25 *See Iqbal*, 556 U.S. at 678. However, whether RMLC can, ultimately, prove its
26 claims is not a proper consideration at this juncture.

27
28 Accordingly,

1 **It is Ordered** that the prayers for relief of restitution or disgorgement of profits
2 be, and hereby, are **Stricken**.

3
4 **It is further Ordered** that the motion to dismiss be, and hereby is, **Denied**.

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6 Date: February 13, 2020

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9 Terry J. Hatter, Jr.
10 Senior United States District Judge

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