SIDELETTER NO. 10

Mr. J. Nicholas Counter III
President
Alliance of Motion Picture &
Television Producers
14144 Ventura Boulevard
Sherman Oaks, California 91423

Dear Mr. Counter:

This letter confirms our mutual understanding of the interpretation of the new residual formula in subparagraph (b)(iv) of Paragraph 11-101.

(1) Coverage

The formula applies only to episodes of one-hour network prime time dramatic series which were not exhibited in syndication before July 1, 1987. It applies to episodes produced under this BA and any earlier BA.

The new formula is:

(a) 2.6% of Employer's gross until Employer's gross exceeds $400,000 per episode; and

(b) 1.75% of Employer's gross thereafter.

If the series is licensed to markets representing less than one-third of all U.S. television households, the Employer simply pays the percentage residual, not the "customary" fixed residual payments triggered whenever there are additional runs in any city in the U.S. or Canada.

If the series is licensed in markets representing one-third or more of all U.S. television households, the above percentage payment still applies, but is subject to a "floor" which is 50% of the applicable fixed residuals and a "ceiling" which is 150% of the applicable fixed residuals.

(2) Applying the Formula

A few examples can best illustrate how the formula operates.

Suppose that the Employer licenses a series comprising 100 episodes for six (6) runs in markets representing more than one-third of all U.S. television households. The license fees for same total $30,000,000, which will be paid out over five (5) years. In the first quarter of the license period, the Employer receives $2,000,000; in the second quarter, the Employer receives an additional $1,000,000; there are no additional receipts in the third or fourth quarters. (For convenience, assume that the quarters of the license period coincide with calendar quarters.)

Assume that each episode has already had two network exhibitions. Under the syndication deal, one run of half of the episodes occurs in the first quarter; in the second quarter, the remaining 50 episodes are run once; no additional runs of any episode occur in the third quarter; in the fourth quarter, a second run of all episodes takes place.

Assume for the sake of convenience that all episodes were made in the July 1, 1986 to June 30, 1987 time period.

Under these facts, payments would be made as follows:

(a) The First Quarter

Since the Employer first received money in the first quarter of the license period, residuals must be paid within sixty days after the end of that quarter. The amount of the residual is calculated as follows:

To the extent possible, the total license fees should be prorated equally among all episodes. Therefore, each episode will be credited with $20,000 of receipts in the first quarter. The Employer must pay 2.6% of that amount ($520) to the Director; subject, however, to the "floor" since the series is licensed in markets representing more than one-third of all U.S. television households. This means that the payment cannot be less than 50% of the fixed residual that would otherwise be due. Because some episodes have been run once, while others have not been run, the "floor" will differ among the episodes.

As to the episodes that have not been run in syndication, the floor is zero (0). This is because fixed residual payments are only due if a run occurs. Since no run has occurred, no fixed residual would be payable. Accordingly, the Directors of episodes not run in the first quarter should receive $520, (i.e., 2.6% of $20,000).

As to the episodes that have been run, the floor is 50% of the fixed residual payments that would otherwise be due. The fixed residual payment for this run is 30% (the percentage payable for the third non-network run) of $10,262 (the base amount applicable to one-hour network prime time programs produced between July 1, 1986 and June 30, 1987), or $3,078.60. The floor is 50% of that amount or $1,539.30. Therefore, those Directors of episodes run once in syndication in the first quarter would receive $1,539.30.

(b) The Second Quarter

Within sixty (60) days following the end of the second quarter, the following residual payments should be made:

(1) First, it must be determined whether the group of Directors whose episodes ran in the first quarter are entitled to additional payments because of the Employer's receipt of an additional $1,000,000 ($10,000 per episode). To make this determination, it is necessary to compare the percentage payment against the floor. The percentage payment for each episode would amount to $780 (2.6% of $30,000). Since no additional runs of these episodes have taken place, the floor would remain at $1,539.30. Since this group has already received that amount, no further payment would be due after the second quarter.

(2) The group of Directors who received $520 after the first quarter would be entitled to additional compensation after the second quarter since their episodes have now been rerun. The Employer would be obligated to pay each member of this group 2.6% of $30,000 or $780, but not less than 50% of the fixed residual that would otherwise be due (i.e., 50% x [30% x $10,262]), or $1,539.30. The payment of $520 made in the first quarter may be deducted from this amount. Therefore, an additional payment of $1,019.30 must be made to this group of Directors.

(c) The Third Quarter

Since there are no additional receipts and no additional runs in the third quarter, no additional payments would have to be made.

(d) The Fourth Quarter

Following the fourth quarter, additional payments will be due, even though the Employer received no additional monies, since all episodes were run again. This means that the floor will have to be recalculated. The floor would be 50% x [(30% + 25%) x $10,262], or $2,822.05. (The percentage applied to the base amount for the third non-network run is 30%; for the fourth non-network run, the percentage is 25%.) Amounts previously paid ($1,539.30) should be deducted from this amount. Therefore, an additional $1,282.75 would be owed to each Director.

Sincerely,

Glenn J. Gumpel
Executive Director

Agreed:

____
J. Nicholas Counter III