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MEMO ENDORSED

March 31, 2007

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CHAMBERS OF
COLLEEN McMAHON

VIA FAX: (914) 390-4152 and (212) 805-6326; two pages
(Font enlarged for faxing.)

Hon. Colleen McMahon
United States District Judge
United States Courthouse
300 Quarropas Street, Room 533
White Plains, New York 10601-4150

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC # _____
DATE FILED: _____

Re: Plaintiffs' Unauthorized, Unilateral "Stipulation to Dismiss with Prejudice"
ECF-Filed Document # 069
Elektra, et al., v. Santangelo, Civil Action No. 7:05-cv-2414 (CM)(MDF)

Dear Judge McMahon:

I am respectfully aware of Your Honor's admonition from the previous set of letters so I omit most of the prosaic "analytical" record.

Plaintiffs have ECF-filed a unilaterally-drafted document, signed by Plaintiffs' counsel, Document # 069, labeled "Notice of Stipulation of Discontinuance with Prejudice." Defendant neither signed nor agreed to the terms of such document, nor does she support its "filing."

Your Honor's underlying Order was faxed to all counsel on March 19. The first indication I received of Plaintiffs' intention was an email received on Friday, March 30. Plaintiffs claim they left five voice mail messages on March 29; though this is possibly true, they were all placed within a short time of each other and spread over three phone numbers. In other words, Plaintiffs attempted no communications whatsoever on this matter between March 19 and March 29. On March 29 and 30, I was unavailable to first begin negotiations, even if such was their intention.

1/2/07
The defendant may move for an order dismissing the case with prejudice. The court has the power to entertain such a motion, and to grant it on whatever terms and conditions the court deems appropriate.

Hon. Colleen McMahon

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Respectfully, the Defendant will only stipulate to a dismissal if she maintains the right to seek attorneys fees and costs, in particular those available pursuant to 17 U.S.C. §505. The language of Plaintiffs' email, and their unilateral "filing" suggests that Your Honor directed Defendant to sign such Dismissal. I do not read Your Honor's Order that way. Whatever this document purports to be, it appears, among other things, to be in violation of Rule 408.

Therefore, subject to any other direction by Your Honor, I shall follow the balance of your March 19 Order.

I am available to Your Honor at (914) 831-3087, fax: (914) 239-4809; Richard L. Gabriel, Esq., lead counsel for the Plaintiffs, is available at (303) 866-0331, fax: (303) 866-0200.

Respectfully submitted,



Jordan D. Glass

To: Richard L. Gabriel, Esq., via email/pdf

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ELEKTRA ENTERTAINMENT GROUP INC., a Delaware :
corporation; VIRGIN RECORDS AMERICA, INC., a :
California corporation, UMG RECORDINGS, INC., :
a Delaware corporation; BMG Music, a New York general :
partnership; and SONY BMG MUSIC ENTERTAINMENT, :
a Delaware general partnership

Plaintiffs, : Case No. 05CV2414 (CM)(MDF)

-against- :

PATRICIA SANTANGELO, :

Defendant. :

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STIPULATION OF DISCONTINUANCE WITH PREJUDICE

Pursuant to this Court's March 19, 2007 Order [Doc. No. 68], plaintiffs Elektra Entertainment Group Inc., Virgin Records America, Inc., UMG Recordings, Inc., BMG Music, and Sony BMG Music Entertainment ("plaintiffs") and defendant Patricia Santangelo, through their undersigned counsel, respectfully stipulate to the discontinuance of this action with prejudice.

Dated: New York, New York
March 30, 2007

HOLME ROBERTS & OWEN LLP

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