

## Copyrights

### 'Eye of the Tiger' Wins After the Thrill Of the Fight With Huckabee Campaign

**F**ormer Republican presidential hopeful Mike Huckabee tried to beat back a claim that he campaigned with the Survivor song "Eye of the Tiger" without permission—but he couldn't rise to the challenge of his rival.

Huckabee argued that a September 2015 public appearance with Rowan County Clerk Kim Davis, where he took his chances with the song, wasn't a campaign event.

But in the end, Huckabee for President Inc. paid Rude Music Inc., the owners of the 1982 song, after agreeing to settle the claims in May.

The settlement caps one episode in a long line of clashes between politicians who like to amp up campaign events with rock music and musicians who don't want their songs played without permission. Despite the push back, campaigns aren't likely to stop using the songs.

"This seems to be a continuing problem that politicians aren't really taking very seriously, I think," entertainment lawyer Bennett A. Bigman of Liner LLP, Los Angeles, told Bloomberg BNA.

Huckabee's campaign paid \$12,500 for playing the song at the 2015 event without permission, according to documents filed this month with the Federal Election Commission. The campaign owes the rights holder an additional \$12,500, the documents state.

It may be that campaigns don't realize that song use might run afoul of copyrights, according to Jedediah Wakefield of Fenwick & West LLP, San Francisco.

"I think people like songs and they want to play them, and maybe they don't think of political campaigns in a context where they would assume that the same sorts of permissions are needed as for commercial use," Wakefield told Bloomberg BNA.

Such disputes don't often wind up in court. Rude Music Inc.—the company that administers copyrights for Survivor guitarist Frank M. Sullivan III—actually sued the Huckabee campaign.

Often, the copyright holders simply want the campaign to stop using their songs, Wakefield said. And, to some extent, popular recording artists want to be seen objecting to the use.

"Because there has been so much press attention to artists' complaining in the past, there's a concern that audiences would expect that any future use probably would be with permission," he said.

So if the guys from Survivor didn't make a fuss, then Survivor fans might assume that "Survivor really likes Mike Huckabee," Wakefield said.

Bigman said these incidents are somewhat ironic, because it often turns out that the artists are "on the opposite side of the political spectrum of the people using their song."

So far, in the 2016 presidential season, several candidates have run up against this issue:

- Sen. Rand Paul's (R-Ky.) campaign used the theme to "Where in the World Is Carmen Sandiego?" in a video criticizing Sen. Marco Rubio (R-Fla.).

- Presumptive Republican nominee Donald Trump's campaign received takedown notices for a video that used "Over There" and for playing Aerosmith's "Dream On" at events.

- Sen. Bernie Sanders (I-Vt.) backer Neil Young also reportedly objected to the Trump campaign's use of his song "Rockin' in the Free World" at a rally. But a year later, Young said in a Reuters interview that Trump had obtained a proper license, so he was withdrawing his objection.

"Eye of the Tiger," in particular, seems to be a popular choice for politicians. In 2012, it was former House Speaker Newt Gingrich (R-Ga.) who got sued for using it. Gingrich settled.

This issue goes back at least as far as the 1980s, when Ronald Reagan, president from 1981 to 1989, used Bruce Springsteen's "Born in the U.S.A." to Springsteen's displeasure.

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