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DigitalOcean, LLC
Attn: Security Operations Center / Trust & Safety
VIA EMAIL: abuse-replies@digitalocean.com

Re: ***Ticket #12670385 — Objection to Purported DMCA Counter-Notice of "Soul Restoration Ministries;" Notice of Continuing Infringement***
Ref: !00Df2018t5m.!500QP01fNuay:ref

To the Security Operations Center:

This firm represents Faith Temple Pentecostal Church ("**Faith Temple**"), the owner of the copyrights in the sermons and sermon recordings of Dr. Rosemary Redmon Cosby that are the subject of the above-referenced takedown. We write to object to the purported counter-notice submitted by Dan Cosby in the name of "Soul Restoration Ministries" and to advise DigitalOcean that the material must not be restored. The counter-notice is procedurally defective, and the ownership theory it advances is wrong as a matter of law.

1. The counter-notice does not satisfy 17 U.S.C. § 512(g)(3).

The text forwarded to our client contains neither a statement made under penalty of perjury, nor the subscriber's address and telephone number, nor the required consent to the jurisdiction of the federal district court and agreement to accept service of process from the complaining party. Each is a mandatory element. A submission that omits them is not a counter-notification, does not trigger the restoration provisions of § 512(g)(2)(C), and gives DigitalOcean no safe-harbor basis for putting the material back. Please provide our office with a complete, unredacted copy of the form as submitted so that its sufficiency can be evaluated.

In addition, "Soul Restoration Ministries" is not an existing Utah entity; its registration with the Utah Division of Corporations expired in 2024. A consent to jurisdiction and an agreement to accept service given on behalf of a dissolved or nonexistent entity are worthless to the copyright owner—which is precisely the protection § 512(g)(3)(D) is meant to supply. Restoring content in reliance on such a submission would leave DigitalOcean hosting material it has been told is infringing, without the statutory shelter that ordinarily attends restoration.

2. Faith Temple owns the copyrights; nothing passed by intestacy.

Dr. Cosby was the founder and longtime pastor of Faith Temple and preached these sermons in the course and scope of her pastoral duties for the church. Under 17 U.S.C. §§ 101 and 201(b), Faith Temple is the author and copyright owner of those works from the moment of their creation. Dr. Cosby never personally held the copyrights, so no interest in them could pass to her heirs through intestate succession, and no heir—sole or co-owner—has any power to license them.

In addition, the sound recordings are independently copyrightable under 17 U.S.C. § 102(a)(7) and belong to Faith Temple, which arranged, made, and paid for the fixation of Dr. Cosby's ministry at its own initiative and expense. Even if the counter-notificant were correct about the underlying sermons—and he is not—a license to the sermons would not convey any right to reproduce or publicly perform Faith Temple's recordings of them.

The co-ownership claim is unsupported. The counter-notice rests on the bare assertion that an unnamed uncle is a "co-owner of her copyright estate." No probate has been identified, no letters of administration or decree of distribution has been produced, and no written license or assignment has been offered. It is true that a genuine co-owner may grant a non-exclusive license; the premise, not the proposition, is what fails here. A party republishing an entire catalog of copyrighted works bears the burden of showing the authority it claims, and none has been shown.

3. Distribution during Dr. Cosby's lifetime surrendered nothing.

The counter-notice concedes, correctly, that possession of a cassette confers no copyright—that is the rule of 17 U.S.C. § 202. The remainder of its argument fails for the same reason. Publishing and distributing a work does not forfeit copyright in it. Abandonment requires an overt act manifesting an intent to surrender all rights in the work, and general expressions of a desire that God's Word reach the world are an evangelistic aspiration, not a grant of intellectual property rights. Nor does any transfer of exclusive rights exist, because none is in writing as 17 U.S.C. § 204(a) requires. To whatever extent Faith Temple's historical practice of circulating tapes to members could be characterized as a bare implied license, that license was gratuitous, was limited to personal and congregational use, never extended to wholesale republication of the catalog by a third party under a different ministry's banner, and is hereby revoked.

4. Fair use does not apply.

The use is verbatim, complete, and unaltered, and it serves the identical devotional purpose as the originals. The Ninth Circuit rejected a materially identical defense in *Worldwide Church of God v. Philadelphia Church of God*, 227 F.3d 1110 (9th Cir. 2000), where a splinter congregation copied a founder's religious writings wholesale for its own worship. Copying of that kind is not transformative. *See Andy Warhol Found. v. Goldsmith*, 598 U.S. 508 (2023).

5. Demand and reservation of rights.

Faith Temple demands that DigitalOcean (a) not restore the removed material; (b) preserve all records relating to the account and the uploads, including subscriber identity and contact information, billing records, IP and access logs, and upload and deletion records, as to which this letter serves as a litigation hold notice; and (c) furnish a complete copy of the counter-notice as submitted. Faith Temple is presently evaluating court action to restrain the infringement and will advise DigitalOcean within the statutory period.

Faith Temple further reserves all claims against the counter-notificant and any person acting in concert with him, including claims under 17 U.S.C. § 512(f) for material misrepresentation in the counter-notice and claims under § 43(a) of the Lanham Act arising from the use of Dr. Cosby's name, the designation "MAMA," and the Faith Temple ministry identity in a manner likely to suggest affiliation, sponsorship, or endorsement. Nothing in this letter waives any right, claim, or remedy, all of which are expressly reserved.

Respectfully,

SMITH KNOWLES



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