

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

|                              |   |                      |
|------------------------------|---|----------------------|
| RUDE MUSIC, INC.,            | ) |                      |
|                              | ) |                      |
| Plaintiff,                   | ) |                      |
|                              | ) | Case No. 15 CV 10396 |
| v.                           | ) |                      |
|                              | ) |                      |
| HUCKABEE FOR PRESIDENT, INC. | ) |                      |
|                              | ) |                      |
| Defendant.                   | ) |                      |
|                              | ) |                      |
|                              | ) |                      |
|                              | ) |                      |

**COMPLAINT**

Rude Music, Inc. ("Rude Music") for its complaint against Huckabee for President, Inc. alleges:

**NATURE OF THE CASE**

1. This is an action for copyright infringement, in violation of 17 U.S.C. § 501, arising from the defendant's unauthorized public performance and distribution of Rude Music's copyrighted musical composition.

**JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction of this claim pursuant to 28 U.S.C. §§1331 and 1338(a).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and § 1400(a), as Defendant solicits and does business in this district, and Rude Music is being injured in this district.

**PARTIES**

4. Rude Music is an Illinois corporation, with its principal place of business at 1223 North Lakeview Court, Palatine, Illinois. Rude Music is owned solely by Frank M. Sullivan III, and operates as the publisher of Sullivan's musical compositions.

5. Huckabee for President is a Georgia corporation, having a principal place of business at Little Rock, Arkansas. Huckabee for President is the principal committee supporting the presidential campaign of former Arkansas governor Mike Huckabee.

**COUNT I – COPYRIGHT INFRINGEMENT**

6. The musical band SURVIVOR was formed in 1977, with Sullivan as one of its founding members.

7. Sullivan is a co-author of the musical composition "Eye of the Tiger," which was the principal theme song for the movie *Rocky III* and achieved number one status in the United States and throughout the world. The song won Grammy and People's Choice awards and was Oscar-nominated.

8. "Eye of the Tiger" is the subject of a valid copyright, which is co-owned by Rude Music and was duly registered in the Copyright Office on June 7, 1982 (PA 141854).

9. During the campaign for the Republican presidential nomination, Huckabee for President knowingly caused a recording of "Eye of the Tiger" to be publicly performed at a campaign appearance by Mr. Huckabee. On September

8, 2015, Mr. Huckabee appeared at a Grayson, Kentucky rally supporting Kim Davis, the controversial county clerk who gained national attention after refusing to issue marriage licenses to same-sex couples; “Eye of the Tiger” was played as Mr. Huckabee escorted Ms. Davis from the Carter County Detention Center.

10. Huckabee for President’s unauthorized public performance, or inducement of or contribution to the public performance, of the copyrighted work infringes Rude Music’s copyright.

11. Huckabee for President’s infringement of “Eye of the Tiger” is willful. Mr. Huckabee is sophisticated and knowledgeable concerning the copyright laws, both as a private individual and media-savvy business owner. According to the records of the United States Copyright Office, Mr. Huckabee is the author or co-author of more than a dozen copyrighted works. Mr. Huckabee operated television stations in Arkansas, and for years he has hosted political commentary shows on the radio and on Fox News. Mr. Huckabee is himself a musician whose band, Capitol Offense, has performed at political and other public events; in 2007, Mr. Huckabee received a Music for Life Award from the National Association of Music Merchants. Moreover, Huckabee for President has a legal team.

12. Artists’ complaints of candidates’ unauthorized use of their songs have become an election-year staple. According to news reports, in 2008 the founder of the band Boston demanded that Mr. Huckabee’s presidential campaign stop playing the Boston hit “More Than a Feeling” at his events. On information and belief, many of Huckabee for President’s senior staffers and

communications and media consultants (including Sarah Huckabee Sanders, Chip Saltzman, Chad Gallagher, Alice Stewart, Hogan Gidley, Bob Wickers, Bryan Sanders and Chris Maiorana) are alumni of the 2008 campaign that encountered this very issue and therefore are knowledgeable of the copyright laws.

13. As a result of the defendant's willful infringement of Rude Music's copyright, Rude Music has been damaged.

### **PRAYER FOR RELIEF**

WHEREFORE, Rude Music asks that the Court enter judgment in its favor and

1. Order that defendant, and all those in active concert or participation with it, be preliminarily and permanently enjoined from unauthorized performances of the copyrighted work;

2. Award Rude Music damages in an amount to be determined by the Court, including but not limited to actual damages and defendant's profits or statutory damages, pursuant to 17 U.S.C. § 504(a)(2), enhanced to reflect the defendants' willful infringement;

3. Award Rude Music its reasonable attorney fees, disbursements and costs, pursuant to 17 U.S.C. § 505; and

4. Such further relief that this Court deem just.

PLAINTIFF DEMANDS A TRIAL BY JURY.

Respectfully submitted,

/s/ Annette M. McGarry

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