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OF ORIGINAL FILED
Los Angeles Superior Court

MAY 17 2010

John A. Clarke Executive Officer/Clerk

BY MARY GARCIA, Deputy

6 Attorneys for Defendants and Cross-Complainants
AXL ROSE and BLACK FROG MUSIC, and
7 Defendant BVF PRODUCTIONS INC.

8
9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11
12 FRONT LINE MANAGEMENT, INC., a
Delaware corporation.

13 Plaintiff,

14 v.

15 WILLIAM BILL BAILEY, professionally known
16 as AXL ROSE, an individual; BLACK FROG
MUSIC, a California corporation; BVF
17 PRODUCTIONS INC., a California corporation;
and DOES 1 through 10, inclusive,

18 Defendants.

19
20 AXL ROSE, an individual; BLACK FROG
MUSIC, a California corporation,

21 Cross-Complainants,

22 v.

23 IRVING AZOFF, an individual; FRONT LINE
24 MANAGEMENT, INC., a Delaware corporation;
and DOES 1 through 10, inclusive,

25 Cross-Defendants.
26
27
28

CASE NO. BC 434638

Assigned for all purposes to
the Honorable Rita Miller, Dept. 16

CROSS-COMPLAINT FOR:

- (1) BREACH OF FIDUCIARY DUTY
- (2) CONSTRUCTIVE FRAUD
- (3) BREACH OF CONTRACT

[DEMAND FOR A JURY TRIAL]

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1 Cross-Complainants Axl Rose ("Rose"), individually and on behalf of a band known as Guns
2 N' Roses, and Black Frog Music ("BFM") (collectively, "Cross-Complainants" or "Guns N' Roses")
3 allege against Irving Azoff ("Azoff") and Front Line Management, Inc. ("Front Line"), and DOES 1
4 through 10, inclusive, and each of them (collectively referred to herein as "Cross-Defendants"), as
5 follows:

6 NATURE OF THE ACTION

7 1. Guns N' Roses is one of the most popular and famous rock bands of all times. The
8 band has sold more than 100 million records, had numerous Top 10 hits, sold out arenas and
9 stadiums worldwide, won numerous awards and accolades, and by all accounts redefined rock
10 music. Guns N' Roses reached iconic status and inspired music artists everywhere. Rose, one of the
11 band's founders and original members, is the legendary lead vocalist and songwriter. He is one of
12 rock's all-time greatest front-men.

13 2. Azoff is a long time manager of music artists. He wears many hats. He is a CEO,
14 Chairman and shareholder of Front Line, one of the largest music artist management companies. He
15 is also the CEO, Chairman and shareholder of Ticketmaster, the world's biggest ticketing company.
16 Ticketmaster acquired Front Line so it could tap into its artist base and offer venues a package of
17 primary ticketing services and concert content.

18 3. Ticketmaster recently merged with Live Nation, the largest concert promoter in the
19 United States. Azoff is Chairman of the newly merged entity, Live Nation Entertainment. The U.S.
20 Department of Justice challenged the merger on the grounds that it would create a monopoly – and
21 violate the federal anti-trust laws – in the sale of ticketing services to major concert venues in the
22 U.S. The DOJ allowed the merger to go forward only after the parties entered into a stringent
23 consent decree which precluded the newly merged entity including Azoff from, among others,
24 abusing its position in the market to impede competition.

25 4. Azoff now controls the trifecta of (1) artist management, (2) concert and touring
26 promotion and (3) ticket sales. Azoff decides and manipulates what artists he wants to promote
27 through favorable touring deals. He uses his power to punish artists and harm their careers if they do
28 not follow his orders. That is what happened here.

1 Rose and Guns N' Roses at all times alleged herein.

2 10. At all times mentioned herein, Cross-Complainant BFM was and is a California
3 corporation with its principal place of business in Los Angeles County, California. BFM is a party
4 to Guns N' Roses' recording agreements. Azoff, and the other Cross-Defendants, understood and
5 acknowledged the purpose and structure of BFM and owed fiduciary duties to BFM at all times
6 alleged herein.

7 11. At all times mentioned herein, Cross-Defendant Azoff was an individual residing in
8 Los Angeles, California. From April 2008 to October 2009, Azoff was a manager of Guns N' Roses
9 and received commissions for his services. Azoff owed, and owes, fiduciary duties to Cross-
10 Complainants and the band Guns N' Roses.

11 12. Cross-Complainants are informed and believe, and on that basis allege, that at all
12 relevant times mentioned herein, Cross-Defendant Front Line was a Delaware corporation duly
13 authorized to conduct business in its principal place of business, the State of California. Along with
14 the other Cross-Defendants, Front Line was responsible for the management of Guns N' Roses and
15 the acts of Azoff as set forth herein. Front Line participated in the decision-making related to Guns
16 N' Roses. Azoff acted on behalf of Front Line while performing his duties as a manager of Guns N'
17 Roses. Front Line knowingly and willingly ratified the actions of Azoff and accepted the benefits of
18 those actions by receiving commission payments from Cross-Complainants for the managerial
19 services provided by Azoff. At all relevant times, Azoff acted as an agent for Front Line and his
20 actions alleged herein were within the scope of his duties owed to Front Line.

21 13. Cross-Complainants are informed and believe, and on that basis allege, that Cross-
22 Defendants Does 1 through 10, inclusive, are individually and/or jointly liable to Cross-
23 Complainants for the wrongs alleged herein. The true names and capacities, whether individual,
24 corporate, associate or otherwise, of Cross-Defendants Does 1 through 10, inclusive, are unknown to
25 Cross-Complainants at this time. Accordingly, Cross-Complainants sue Cross-Defendants Does 1
26 through 10, inclusive, by fictitious names and will amend this Cross-Complaint to allege their true
27 names and capacities after they are ascertained.

28 14. Cross-Complainants are informed and believe and thereupon allege that each Cross-

1 Defendant conspired with, aided and abetted, ratified the conduct of, knowingly acquiesced in and
2 accepted the benefits of each other Cross-Defendant as alleged herein. Cross-Complainants also
3 allege that Cross-Defendant Azoff acted individually and alone in violating the rights of the band
4 and causing it to sustain damages.

5 15. Cross-Complainants are informed and believe, and on that basis allege, that except as
6 otherwise alleged herein, each of the Cross-Defendants is, and at all times relevant to this Cross-
7 Complaint was, the agent, employer, partner, joint venturer, alter ego, affiliate, and/or co-conspirator
8 of the other Cross-Defendants and, in doing the things alleged herein, was acting within the course
9 and scope of such positions at the direction of, and/or with the permission, knowledge, consent,
10 and/or ratification of the other Cross-Defendant.

11 16. At all times relevant to this Cross-Complaint, the conduct giving rise to these claims
12 occurred, in part, in the County of Los Angeles.

13 **FACTS COMMON TO ALL CAUSES OF ACTION**

14 **Irving Azoff**

15 17. Azoff is a well-known music manager. He is the CEO, director and majority
16 shareholder of Front Line, one of the largest artist management companies in the industry. Azoff's
17 roster of artists includes the Eagles, Neil Diamond, Jimmy Buffett, Christina Aguilera and John
18 Mayer. In October 2008, Front Line was acquired by Ticketmaster. As part of the acquisition,
19 Azoff obtained a substantial ownership interest in Ticketmaster; Azoff was also named
20 Ticketmaster's CEO and Chairman.

21 18. Ticketmaster is the largest ticketing company in the United States. In 2008,
22 Ticketmaster earned gross revenues of about \$800 million from its U.S. ticketing business alone,
23 providing ticketing services to venues representing more than 80% of major concert venues.¹
24 Ticketmaster was by far the largest provider of ticketing services to major concert venues in the U.S.
25 By merging with Ticketmaster, Azoff sought to increase his influence and power in the industry
26

27
28 ¹ Competitive Impact Statement, *U.S. v. Ticketmaster Entertainment, Inc.*, No. 1:10-cv-00139
(D.D.C. Jan. 25, 2010) ("Competitive Impact Statement") at 4.

1 even more. He was now able to control ticketing and concert content.

2 19. Live Nation is the largest concert promoter in the United States.² Live Nation has
3 entered into long-term partnerships with several popular artists including Madonna and Jay-Z to
4 exclusively promote their concerts, sell recordings of their music, and market artist-branded
5 merchandise.³ Live Nation also owns and operates about 70 major concert venues throughout the
6 United States. Until Live Nation entered the ticketing market in late 2008, no Ticketmaster
7 competitor had achieved more than a few points of market share.⁴ At the end of 2008, instead of
8 renewing its contract with Ticketmaster, Live Nation launched its own ticketing business in
9 competition with Ticketmaster.⁵ Within a few months, Live Nation was ticketing more than 15
10 percent of the capacity at major concert venues in the United States.⁶

11 20. Azoff and Ticketmaster sought to eliminate the competition from Live Nation and
12 broaden their control of the music industry. According to the DOJ, "Ticketmaster moved to
13 eliminate Live Nation entirely" by merging with Live Nation less than two months after Live Nation
14 began its own ticketing business.⁷ Azoff was named Chairman of the newly merged entity.

15 21. On January 25, 2010, the Department of Justice filed an antitrust lawsuit seeking to
16 stop the proposed merger.⁸ According to the complaint, the transaction was effectively a horizontal
17 merger to monopolize the sale of ticketing services to major concert venues in the United States.
18 Among others, "the merged firm's ability to bundle primary ticketing services (implicitly or
19 explicitly) with access to artists managed by Front Line and/or promoted by Live Nation would
20 require competitors to offer venues both primary ticketing services and access to content in order to
21 compete most effectively."⁹ The merger would enable the new entity to control and dictate terms to
22

23 ² Competitive Impact Statement at 4.

24 ³ Competitive Impact Statement at 4-5.

25 ⁴ Competitive Impact Statement at 8-9.

26 ⁵ Competitive Impact Statement at 10.

27 ⁶ Competitive Impact Statement at 11.

28 ⁷ Competitive Impact Statement at 11.

⁸ Competitive Impact Statement at 1-2.

⁹ Competitive Impact Statement at 11-12.

1 artists and venues.

2 22. The Department of Justice did not block the merger outright but entered into a
3 consent decree with Live Nation and Ticketmaster setting out stringent provisions for the newly
4 merged entity to operate. Among others, the consent decree “prevents [Live Nation] from abusing
5 [its] position in the primary ticketing market to impede competition...”¹⁰

6 23. But this did not deter Azoff from doing what the consent decree prohibited him from
7 doing—coercing and bullying artists to do what he wants. He is flaunting governmental authority
8 and disregarding the concerns that the DOJ had with the Ticketmaster-Live Nation merger. Because
9 Azoff now controls all facets of the music industry—ticketing, promotion and artist management—
10 he has an inordinate amount of power in the music industry. He can dictate the terms of any deal
11 and sabotage an artist’s career if that artist does not do what he says.

12 **Management of Guns N’ Roses**

13 24. In 2008, Azoff approached Rose to act as the Guns N’ Roses’ manager. 2008 was a
14 major year for the band. Guns N’ Roses was slated to release its much anticipated *Chinese*
15 *Democracy* album, the band’s first studio album in 15 years. A tour in support of the album was
16 planned for 2009 and 2010. Azoff promised Rose that he would use his best efforts and Front Line’s
17 vast resources to manage, oversee and coordinate the promotion and marketing of the *Chinese*
18 *Democracy* and the subsequent tour. He bragged about his connections and experience in managing
19 major artists and bands like The Eagles, Seal, Christina Aguilera and Van Halen, and said he was the
20 most qualified person to manage the band.

21 25. In the course of negotiations, Azoff advised Rose that he has copyright infringement,
22 fraud and other claims against Activision for the unauthorized and unlawful use of the song “Sweet
23 Child o’ Mine” in the promotion of Activision’s best-selling video game *Guitar Hero 3*. Activision
24 made millions of dollars on the game. None of that money was shared with Rose. Azoff promised
25 Rose that he would take care of pursuing those claims against Activision by filing a lawsuit or
26 striking a deal with the company.

27 _____
28 ¹⁰ Competitive Impact Statement at 17.

1 26. Relying on his representations, Rose hired Azoff as the band's manager. In or about
2 April 2008, Cross-Complainants and Cross-Defendants entered into an oral management agreement
3 ("Agreement") pursuant to which Azoff agreed to serve as the band's manager. Pursuant to this
4 Agreement, and by operation of law, Azoff and Front Line became fiduciaries to Cross-
5 Complainants, and each owed and continue to owe fiduciary duties to Cross-Complainants, the band
6 and the individual band members, including the duties of undivided loyalty, good faith and care.

7 Chinese Democracy

8 27. *Chinese Democracy* was Guns N' Roses' highly anticipated first studio album of
9 original studio material since the release of the ultra successful *Use Your Illusion I* and *II* records in
10 September 1991. Given Guns N' Roses' iconic status, this was one of most awaited albums of the
11 decade. Cross-Defendants in conjunction with Universal/Geffen Records were responsible for
12 promoting and marketing the album and promised that they would do so. Rose repeatedly requested
13 a detailed promotional plan but no such plan was ever provided to him by Cross-Defendants.

14 28. Prior to the release of *Chinese Democracy*, Azoff negotiated a deal with the record
15 company Universal/Geffen Records and retailer Best Buy to release the album exclusively at Best
16 Buy stores. He earned a substantial commission for negotiating this deal. After receiving the
17 commission, he did little or nothing to oversee and manage the promotion and marketing of the
18 album. Cross-Defendants and Universal/Geffen Records failed to organize any meaningful
19 promotional events, press conferences, marketing campaigns, television and radio appearances,
20 advertisements, or tour announcements. Azoff collected his commission and let the record sit on the
21 shelves.

22 29. Rose had final approval of the artwork before the release of *Chinese Democracy*.
23 However, Cross-Defendants and the record company authorized the album's release without
24 obtaining Rose's final approval. Even the credits on the album were incorrect. Additionally, Cross-
25 Defendants along with the record company authorized the streaming of *Chinese Democracy* without
26 Rose's consent and leaked its content on the internet. This damaged album sales.

27 30. *Chinese Democracy* had a very strong debut – number 3 on the Billboard 200 –
28 selling 261,000 copies in its first week of sales. The record was number 1 in Europe. But because

1 there was no promotional campaign by Azoff and Universal/Geffen Records in support of the album,
2 sales slipped. As a result, the band lost substantial revenue in record and ticket sales as well as
3 ancillary revenues associated with this iconic music group. Best Buy was the only store chain in the
4 United States carrying the album. However, at the time of the album's release, some of the stores
5 did not even have the promotional displays because they were not delivered to the stores promptly.
6 Azoff had a contractual and fiduciary duty to coordinate and manage the promotion of the album to
7 maximize sales. He promised Rose that he would actively promote one of the most anticipated
8 albums of the decade. But he did not, in violation of his promises and obligations.

9 31. Azoff also did not pursue Rose's claims against Activision and did not secure a deal
10 with Activision for Rose.

11 Van Halen Tour

12 32. Azoff's pattern of lies and deception continued. In 2009, Azoff repeatedly advised
13 the band that he had arranged a stadium concert tour with another very prominent rock band, Van
14 Halen. The synergy between Van Halen and Guns N' Roses would be astounding. This would be an
15 immensely popular super tour that would likely sell out stadiums and arenas worldwide. Van Halen
16 was Azoff's client. Rose began planning and preparing for the tour. Relying on the manager's
17 representations, Rose obtained advances and spent hundreds of thousands of dollars on tour
18 arrangements, planning and budget, marketing, rehearsals, hiring personnel, and other out-of-pocket
19 expenses.

20 33. Guns N' Roses was also planning to do a summer European tour before the Van
21 Halen stadium tour. The band was in rehearsals, prepared a budget and began working on routing.
22 However, Cross-Defendants told Rose not to go forward with the summer European tour because
23 they were afraid that Guns N' Roses would not return in time for the Van Halen stadium tour. So
24 the band decided to forego the European tour because of the promised Van Halen stadium tour
25 resulting in substantial losses.

26 34. This was all in vain. The tour with Van Halen never happened. As the band later
27 discovered, Azoff made no efforts to plan the tour. He misled the band with false promises to
28 further his own agenda, which was to force a reunion tour with the original Guns N' Roses band

1 members against Rose's wishes.

2 **Asia, Canada and South America Dates**

3 35. Azoff began working on a Guns N' Roses tour for 2009 in Asia and 2010 in Canada
4 and South America. Azoff's planning was subpar and disorganized. Among other things, the budget
5 and expenses were inaccurately calculated, improper venues were selected, dates were not
6 confirmed, hiring of tour personnel was left to the last minute, ticketing and pricing decisions were
7 not adequately analyzed, and tour marketing and promotion were deficient. Azoff botched his duties
8 and responsibilities and acted on his own to jeopardize the tour. Among other things, Azoff pulled
9 the VIP ticket packages that were set up for tour dates in Canada resulting in loss of substantial
10 revenue.

11 36. Cross-Defendants booked two back-to-back shows for the Tokyo Dome on the Japan
12 leg of the tour. They were planned despite Rose's objections to the back-to-back shows. As the
13 dates were getting closer, Azoff and promoter decided to cancel one of the shows. This decision was
14 made so that the promoter would earn more money on the concerts. The band lost \$1.3 million as a
15 result of the last-minute cancellation. Rose later discovered that the promoter was affiliated with
16 Live Nation, Azoff's company. Azoff obtained a benefit to the promoter at the expense of his own
17 client.

18 37. This was part of Azoff's plan: he wanted to sabotage Rose and the band for this tour
19 to fail so Rose would have no option but to reunite and tour with the Guns N' Roses' lineup from the
20 *Appetite for Destruction* and *Use Your Illusion* tours. Rose was adamantly opposed to such a
21 reunion tour.

22 38. When his plan to sabotage Guns N' Roses was not coming together, Azoff abandoned
23 the band. He resigned as the manager on October 23, 2009, right before the tour was set to begin in
24 December 2009. He left Rose and the band scrambling to finalize the tour arrangements at the last
25 minute. The band was forced to take care of tasks that Azoff was responsible for handling months
26 before. This drove up overhead and expenses and resulted in lost promotional opportunities. In
27 preparation for touring, Rose incurred over \$2 million of production startup and rehearsal expenses.
28 Azoff assured Rose that those expenses would be paid from the Van Halen tour. When the Van

1 Halen tour never materialized, Azoff again promised to repay Rose's expenses from the profits of
2 the Asian tour revenue. Then Azoff quit and Rose was left holding the bag. Additionally, the
3 Canada concert dates were set up by Azoff intentionally without any planning, marketing or
4 promotions so that the band would lose money. The band lost \$700,000 on those dates alone.

5 39. As a result of Azoff's terrible planning, self-dealing, lies and deception and last
6 minute desertion, the band incurred millions of dollars in losses.

7 **Demand for Commissions/Filing of a Lawsuit**

8 40. Within a month of his resignation, Azoff began demanding commissions for the Asia,
9 South America and Canada concert dates even though he botched the planning and many tour dates
10 were not confirmed until after Azoff resigned as a manager. Azoff is not owed any commissions for
11 those dates.

12 41. When Cross-Complainants would not acquiesce to his threats, Azoff filed a baseless
13 lawsuit seeking commissions that he never earned. He named Rose personally in the lawsuit but not
14 by his legal name "W. Axl Rose," but by his adopted name "William Bailey." "William Bailey"
15 does not appear on any of Rose's legal documents. Azoff knew that the name "William Bailey"
16 carries significant emotional damage from Rose's childhood as a result of numerous personal and
17 confidential conversations he had with the singer. Azoff did this out of spite and vindictiveness to
18 cause Rose emotional distress and harm.

19 **FIRST CAUSE OF ACTION**

20 **(Breach of Fiduciary Duty - Against All Cross-Defendants)**

21 42. Cross-Complainants hereby repeat, reallege, and incorporate by this reference each
22 and every allegation from paragraphs 1 through 41 of this Cross-Complaint, as though these
23 paragraphs were set forth in full herein.

24 43. As managers, Cross-Defendants stood in a relationship of confidentiality and trust to
25 Cross-Complainants and owed special duties to them, including the duties of loyalty, honesty,
26 disclosure, good faith and fair dealing. Specifically, Cross-Defendants owed Cross-Complainants
27 the duty not to favor their own interests, over the interests of Cross-Complainants.

28 44. Cross-Complainants are informed and believe and upon that basis allege that, from

1 April 2008 onward, Cross-Defendants breached their duties to Cross-Complainants by engaging in
2 the following misconduct:

- 3 (a) Devising and implementing a secret plan to set up Rose and the band for
4 failure so that Rose would have no choice but to reunite with the original Guns N' Roses'
5 members;
- 6 (b) Acting in furtherance of that plan by sabotaging Guns N' Roses' touring
7 schedule;
- 8 (c) Failing to coordinate and manage the promotion and/or marketing of the
9 *Chinese Democracy* album;
- 10 (d) Misrepresenting to Cross-Complainants that the band will go on tour with Van
11 Halen knowing that no such tour had been confirmed;
- 12 (e) Causing Cross-Complainants to incur losses in reliance on Cross-Defendants'
13 promises of a Van Halen tour;
- 14 (f) Failing to plan and organize the Asia, South America and Canada tour dates in
15 an effort to jeopardize the band's ability to successfully perform on the tour;
- 16 (g) Causing the band to incur losses on the Asia, South America and Canada tour
17 dates as a result of Cross-Defendants' subpar tour planning;
- 18 (h) Failing to pursue Rose's claims against Activision or negotiate a deal with
19 Activision for Rose;
- 20 (i) Abandoning Rose and the band on the eve of a major tour;
- 21 (j) Demanding unearned commissions;
- 22 (k) Self-dealing and acting against the best interests of Cross-Complainants;
- 23 (l) Favoring Cross-Defendants' own interests over the interests of their
24 fiduciaries, Cross-Complainants; and
- 25 (m) Failing to disclose Cross-Defendants' true motives behind their promises to
26 promote and build the Guns N' Roses brand.

27 45. As a direct and proximate result of Cross-Defendants' breaches of duties as set forth
28 above, Cross-Complainants have suffered damages in an amount to be proven at trial, but believed to

1 be in excess of \$5 million.

2 46. Cross-Complainants further allege that Cross-Defendants engaged in despicable
3 conduct as alleged with an intent to injure Cross-Complainants and subject them to unjust hardship
4 in conscious disregard of their rights and that said acts were done fraudulently, maliciously and
5 oppressively. Therefore, Cross-Complainants are entitled to recover punitive damages against
6 Cross-Defendants in an amount sufficient to punish them for their despicable conduct.

7 **SECOND CAUSE OF ACTION**

8 **(Constructive Fraud – Against All Cross-Defendants)**

9 47. Cross-Complainants hereby repeat, reallege, and incorporate by this reference each
10 and every allegation from paragraphs 1 through 46 of this Cross-Complaint, as though these
11 paragraphs were set forth in full herein.

12 48. As managers of Cross-Complainants, Cross-Defendants stood in a position of
13 confidentiality and trust to Guns N' Roses and owed special duties to the band, including the duties
14 of loyalty, honesty, good faith and fair dealing.

15 49. Cross-Complainants allege that, from April 2008 onward, Cross-Defendants have
16 engaged in a plan to sabotage and set up the band for failure to induce Rose to reunite with the
17 original Guns N' Roses members. Rose was opposed to such a reunion. Cross-Defendants wanted
18 to reap the profits of a Guns N' Roses reunion tour. To that end, Cross-Defendants sought to
19 become Guns N' Roses' managers through false promises of, among others, promoting the band's
20 highly anticipated *Chinese Democracy* album, organizing a major concert tour, and building the
21 Guns N' Roses brand. After they were hired, Cross-Defendants engaged in a pattern of lies and
22 deception in furtherance of their plan including but not limited to: (a) failing to manage and
23 coordinate the promotion and/or marketing of the Guns N' Roses brand and the *Chinese Democracy*
24 album; (b) misleading Rose and the band about a tour with Van Halen that never existed; (c)
25 knowingly sabotaging the band's Asia, South America and Canada tour dates; and (d) failing to
26 pursue legal claims against Activision or negotiate a deal with Activision for Rose. Cross-
27 Defendants did so without any regard to the effect that their conduct would have on Cross-
28 Complainants directly or indirectly.

1 50. Cross-Complainants have consistently labored under the misimpression that Cross-
2 Defendants were acting in the best interest of their fiduciary, when, in truth, they were formulating a
3 plan that was developed solely for their own financial gain and aggrandizement. Cross-
4 Complainants, had the truth been disclosed, could and would have taken action earlier to avoid the
5 injuries caused by Cross-Defendants.

6 51. As a direct and proximate result of Cross-Defendants' constructive fraud, as set forth
7 above, Cross-Complainants suffered damages in an amount to be proven at trial, but believed to be
8 in excess of \$5 million.

9 52. Cross-Complainants further allege that Cross-Defendants engaged in despicable
10 conduct as alleged with an intent to injure Guns N' Roses and subject it to unjust hardship in
11 conscious disregard of the band's rights and that said acts were done fraudulently, maliciously and
12 oppressively. Therefore, Cross-Complainants are entitled to recover punitive damages against
13 Cross-Defendants in an amount sufficient to punish them for their despicable conduct.

THIRD CAUSE OF ACTION

(Breach of Contract –Against All Cross-Defendants)

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15
16 53. Cross-Complainants hereby repeat, reallege, and incorporate by this reference each
17 and every allegation from paragraphs 1 through 52 of this Cross-Complaint, as though these
18 paragraphs were set forth in full herein.

19 54. In or about April 2008, Cross-Complainants and Cross-Defendants entered into an
20 oral management agreement (the "Agreement") pursuant to which Cross-Defendants agreed to serve
21 as Guns N' Roses' managers.

22 55. Cross-Complainants have performed all conditions, covenants, and promises required
23 on their part to be performed under the terms of the Agreement, except as excused or prevented by
24 Cross-Defendants' material breaches.

25 56. Cross-Defendants failed to perform their obligations pursuant to the Agreement by
26 failing to act in the best interests of Rose and the band, refusing to fulfill their duties and obligations
27 to Rose and the band, failing to manage and coordinate the promotion and marketing the *Chinese*
28 *Democracy* album, failing to build the Guns N' Roses brand, misleading Rose and the band about a

1 tour with Van Halen, causing Rose and the band to incur losses in reliance on Cross-Defendants'
2 promises of non-existent tour dates, failing to pursue Rose's legal claims against Activision or
3 negotiate a deal with Activision for Rose, abandoning Rose and the band on the eve of a major tour,
4 falsifying information, hindering the business of the band, and obstructing the band's touring and
5 album recording.

6 57. Cross-Defendants materially breached the Agreement as set forth above.

7 58. As a direct and proximate result of Cross-Defendants' breaches of contract, as set
8 forth above, Cross-Complainants suffered damages in an amount to be proven at trial, but believed
9 to be in excess of \$5 million.

10 As to the First and Second Causes of Action:

11 1. For compensatory and consequential damages in an amount to be proven at trial,
12 believed to be in excess of \$5 million;

13 2. For pre- and post- judgment interest;

14 3. For costs of suit;

15 4. For disgorgement of commissions;

16 5. For punitive and exemplary damages;

17 As to the Third of Action:

18 6. For compensatory and consequential damages in an amount to be proven at trial,
19 believed to be in excess of \$5 million;

20 7. For pre- and post-judgment interest;

21 8. For costs of suit;

22 9. For disgorgement of commissions.

23 As to All Causes of Action:

24 10. For interest; and

25 11. For such other and further relief as the Court may deem just and proper.

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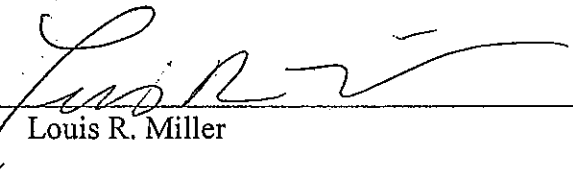
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1 DATED: May 17, 2010

MILLER BARONDESS, LLP

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By: 
Louis R. Miller

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STATE OF CALIFORNIA,)
COUNTY OF LOS ANGELES) SS.

I am a citizen of the United States and employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. I am employed by MILLER BARONDESS, LLP and my business address is 1999 Avenue of the Stars, Suite 1000, Los Angeles, California 90067.

On June 1, 2010, I served [] the original [X] a true copy of the within document(s) described as (1) Summons on Cross-Complaint; (2) Cross-Complaint for 1) Breach of Fiduciary Duty, 2) Constructive Fraud, 3) Breach of Contract; (3) Complaint for 1) Breach of Contract, 2) Common Count, and 3) Accounting; (4) Answer to Plaintiff's Complaint; (5) Notice and Acknowledgment of Receipt - Civil (2 copies); (6) Self-addressed postage paid return envelope on cross-defendant Irving Azoff: See Attached Service List.

[] PERSONAL DELIVERY: I caused such envelope to be delivered by hand to the offices of the above named addressee(s).

[X] BY MAIL: I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our Firm's office address in Los Angeles, California. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

[] BY OVERNIGHT DELIVERY SERVICE: I served the foregoing document by Federal Express, an express service carrier which provides overnight delivery, as follows. I placed true copies of the foregoing document in sealed envelopes or packages designated by the express service carrier, addressed to each interested party as set forth above, with fees for overnight delivery paid or provided for.

[] BY FACSIMILE: I caused such envelope to be delivered via facsimile to the offices of the addressee(s) at the facsimile numbers listed below. I certify that said transmission was completed and that all pages were received and that a report was generated by the facsimile machine which confirms said transmission and receipt.

[] BY ELECTRONIC MAIL: by transmitting via electronic mail a true copy of the above listed document(s) to the email addresses set forth below on this date before 5:00 p.m.:

[X] (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\\

MILLER BARONDESS, LLP
ATTORNEYS AT LAW
1999 AVENUE OF THE STARS, SUITE 1000 LOS ANGELES, CALIFORNIA 90067
TEL: (310) 552-4400 FAX: (310) 552-8400

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(Federal) I declare that I am employed in the office of a member of the State Bar of this Court at whose direction the service was made.

Executed on **June 1, 2010**, at Los Angeles, California.



Adriana Preciado
Type or Print Name

Signature

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