

From: Rob Owen [mailto:raow@Redacted]
Sent: Friday, November 13, 2015 3:01 PM
To: ATR-LT3-ASCAP-BMI-Decree-Review
Subject: Public Comment about BMI Abusive Powers

Dear Sir or Ma'am:

This letter has been written in concern of the decree review of Broadcast Music, Inc. I am a retiree of the Department of Justice, served in the Armed Forces, and spent 22 months supporting out troops in Iraq. After my retirement, I concentrated on writing and performing music, as I had done my whole life. What I have personally experienced with BMI representatives and what is happening all over this country is shameful.

I would like to start off by saying that as a songwriter, I do believe in the theory of protecting the rights of songwriters. I totally agree copyright infringements against songwriters and performers are evil and should not be tolerated. However, when an organization like BMI is given unchecked power to control the music industry by setting its own rules or using tactics similar to those of organized crime, something is wrong with the system and everyone loses. These are true events and documentation exists to prove the accuracy of the story. The names of people and organizations will be omitted as to not suffer any repercussions now or in the future by BMI.

There is a non-profit 501(c)(3) songwriting organization that has been active since the early 1990's. Its mission is to educate persons in the craft of songwriting, music, and related topic, and the preservation of songwriting and original music as a viable art form. This organization works with the community, performs at various charitable events at no cost and plays free concerts at the local homeless shelter. They receive no compensation for their performances or activities.

One of the events held by this organization is an "open mic night" conducted twice per month. During this particular incident, it was held at a local restaurant which was open to the public, did not charge a cover to listen to the performance, and did not compensate the performers. To be fair and impartial, this organization had in the past allowed cover songs to be played at their open mics - but that practice was changed, posted in their local newsletter, and appeared on their sign-up sheet. The performers at the open mic were also reminded before their performance the format was "original music only". The songs had to be original compositions written by the artists performing the songs. The copyright had to belong to them and nobody else.

A member of the Board of Directors of the non-profit organization personally contacted Broadcast Music, Inc (BMI) prior to event being moved to the local restaurant and explained the performance venue, the non-profit status of the organization, and the format that would be followed. A representative of BMI stated there was no problem with the open mic event and their purpose was to find and investigate major violators of copyright infringements. So, the event was established and functioned without any problems for the next 22 months, until it happened.

The Manager of the restaurant hosting the open mic night received notification from BMI that the establishment would have to pay \$922.50 per year to host a live music event. In fact, BMI even wanted to charge the restaurant for dancing to live or recorded music, despite the fact it is a small restaurant and not a dance hall. The Manager, in turn, contacted the organization and informed them of the BMI action. After receiving a copy of the notification paperwork, the member of the Board of Directors that previous talked to BMI called back to clear up the misunderstanding. He explained to the BMI representative the elements of the open mic - i.e., "original music only" - written and owned exclusively by the artist performing the music, no cover charge for attending,

no performance fees paid to the musicians due to non-profit status, songs were not registered with BMI, there was no other live music events held at the location, and no requests from the audience for cover tunes. All of these rules were in accordance with BMI's own policies and procedures and with our State Copyright Royalty Collection Practices Act.

The BMI representative stated that it did not sound right that BMI should be charging the open mic venue under these circumstances. He took all the information and stated he would discuss the issue with the others and get back to the caller in a few days. There was no response from BMI back to the Board member. Again, a call was placed to BMI to once again explain the circumstances and elements of the open mic event and how it was not subject to BMI's oversight due to compliance with their own rules and policies. The second call to BMI from the Board member resulted in an uncaring attitude and total disregard for the non-profits circumstance. Due to BMI's lack of compliance to their own policies, the non-profit was forced to shut down their open mic event at the venue due to the owner and manager fearing that BMI would fine them for not paying the required fees.

The BMI motto of "Valuing Music Since 1939" seems to have lost its meaning. If they really valued music, why do they - for the lack of a better word - "extort" money from venues that do not fall under their oversight? The facts are BMI tried to collect money from a venue hosting an open mic night just because they had live music and it is happening everywhere. The money collected from this particular venue would have been distributed to their organization and their members, but the artists who actually wrote and performed the music, would receive nothing because they were not a part of BMI.

If BMI really valued music, why do they take away our individual rights to perform our original music by collecting "protection" money and threatening small businesses? I understand the goals of Performing Rights Organizations to protect songwriters, however it appears to me non-affiliated and unpublished songwriters are being punished for wanting to perform their own music because BMI is not receiving their slice of the pie, and the Government is giving them the ultimate power to accomplish their goals.

Thank you.

Rob Owen