



JOHNETTA PAYE ESQUIRE

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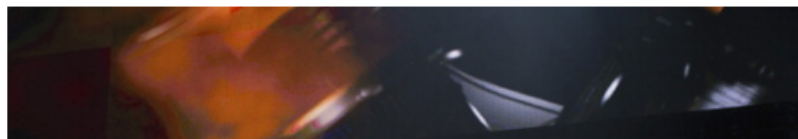
Fighting for their tunes: Artists take firm stance on political affiliations



JPAYE

Whether musicians considered themselves political or not, plenty had to choose sides about whether they'd perform on Inauguration Day 2017. Garth Brooks got slammed for opting out to perform in Cincinnati. Toby Keith's views on the LGBT community were challenged, according to [Washington Post](#). A-list country singers such as [Blake Shelton](#) flat-out said he wouldn't endorse anybody during the election. And that's just a little bit of drama coming from the genre most popularly known as conservative and Republican.

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SOFIA VERGARA, SHERRI SHEPHERD MAY MAKE WOMEN RETHINK SURROGATE, IVF PROCEDURES



On the R&B side, [Jennifer Holliday](#) had a change of heart and opted out of performing after public backlash. Meanwhile [Chrisette Michele](#) wrote an open letter explaining she would perform because she was “willing to be a bridge” to “be a voice for the voiceless.” Kanye West, the one hip-hop artist who probably would’ve considered performing in support of Trump, was apparently not “[typically and traditionally American](#)” enough to be asked, judging from Tom Barrack (the chairman of the Presidential Inaugural Committee).

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However, rock artists took the most curious turn. In 2013, before the presidential-elect was known, the B-Street Band (a Bruce Springsteen cover band) signed a contract to perform for the 2017 Inauguration Day. However, after a combination of tweets from the E Street Band (Springsteen's backing band) and backlash from the public, they reevaluated that decision from three years ago. According to [Rolling Stone](#), Will Forte (B-Street band's keyboardist/manager/agent) initially leaned toward the group's legal obligation, stating: "I've been in enough litigation in my life ... I can't make stands like other people can. I'm not in that position."

After all the backlash, they finally buckled and bowed out. Springsteen himself had also [been vocal](#) about not being a Trump supporter but had not made a statement about the cover band.

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Another cover band, The Piano Guys, chose another route. [CBS News](#) reports that the group not only played Hillary Clinton's rallying anthem, Rachel Platten's "Fight Song," but they also did a cover performance of One Direction's "What Makes You Beautiful" at the inaugural ball for Trump. However, according to [Platten's Twitter account](#), at no point did the cover group ask her if it was OK.

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While neither group has yet to face any public contractual or legal issues, artists overall should still be careful.



Can a song be covered at a political event without an artist's consent?

Generally speaking, under U.S. copyright law, political organizations can use copy written music without the explicit consent of an artist at live/public events so long as they have obtained a blanket compulsory license from performance rights organizations (PRO) such as the American Society of Composers, Authors and

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However, a political organization using a song in a video is a completely different issue because it requires a different type of musical license. If the political organization wanted to use an artist's song in a commercial, they would have to negotiate and obtain a synchronization license directly from the artist or artist's record label.

What can musicians do to prevent their music from being used?

Artists, songwriters and music publishers who do not want their songs to be used by politicians can start by contacting their PRO. BMI's license has a clause that enables musicians to opt out of allowing their songs to be used by political organizations. The BMI political entities license has a provision "that permits BMI to exclude any musical work from the license at the request of a BMI songwriter or publisher," [Mike Steinberg](#), the senior vice president of BMI, told Forbes. "Once the songwriter or publisher voices an objection to BMI, we alert the campaign that we have removed the song from its license."

Other possible legal options?

According to ASCAP [guidelines](#), an artist may be able to prevent a political organization from using his or her music by alleging violations of the:

- “Right of publicity,” in which many states provide image protection for famous people or artists.
- “Lanham Act,” which covers the confusion or dilution of a trademark (such as a band or artist’s name) through its unauthorized use.
- “False endorsement,” in which use of the artist(s)’ identifying work implies that the artist supports a product or candidate.

There is not a lot of legal precedent, so it is uncertain if an artist filing a lawsuit against a political organization under these claims would be successful in a court of law.

Have more questions about compulsory licenses and performing rights societies? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

The information contained here is intended to provide useful information on the topic covered but should not be