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THE WOLPER ORGANIZATION, INC.

IRWIN E. RUSSELL
VICE PRESIDENT / BUSINESS AFFAIRS

watt stax

April 13, 1973

Mr. Craig Benson
Stax Films, Inc.
98 North Avalon Street
Memphis, Tennessee 38104

Dear Craig:

I'm happy to return herewith to you executed copy of
our agreement dated February 8th, 1973, re: Wattstax '72.

Best personal regards.

Sincerely,

Irwin
Irwin E. Russell

IER/js

Enclosure

RECEIVED

APR 13 1973

COMM. ORGAN.



WOLPER PICTURES, LTD.

February 8, 1973
(as of August 14, 1972)

Stax Films, Inc.
98 North Avalon Street
Memphis, Tenn. 38104

Re: WATTSTAX '72

Gentlemen:

The following will confirm our agreement:

I.

WARRANTIES

1.1 You warrant and represent as follows:

(a) By agreement dated between you and Watts Summer Festival, Inc. (Production Agreement), a copy of which is annexed hereto marked Schedule "A", Watts Summer Festival, Inc. granted to you the right, among other rights, to produce and distribute a documentary motion picture based upon the Wattstax '72 Summer Festival (Festival) produced and presented at the Los Angeles Memorial Coliseum on August 20, 1972.

(b) The Production Agreement is now in full force and effect and has not been amended or modified in any manner.

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(c) You have the right to grant to us the right to produce and distribute, in all media, a feature length documentary motion picture (the Picture) of the Festival and the activities of the performers and other persons connected with the staging and presentation of the Festival.

(d) In the exercise of the production rights granted us, we may enter upon the premises of the Los Angeles Memorial Coliseum with all equipment and personnel necessary for us to photograph the Festival.

(e) With respect to the music performed at the Festival, which is owned or controlled by Stax Music, and/or its subsidiaries East Memphis Music Co. and Birdees Music Co., and which we utilize in the Picture, you will be able to obtain and deliver to us necessary music synchronization licenses giving us the world-wide right, in perpetuity, to record such music in the Picture and in trailers thereof.

1.2 We warrant and represent as follows:

(a) That we now are, and, during the production of the Picture, will be, actively engaged in the production of motion pictures.

(b) That we will have the right to use in, and in connection with, the Picture all elements thereof furnished by us; and that

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such use will not infringe upon, or violate the copyright, or any other right of, any third parties, and will not constitute a defamation or invasion of the right of privacy of any third party.

(c) That the Picture will be a documentary feature motion picture of first-class quality, suitable for theatrical exhibition, and for United States Network telecasting.

II.

PRODUCTION OF PICTURE

2.1 We agree to produce the Picture upon the terms of this Agreement; and to complete and deliver to the distributor the Picture ready for release as expeditiously as possible; and to use our best efforts to require the distributor to release the Picture in the United States as early as possible following delivery thereof. At such time as we obtain a release date of the Picture in the United States, we will promptly give you notice thereof.

2.2 The Picture, which is intended initially for theatrical release, will be photographed in color, and will have a running time of not less than one hundred (100) minutes, including main and end titles; and will be fully synchronized with music, dialogue, and narration in the English language, and sound. The title of the Picture shall be "WATTSTAX '72", with a sub-title "THE LIVING WORD" subject to change only by our mutual approval. You will also have the right of prior approval of a logo, if any, proposed to be used by us in the Picture and in advertisements for identification purposes.

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2.3 We will consult with you in good faith on all aspects of the production; but, except as otherwise herein provided, we shall have the right to make final decisions on all creative and business matters relating to the Picture.

2.4 You shall have the absolute right of prior approval of film or narration which is included in the Picture which relates to Black relationships and feelings; words or phrases having a special Black connotation; and, if the picture has a narrator, approval of the narrator and the accuracy of the narration script as to the music contained in the Picture. You shall have the right of reasonable approval of the writer of the narration script, and you agree to exercise said right in good faith.

2.5 The Picture shall not appear to feature or star any single performer or group; it being understood, of course, that the audience reaction to a performer or group may be greater than that accorded to others, and such audience reaction may be included by us in the Picture.

2.6 Screen credit in the Picture will be accorded in equal size and prominence as follows:

- (a) To Al Bell and David L. Wolper as Executive Producers;
- (b) Corporate credits to Wolper Pictures and Stax Films, Inc. as Co-Producers.

2.7 Screen credits for the performers appearing in the Picture and the form and placement of such credits shall be determined mutually by you and us.

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2.8 You will obtain from each performer and group appearing in the Festival the signature or signatures of such persons and groups to the form of Release attached hereto as Schedule "B", whereby we are granted the right to use the names, likenesses, and voices of such persons and groups, in, and in connection with, the Picture, and our exercise of the rights in the Picture herein provided.

2.9 Mel Stuart is approved as Producer-Director of the Picture. Larry Shaw will receive credit as Co-Producer in first position.

2.10 You, at your own cost and expense, will record all of the music and sounds of the Festival; and furnish to us a duplicate master tape from which we may re-record for use in the Picture the portion or portions thereof selected by us hereunder.

As to the portions of said music owned or controlled by Stax Music, and/or its subsidiaries East Memphis Music Co. and Birdees Music Co., actually selected by us and used in the Picture, you grant to us the non-exclusive perpetual right, throughout the world, to record the same in the Picture and trailers thereof, and to perform said music in, and in connection with, the Picture and trailers thereof, and the exhibition, televising, advertising, promotion, and exploitation thereof. We understand and consent that the said performance rights outside of the United States are subject to our compliance with the requirements of any foreign Performance Rights Societies which own or control such performance rights.

We specifically acknowledge that we have no rights to produce, or authorize the production of, phonograph records or tapes of the music in the Picture.

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III.

FINANCING

3.1 You agree to furnish and provide, at your cost and expense, the following elements and items required for production of the Picture:

(a) All labor and material required for staging and presentation of the Festival, including ushers, security guards, stage and sound systems, all fenced enclosures for the staging areas, and normal lighting;

(b) Rights, if any, required from third parties to photograph the Festival and to produce and distribute the Picture on the terms and provisions of this Agreement; including the right to enter on the Coliseum premises with our necessary equipment and personnel required for the photography work hereunder;

(c) Releases from all performers participating in the Festival in the form of Schedule "B". (Notwithstanding the foregoing, you shall not be required to advance any compensation to performers which might become due under the provisions of Schedule "B".)

(d) Music synchronization licenses for the music owned or controlled by Stax Music, and/or its subsidiaries East Memphis Music Co. and Birdees Music Co., performed at the Festival and included in the Picture or trailers thereof.

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3.2 We will furnish the remaining elements and items required for production and completion of the Picture, including camera platforms, removable stage backdrop, extra stage lighting, or other lighting required for photography expense, and a communication system for our film crew; and we will advance financing costs in connection therewith. You shall not incur any production costs chargeable to us without our prior written consent in each instance.

In full repayment to us for our production advances, interest thereon, and for our production fee and for an overhead allowance for the Picture (irrespective of the actual amount thereof), and we shall be entitled to recoup from the net receipts of the Picture the sum of \$400,000.00.

IV.

DISTRIBUTION

4.1 We are hereby granted the sole and exclusive rights, throughout the world, in perpetuity, to distribute, exhibit, market, and perform the Picture, including the sound track in connection therewith and trailers thereof, by any manner, method, or means, for theatrical and television purposes; and we may exercise said rights through sub-distributors and agents. We agree that we will not release, or authorize the release of, the Picture for television broadcasting earlier than three years after the general theatrical release of the Picture in the United States.

(r-1)

The undersigned hereby certifies that the foregoing is a true and correct copy of the original as the same appears in the records of the undersigned.

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4.2 Theatrical Distribution

In the exercise of our theatrical distribution rights, we have granted to Columbia Pictures, a Division of Columbia Pictures Industries, Inc. (Columbia), the perpetual rights, throughout the world, to distribute and license the Picture for theatrical purposes on terms whereby we will receive 40% of the first \$1,000,000.00 of gross receipts and 50% of the remaining gross receipts of the Picture. Columbia, out of its share of the gross receipts of the Picture, will pay all distribution costs and expenses; except that expenditures in the United States for the advertising of the Picture in excess of \$500,000.00 will be deducted from gross receipts. Columbia will pay to us as a minimum guaranteed advance against our share of gross receipts the sum of \$250,000.00.

The monies received by us under the Columbia Agreement shall be included in the gross receipts of the Picture hereunder and paid and applied as provided in Section V.

4.3 Television Distribution

(a) Subject to restrictions, if any, contained herein and in the Columbia Agreement relating to time of the television release of the Picture, we will undertake distribution of the Picture for television purposes and will use our best efforts consistent with sound business judgment to obtain the widest possible television distribution thereof.

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(b) We shall receive the following percentages of gross television receipts of the Picture as distribution fees (payable to us only out of television receipts):

(i) 10% of United States Television Network receipts;

(ii) 25% of Canadian Television receipts;

(iii) 30% of United States syndication receipts;

(iv) 40% of receipts from all other territories;

(v) A percentage of cable and pay television gross receipts which percentage shall be equal to the lowest fees generally prevalent in the industry at the time such gross receipts are earned.

(c) We will advance all distribution costs and expenses (as normally provided in the television industry) and shall recoup such advances only from the television receipts of the Picture as provided in Section V.

V.

APPLICATION OF GROSS RECEIPTS OF THE
PICTURE - NET PROFITS - ACCOUNTING

5.1 "Gross Receipts" as used herein means:

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- (i) the monies received by us under the Columbia Agreement;
- (ii) the gross monies derived from the distribution and exploitation of the Picture and for television broadcasting; and
- (iii) our actual receipts from any other exploitation of the Picture and the Publication Rights, and under any judgment or settlement pertaining to the Picture.

5.2 The gross receipts received by us shall be applied and paid in the following order of priority:

- (a) First, we shall deduct and retain therefrom the sum of \$400,000.00 in full repayment to us of the amount provided in Paragraph 3.2 hereof.
- (b) Next, we shall pay to you from the gross receipts a sum equal to the monies advanced by you pursuant to Paragraph 6.7(a).
- (c) Next, we shall deduct and retain from television gross receipts our television distribution fees provided in Paragraph 4.3(b) hereof.
- (d) Next, we shall deduct and retain from television and publication gross receipts our advances for distribution costs and expenses advanced by us pursuant to Paragraph 4.3(c) hereof, and our out-of-pocket costs, if any, incurred for and in connection with the Publication Rights.
- (e) The remaining gross receipts (net profits) shall be distributed and paid as provided in the succeeding Paragraph 5.3 hereof.

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5.3 Net profits of the Picture shall be distributed and paid as follows:

- (a) 5% thereof to Mel Stuart - Director of the Picture;
- (b) 5% thereof to Agency for the Performing Arts, Inc.;
- (c) 25% of the first \$500,000.00 and 27% of all remaining net profits of the Picture to you;
- (d) 25% of the first \$500,000.00 and 27% of all remaining net profits of the Picture to Al Bell, Executive Producer of the Picture;
- (e) 40% of the first \$500,000.00 and 36% of the remaining net profits of the Picture to us.

5.4 We will give Columbia written instructions, in form acceptable to your counsel, to furnish you with copies of all accounting statements provided to be furnished to us under the Columbia Agreement, and to pay to you directly the share of net profits payable to you hereunder; and we will use our best efforts to obtain from Columbia written acceptance of such instructions and agreement to comply therewith.

If, for any reason, Columbia refuses to accept said instructions and to account directly to you, we agree that we will account to you in respect of gross receipts and net profits of the Picture received by us from Columbia not later than thirty (30) days after our

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receipt of each accounting statement from Columbia; and, together with such accounting statement, we will remit to you the amount of money, if any, shown to be due to you thereby.

5.5 We will account to you in respect of our receipts from the exercise of our television distribution rights on a quarter-annual basis; the first such statement to cover the three-month period commencing as of the date of our receipt of the first television gross receipts with respect to the Picture. Accounting statements will be given to you not later than forty-five (45) days following the close of each accounting period; and, together with such accounting statement, we will remit to you the amount, if any, shown to be due to you thereby.

5.6 If, from time to time, we elect to audit the records of Columbia with respect to gross receipts derived by Columbia from the distribution and exploitation of the Picture, the costs of such audit shall be borne equally by you and us. Upon your reasonable request we will undertake such an audit. All such audits shall be conducted by an independent auditor or firm mutually selected by us.

5.7 We will maintain at our principal place of business in Los Angeles, California, financial records in which will be entered all receipts, distribution fees, and other disbursements relating to the Picture. Such records will be open to the inspection of your attorneys and accountants at all reasonable times during business hours upon five (5) days prior notice to us; provided that such right of inspection shall not be exercisable more frequently than once each six-month period.

5.8 We will use our best efforts in good faith, subject to sound business policy, to maximize the television gross receipts of the Picture. All television License Agreements made by us hereunder will be made

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at a price which is the result of arms-length good faith dealing; and, if the Picture is included in a television License as part of a group of Pictures, a fair and equitable allocation of the license fee shall be made for the Picture.

-VI.

6.1 Ownership of Picture

(a) During the initial U. S. copyright term, each of us, as a tenant in common, shall own an undivided one-half interest in the Picture and the elements thereof; subject to all of the provisions of this Agreement.

(b) At the expiration of the initial copyright term, we will assign to you our interest in the ownership of the Picture and the copyright thereof; subject to all of our rights therein as provided in this Agreement. No such assignment is intended to or shall affect our perpetual rights of distribution (Section IV) and our perpetual right to participate in gross receipts and net profits as provided in Section V.

6.2 Music Rights

We acknowledge and consent that except as specifically provided herein, we will not have, or acquire, any right, title, or interest in the music recorded at the Festival or the tapes and recordings thereof, or in any sound track albums based thereon, or any revenues, including performance royalties, derived from said music.

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You agree, however, that the covers of phonograph record albums utilizing music recorded in the Festival, or taken from the sound track of the Picture, shall contain a credit for us as Producer of the Picture.

6.3 Release of Albums

If you actually produce and release a phonograph album hereunder, you agree to coordinate the promotion of the release of such album with the promotion of the initial release and exhibition of the Picture in the United States by full-scale advertising and promotion, including in store displays, posters, and co-op record advertising which shall be consistent with the best efforts used by you for any other of your films.

6.4 Video Cassettes

You shall have the exclusive right to manufacture and distribute video cassettes of the Picture, subject to all applicable collective bargaining agreements; and you shall pay to us a normal royalty as customary in the industry at that time with respect to distribution rights; which royalties shall be deemed to be part of the gross receipts hereunder. Your exercise of the rights provided in this Paragraph 6.4 shall be subject to any restrictions provided in the Columbia Pictures distribution agreement referred to in Paragraph 4.2 hereof.

6.5 Notices

Any notice required or desired to be given hereunder shall be in writing addressed as follows:

To you: Stax Films, Inc.
98 No. Avalon St.
Memphis, Tenn. 38104

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To us: Wolper Pictures
8489 West Third St.
Los Angeles, Calif. 90048

or to such other address as either party may hereafter designate, in writing, and shall be sufficiently given by personal delivery thereof, or by telegraphing or mailing the same in a postpaid envelope addressed to the other party as aforesaid, and the date of such delivery, telegraphing, or mailing shall be the date of the giving of such notice.

6.6 Limited Publishing Rights

During the period commencing as of the date of this agreement and ending sixty days after the date of the general release of the Picture in the United States, we shall have the exclusive right to negotiate and complete a pending deal for the publication, distribution, and exploitation of a book or periodical based upon, or adapted from, the Picture and/or the production thereof; and if we successfully complete such agreement, the actual receipts derived by us therefrom shall be deemed to be the receipts from Publication Rights in Paragraph 5.1(iii). If we complete said publication deal, we will notify you of the terms thereof, and you agree that you will not exercise any publication rights relating to the Picture or the elements thereof which would constitute a violation by us of our obligations under such publishing agreement. If we do not complete the publication deal during the period referred to herein, we shall have no further rights to use or exercise or license any publishing rights relating to the Picture; and, in such event, we acknowledge that all of such rights shall belong solely and exclusively to you.

6.7 MGM Litigation

(a) Following completion and delivery of the

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Picture to Columbia Pictures, and as a result of the litigation instituted by Metro-Goldwyn-Mayer, Inc. (MGM) against you, us, and others, the Picture was re-edited, and additional scenes of Isaac Hayes's performances were produced. You agree to advance all of the out-of-pocket costs incurred in connection therewith, and ~~all legal fees and expenses incurred by Columbia Pictures in connection with said litigation.~~ *JS JER*

(b) Advances by you pursuant to the preceding paragraph shall be recovered and recouped by you only from the gross receipts of the Picture as provided in Paragraph 5.2(b).

Your signature where indicated below will constitute this a binding agreement between us.

Very truly yours,

WOLPER PICTURES

By Maureen E. Russell

APPROVED AND AGREED:

STAX FILMS, INC.

By *John Benton*