

DIP

DAY 1 PRODUCTIONS INC.

Presents

“MUSIC BUSINESS 101”

DIP

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CHAPTER 1

“INCORPORATING YOUR BUSINESS”

A corporation is a legal entity that can exist separately from its owners. Creation of a corporation occurs when properly completed articles of incorporation (called a charter or certificate of incorporation in some states) are filed with the proper state authority, and all fees are paid.

HOW DO I GET STARTED WITH THE INCORPORATION PROCESS?

If you choose to incorporate, articles of incorporation must be filed with that state and initial fees must be paid. Business Filings will complete these administrative tasks quickly and effectively. After your articles are filed, your corporation must hold an organizational meeting where bylaws are adopted and the incorporation process is completed. Share certificates should be distributed to shareholders and these transactions should be recorded on the corporation's stock ledger. All of this information should be kept in a corporate record book.

WHAT ARE THE ADVANTAGES OF INCORPORATION?

One of the primary advantages of incorporation is the limited liability the corporate entity affords its shareholders. Typically, shareholders and directors are not liable for the debts and obligations of the corporation; thus, creditors will not come knocking at the door of a shareholder or director to pay debts of the corporation. In a partnership or sole proprietorship the owner's personal assets may be used to pay debts of the business. Maintaining the limited liability of a corporation requires that the shareholders and directors follow all the rules of governance, including holding annual meetings and maintaining meeting minutes, which is why we offer corporate forms disks and corporate kits as part of our complete incorporation package.

OTHER ADVANTAGES:

- A corporation's life is not dependent upon its members. A corporation possesses the feature of unlimited life. If an owner dies or wishes to sell his or her interest, the corporation will continue to exist and do business.
- Retirement funds and qualified retirement plans (like 401k) may be set up more easily with a corporation.
- Ownership of a corporation is easily transferable.
- Capital can be raised more easily through the sale of stock.
- A corporation possesses centralized management.

WHAT ARE THE DISADVANTAGES OF INCORPORATION?

The primary disadvantage to a corporation is double taxation. Profits of a corporation are taxed twice when the profits are distributed to shareholders as dividends. They are taxed first as income to the corporation, then as income to the shareholder. All reasonable business expenses such as salaries are deductions against corporate income and can minimize the double tax. Further, the double tax can be eliminated by making an S corporation election.

OTHER DISADVANTAGES:

- There is more complexity and expense with forming a corporation.
- There is more extensive record keeping requirements.

Operating a corporation across state lines often requires the corporation to qualify to do business in the other state.

WHAT PAPERWORK IS REQUIRED TO INCORPORATE?

Articles of incorporation conforming to state law must be prepared and filed with the proper state authorities and filing fees, initial fees must be paid. This is a number assigned to a corporation or other business entity by the federal government for tax purposes. Banks generally require a tax identification number to open bank accounts. The federal tax identification number is also known as the Employer Identification Number (EIN).

DO I NEED AN ATTORNEY TO INCORPORATE?

You can prepare and file the articles of incorporation yourself; however, you should understand the requirements of your intended state of formation. You can use our service to incorporate and save money on attorney fees. However, if you are unsure if incorporation will benefit your business, consult an attorney or accountant.

WHAT SHOULD I NAME MY CORPORATION?

Choose the name of your corporation carefully. It is very important that you portray the image you want for your new corporation. Legally, the name you select must not be "deceptively similar" to any existing corporation or must be "distinguishable on the record" of your state. For example, if a corporation named Flower Corp. exists in your state, you probably would not be allowed to name your business Flour, Inc. It is possible that the name you select will not be available; therefore, we ask for a second choice on the incorporation order form. the corporate name IS followed by some type of indicator, such as Corporation, Incorporated, or an abbreviation.

WHERE SHOULD I INCORPORATE MY BUSINESS?

One of the first decisions a business must make after deciding to incorporate involves selecting the proper state of incorporation. A

corporation is not required to incorporate in the state of its operations; however, often the best decision may be to incorporate in your home state.

Two issues must be weighed to determine the proper state: (1) a dollars and cents analysis comparing the costs of incorporating in the state of operation versus qualifying to do business as a foreign corporation in the state under consideration and (2) determining the advantages and disadvantages of each state's corporate laws and tax structure. The decision usually falls between the state in which the business is located or Delaware.

For advice regarding which state is optimal for your particular business situation, consult an attorney or an accountant.

ADVANTAGES:

Delaware has long been a great place to incorporate in. In fact, over half of the Fortune 500 companies are incorporated in Delaware. The reasons for Delaware's popularity:

1. The cost to incorporate in Delaware is one of the lowest in the country.
2. There is no corporate income tax for corporations incorporated in Delaware but not transacting business in the state.
3. Delaware maintains a separate corporate law court system, called the Delaware Court of Chancery, that does not use juries, but only uses judges appointed for their knowledge of corporate law.
4. One person can hold all officer positions of the corporation-president, secretary, and treasurer-and serve as the sole director. These names are not required to be listed in the articles of incorporation.

5. Shareholders, directors, and officers of the corporation need not be residents of Delaware.
6. Shares of stock owned by persons outside of Delaware are not subject to Delaware taxes.

HOW LONG DOES IT TAKE TO INCORPORATE IN DELAWARE?

After we receive a paid order for a Delaware formation, we will reserve the name with the state that or the next business day. The certificate of incorporation or organization is prepared and filed from our Delaware office. For expedited orders, the state typically approves filings within 5 to 7 business days after receiving the filing. For non-expedited orders, the state can take as long as 4 to 6 weeks to approve the filing. After the state approves your filing, corporate or LLC existence begins for your company. The paperwork is returned to Business Filings, scanned into our Online Corporate Status Center, and shipped to you. Express shipping is included with Business Filings' expedited processing service; otherwise the completed documents will be sent to you via regular U.S. mail.

WHAT IS THE ORGANIZATIONAL STRUCTURE OF A CORPORATION?

The organizational structure of a corporation relies on three basic groups: shareholders, directors, and officers.

A corporation is owned by shareholders; however, they do not directly manage the corporation. Instead, they influence corporate decisions through indirect methods such as electing and removing directors, approving or disapproving amendments to the articles of incorporation and voting on major corporate issues.

The directors, who comprise the "board of directors," are responsible for managing the affairs of the corporation. Usually, directors make only the major business decisions and supervise and appoint the officers who make the day-to-day business

decisions of the corporation. Officers are responsible for the everyday management of the corporation. Typically, officers are appointed directly by the board of directors. It is important to note that a shareholder may serve on the board of directors and as an officer. In fact, in most states one person is enough to form a corporation.

WHAT IS A LIMITED LIABILITY COMPANY?

The Limited Liability Company or LLC is not a partnership or a corporation. An LLC is a distinct type of business that offers an alternative to partnerships and corporations, by combining the corporate advantages of limited liability with the partnership advantage of pass-through taxation.

WHAT PAPERWORK IS REQUIRED TO FORM AN LLC?

Articles of organization must be prepared and filed with the state and filing fees, initial franchise taxes, and other initial fees must be paid.

DO I NEED AN ATTORNEY TO FORM AN LLC?

You can prepare and file the articles of organization yourself; however, you should understand the requirements of your intended state of formation. You can use our service to form your LLC and save money on attorney's fees. However, if you are unsure of what entity type would be most beneficial to your business, consult an attorney or accountant.

WHAT ARE THE ADVANTAGES OF AN LLC?

LLCs offer numerous advantages.

- **Pass-Through Taxation**
LLCs allow for pass-through taxation. This means that earnings of an LLC are taxed only once. The earnings of an

LLC are treated like the earnings from a partnership, sole proprietorships and most “S” corporations.

- **Limited Liability**

The LLC owner's liability is generally limited to the amount of money which the person has invested in the LLC. Thus, LLC members are offered the same limited liability protection as a corporation's shareholders.

- **Flexible Management Structure and Flexible Ownership is Permitted**

Like general partnerships, LLCs are generally free to establish any organizational structure agreed on by the members. Thus, profit interests may be separated from voting interests.

WHAT ARE THE DISADVANTAGES OF AN LLC?

The disadvantages of an LLC include:

- **More Paperwork Than an Ordinary Partnership**

Documents must be filed at the state level to create an LLC, which is not the case with a general partnership.

- **Dissolution Date**

Some states require that a dissolution date be listed in the articles of organization. This date may be amended. Further, certain events, such as death of a member, a member leaving, bankruptcy, etc. can be a dissolution event. A corporation has unlimited life and these events are not dissolution events for a corporation.

WHAT SHOULD I NAME MY LLC?

Choose the name of your LLC carefully. It is very important that your name portray the image you want for your new company. Legally, the name you select must not be "deceptively similar" to any existing company or must be "distinguishable on the record" of your state. For example, if an LLC named Flower LLC exists in

your state, you It is possible that the name you select will not be available; therefore, we ask for a second choice on the LLC order form. most states require that the name you select show your business is a limited liability company, by including the words "Limited Liability Company," or the abbreviation LLC. There is one thing that General Motors, Microsoft, AT&T and all other major businesses in America have in common - they are corporations. A corporation is a separate legal entity, which functions just like an individual, but with some compelling advantages.

- **PROTECTION FROM PERSONAL LIABILITY**

As many of you may know, incorporating is one of the best ways to protect a business owner from personal liability. Shareholders of a corporation are generally not liable for the obligations of the corporation. Creditors of a corporation may seek payment from the assets of a corporation, but not the assets of the shareholders. This means that business owners may engage in business without risking their homes or other personal property.

- **SELF-EMPLOYMENT TAX SAVINGS**

Corporate profits are not subject to Social Security, Medicare, Workers Compensation and other taxes - a combined 15.3% in taxes. An individual proprietor would need to pay all of the foregoing taxes (commonly referred to as "self-employment taxes") on all income earned by the business. With a corporation, only salaries are subject to these taxes. For example, if a sole proprietor earned \$60,000 from the business, a 15.3% tax would have to be paid on \$60,000. Let's assume that the owner of a corporation pays himself or herself \$40,000 a year in salary and \$20,000 is left over as corporate profits. In this case, the 15.3% tax would only be paid on the salary (\$40,000). This saves the owner of the corporation over \$3,000 per year! Please note that a stockholder-employee must pay himself or herself a

reasonable salary, or else the IRS could re-characterize some or all of the corporate profits as salary.

- **15% TAX ON CORPORATE PROFITS**
"C"-corporations provide even greater tax flexibility. By simply dividing income between the corporation and the shareholders, businesses can save thousands of dollars each year on taxes. With proper structuring, a corporation may deduct other expenses such as automobile insurance, education benefits and life insurance. These expenses are subject to strict limitations for sole proprietors (if deductible at all). Moreover, these expenses can be "red flags" that trigger audits for individuals. For example, an individual proprietor who wants to deduct expenses from a home office can trigger IRS scrutiny.
- **LOWER CHANCE OF AN IRS AUDIT**
On a percentage basis, the IRS conducts fewer audits on corporations than individuals. Corporate returns also have fewer "red flags" than individual returns.

HOW IS AN LLC MANAGED?

A member's ownership of an LLC is represented by their "interests," just as partners have "interest" in a partnership and shareholders have stock in a corporation. An LLC may be managed by its members (owners) or by selected managers. If the LLC is to be managed by its members, it operates much like a partnership. Each member has an equal say in the decision making process of the company. If the members choose, they may elect a manager or managers to act in a capacity similar to a corporation's board of directors. These managers are in charge of the affairs of the corporation. Member management is the normal default rule of state law. This means that if managers are not selected in the articles of organization, the members will direct the affairs of the LLC. Overall, incorporating is one of the best ways a business owner has to protect his or her personal assets, while saving

thousands of dollars in taxes. Since individual situations differ, please consult a qualified tax or legal professional to discuss your specific circumstances and to maximize your tax benefits.

FINANCIAL WEBSITES

1. WWW.BIZFILINGS.COM/LEARNING

2. WWW.AMAZON.COM/EXEC

3. WWW.CORPORATE.COM

4. WWW.MOREBUSINESS.COM

5. WWW.ENTREPRENEUR.COM

6. WWW.ACTIVEFILINGS.COM

7. WWW.NOLO.COM

8. WWW.CBS.GOV

CHAPTER 2

“LOGO & TRADEMARK”

Now the most important part is to get the concept for a logo. It is almost the same process as selecting the name. First you have to determine what your logo should say about your company. There are different ways to represent a company.

1. You may come up with an image related to a business like a house for a real estate or a car for a car dealer
2. It could be just an abstract image representing company's philosophy. For example some kind of blocky image for a stable trustful company or just a pyramid. Or a very dynamic image with orbits and swooshes, sparks, particles for a very modern, young, high tech company to represent electrical activities or just cutting edge meteoritic technology.

Not all the businesses can be easily associated with any kind of particular image. For example a programming company doesn't have many images to be associated with (except a computer), so in this situation it would be recommended just to concentrate on an abstract image and just to represent the feel of the companies' business rather than just coming up with a particular image. Another major issue with people is that when they order a logo they want it to look like some other WELL-BRANDED companies like McDonalds or AOL. Those are of course great logos, but they are very recognizable only because they are well advertised. When you come up with an image for your company you should be already thinking of the best way to advertise your company towards the targeted audience. Your logo would be not just noticeable and memorable, but would be also well accepted by the market. You can use any type of art style for a logo as long as it is unique, easily reproducible, and is suitable for your business its market. In the last 5 years, we have seen a giant growth in the Internet industry. You can order any type of design from the

comforts of your home/office and everything will be presented to you in a timely manner. With every moral, prosperous company out there are plenty OF COMPANIES just waiting to take advantage of you. Right now, there are thousands of logo design companies on the internet filled with extensive online samples and portfolios. The number one resource for an on-line logo design company to get new clients is through Web searches. Unfortunately, some people have become victims of fraud or poor quality service.

How you can avoid this is asking a few key questions:

1. Ask if the company has on site designers
2. If they are a out-source company.

It also happens that you may see a web site without the proper contact information. You should definitely red flag this site.

It is also important to check for the address and phone numbers so you don't visit the same company twice. Some online logo design companies have more then one different web sites and they do not inform their clients about it. A way to detect that everything is on the level is by looking at their contact information and checking if it matches with your previous records.

Have a special font in it. There is usually very little work done on these logos and are the cheapest deals that you will find. There are downsides to going cheaper. First: you have to be very cautious about registering or even thinking of registering this type of logo. These are pre made logos and usually are sold to many different clients simultaneously which means you may not be the only company that owns this logo.

The second type of logo design Company is one that does custom work. These logos are designed from the scratch and they are designed specifically for your company to fit your needs and are 100% original - meaning that you can register this logo once completed and use it as your trade mark.

PACKAGES USUALLY INCLUDE:

- 1) A fixed amount of initial variations
- 2) A turn around time
- 3) An amount of designers working on each project
- 4) A fixed amount of changes included in the package
- 5) A fixed price
- 6) additional services (such as stationery design)
- 7) amount of files included in the final logo kit (description of each file)
- 8) Refund policy
- 9) Redraw policy

Here are some factors that you have to look at when selecting the best package for your needs:

- 1) Packages usually vary from 2 to 9 different logo samples. Of course, the less variations in any given package LOWER THE PRICE. However, sometimes going with the less expensive package is not always the answer; You are limited in your choice of samples and the amount of variations you can make.
- 2) We believe that by presenting a wider variety of samples we can hit the home run much faster and effective.
- 3) Next thing to look for is a turn around time. It also varies from company to company and it can be anywhere from 24hrs to 2 weeks before the initial variations are ready. You should look at it

from a reasonable point of view. It is important to know what is involved in the creation of your logo design. Within 24 hours of placing your order, it is usually a gathering of information solely and initial sketch work. This time is spent for collecting more information from the client, doing appropriate market research and logo design.

4) Another thing to look at is the amount of designers working on each project. This is an important detail, often overlooked. You don't want to see one designer working on all of your 8 variations. No matter how good designer is, he will still have some unique style developed and it is always important for any project to be viewed upon with fresh eyes.

5) After your initial variations have been completed, you may want to week some samples and change colors, fonts... It is important to know how many changes you are entitled to before you get stuck paying an extra fee for each change.

6) Price is definitely one of the most important features of the package. You should look at all of the packages offered and decide which has the most for YOUR DOLLARS.

7) Additional services may be included in the package; such as stationery design, printing services or life time file support. Logobee offers all such extra features within its packages.

8) When your logo is done and finalized you will need some different file formats to work with your logo. You will need bitmap files (gif, jpeg) to place your logo on the internet. You will also need a vector file (ai, cdr) for printing, and you may also need a high resolution bitmap file (tiff...) for printing in case you don't have any vector program handy.

9) Refund policy is another important feature of the package. No matter how good the logo design company is, how skillful they are or how much experience they have, the bottom line is that we are creating art and it is subjective. Sometimes it is hard to get the right image style

10) As mentioned above, a redraw policy is also an important part of the package. If the designers are off the mark on the first batch of samples, it is more than likely that if given a second opportunity, the designers will be on the mark!

TRADEMARK

You've worked hard to create powerful brand names, slogans and designs as part of your successful image. You've built on success by developing valuable contacts, databases, trade secrets and proprietary business methods.

Maintaining such treasured commodities in the new global economy requires a comprehensive solution to protect your investments, promote your sales and prevent your rights from slipping away from failure to register and use your original ideas and distinctive methods to stave off infringement and consumer confusion.

Federal trademark registration provides an economical means of protecting a company's brand names, logos and domain names from use by others.

A trademark includes any word, name, symbol, or device, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods of one manufacturer or seller from goods manufactured or sold by others, and to indicate the source of the goods. In short, a trademark is a brand name.

WHAT IS A SERVICE MARK?

A service mark is any word, name, symbol, device, or any combination, used, or intended to be used, in commerce, to identify and distinguish the services of one provider from services provided by others, and to indicate the source of the services.

DO I HAVE TO REGISTER MY TRADEMARK?

No, but federal registration has several advantages, including notice to the public of the registrant's claim of ownership of the mark, a legal presumption of ownership nationwide, and the exclusive right to use the mark on or in connection with the goods or services set forth in the registration.

WHAT ARE THE BENEFITS OF FEDERAL TRADEMARK REGISTRATION?

1. Constructive notice nationwide of the trademark owner's claim.
2. Evidence of ownership of the trademark.
3. Jurisdiction of federal courts may be invoked.
4. Registration can be used as a basis for obtaining registration in foreign countries.
5. Registration may be filed with U.S. Customs Service to prevent importation of infringing foreign goods.

ARE THERE FEDERAL REGULATIONS GOVERNING THE USE OF THE DESIGNATIONS "TM" OR "SM" WITH TRADEMARKS?

No. Use of the symbols "TM" or "SM" (for trademark and service mark, respectively) may, however, be governed by local, state, or foreign laws and the laws of the pertinent jurisdiction must be consulted. These designations usually indicate that a party claims rights in the mark and are often used before a federal registration is issued.

WHEN IS IT PROPER TO USE THE FEDERAL REGISTRATION SYMBOL (THE LETTER R ENCLOSED WITHIN A CIRCLE -- ® -- WITH THE MARK.

The federal registration symbol may be used once the mark is actually registered in the U.S. Patent and Trademark Office. Even though an application is pending, the registration symbol may not be used before the mark has actually become registered. The federal registration symbol should only be used on goods or services that are the subject of the federal trademark registration. [Note: Several foreign countries use the letter R enclosed within a circle to indicate that a mark is registered in that country. Use of the symbol by the holder of a foreign registration may be proper.

DO I NEED AN ATTORNEY TO FILE A TRADEMARK APPLICATION?

No, although it may be desirable to employ an attorney who is familiar with trademark matters. An applicant must comply with all substantive and procedural requirements of the Trademark Act and Trademark Rules of Practice even if he or she is not represented by an attorney. The names of attorneys who specialize in trademark law may be found in the telephone yellow pages, or by contacting a local bar association. Trademark search firms are often listed in the yellow pages under the heading "Trademark Search Services" or "Patent and Trademark Search Services." Before an individual applies for a federal trademark, it is highly recommended they do an initial search to see if the trademark is

available for registration. do a broad based search covering FEDERAL and STATE trademark databases and "Common Law" sources as well. We will search your desired Mark and variations of your Mark in your specific classification. The cost of the search is \$239.00 and will cover the following:

- * The up-to-date FEDERAL TRADEMARK REGISTER which includes information on all registered, pending, and inactive trademarks. This will include all intent-to-use applications as well.

- * The up-to-date U.S. STATE TRADEMARK REGISTER covering all 50 states.

- * COMMON LAW SOURCES, including the "Acxiom" database: a directory containing over 12,000,000 company names, the Cumulative List of Organizations published by the U.S. Internal Revenue Service: a database of over 500,000 non-profit organizations, and the Gale Group: a directory of over 60,000 computer hardware and software names.

FILING FEES:

Per your request, Trademarks, Etc. will prepare the forms on your behalf. This will entail your application page, your drawing page, and samples of your specimens (if the application is based on a "use of the mark in commerce"). The cost of this service is \$180.00. We will electronically forward the application onto you for your review, approval, and "e-signature." The application will then be electronically submitted to the U.S. Patent and Trademark Office with their fee requirement of \$335.00. If the application is an "intent to use" one, meaning that the Mark is not in use yet, the PTO will require a "statement of use" form if they approve the application for registration. An additional filing fee of \$100.00.

CHAPTER 3

“ASCAP PUBLISHING”

Many of you who are music listeners have no doubt read the small print in the liner notes of recordings, seen the letters ASCAP and BMI, assumed that they had some legal meaning concerning ownership of music and never thought much more about it. Many musicians, writers, club owners, promoters and other active participants in our music industry do not know much more about these organizations than this, even though they control huge amounts of money and have vast power in the music business. ASCAP stands for American Society of Composers, Authors and Publishers & BMI for Broadcast Music Incorporated, and they are known as "performance rights licensing agencies". For all the average musician probably understands of the real mechanisms of these organizations: the specifics that determine the collection and distribution of money, who gets paid when, how much they get, and how the vast underground network of legal and financial regulations and procedures work, ASCAP or BMI might as well be the CIA. And it may well be true that those who understand this system the least are the ones who have the most legitimate grievances against it. It is certainly worth trying to look inside a hidden industry that controls almost half a billion dollars in the name of the public good, without any elected public officials or legislatures having a say in its operation. ASCAP derives all its power not from any laws that have been passed by elected officials, but from a decades-old federal judicial consent decree in the 2nd District Court of New York.

Struggling musicians and songwriters seem to have become pervaded with sort of a lottery-ticket mentality; they know that if they make it big they will receive a lot of royalty money someday from ASCAP or BMI, and since nobody plans to stay unknown and impoverished, the concern among less-than-world-renowned music business people about what they might do to get a fairer shake in the system before fame sets in seems small. ASCAP has published remarks to the effect that all legal challenges to their system have come from consumers of music and not owners, and

they state in their literature that "apparently the writers and composers are satisfied with the current system". ASCAP and BMI are extremely powerful organizations that control large amounts of money, and through the mechanisms of their various policies, lawsuits, intimidation, odd legal arrangements and seemingly outdated legal precedents, they are systematically engaging in activities that are entirely unregulated by elected officials, with rules and policies set by those who profit the most from the current system. Those who are in a position to reform the performance rights licensing system are the very ones who are profiting most from it, and the system currently shows no signs of abandoning any of its methods of running itself.

History of ASCAP and BMI

ASCAP was formed in 1913, shortly after the 1909 Copyright Law was enacted, supposedly prompted by the discovery that beloved songwriter Stephen Foster died penniless while publishers became wealthy on his music. A system was set up, based on tabulating the publishing of printed sheet music and soon amended to include the sales of recordings, whereby the composer and/or writer would receive a royalty for each copy distributed. A royalty rate of about 1¢ was originally paid per copy; over the years the mechanical rate, as it is called, has risen to about 5.7¢ per song in the last 80 years. Set up as an unincorporated membership association under the laws of New York, ASCAP's licensing contracts with its composer and publisher members, who actually own the copyrights, gives it the power to collect and distribute money and to police infringements. In 1991 ASCAP had about 32,000 writer and 14,000 publisher members.

As sound recording, movies, television have been introduced, ASCAP has expanded its system to collect money from each new format. ASCAP claims that their methods of distribution are fair and regulated, and until the advent of modern mass media

entertainment, they may have done an arguably adequate job of tabulating and paying out money. With musical performances now including live music, elevator and office music, radio, TV, movies, video, airplanes, theater, tape decks, and jukeboxes in addition to printed sheet music, the task of logging the usages of copyright has grown astronomically. ASCAP estimates that 1 billion musical performances occur in the U.S. yearly.

BMI was created in 1940 as a response by many (primarily broadcasters themselves who were buying ASCAP licenses) who felt that ASCAP engaged in monopolistic practices, price-fixing, and ignored the needs of alternative musics such as R&B, country and rock. It is now about 60% the size of ASCAP in revenues.

A PRIVATELY OWNED third, and much smaller organization, SESAC (less than 2% the size of ASCAP) was formed in the early 1960's, and has been primarily involved in gospel music.

Any inquiry made directly to either ASCAP or BMI seems to yield many shiny, expensively-printed pamphlets with lots of glamorous photos of stars, detailing how fair and just they are about paying royalties to deserving writers and publishers.

HOW THE SYSTEM WORKS...

In order to prevent the chaos of each music copyright owner trying to supervise any performance or broadcast uses of their work, and the equally large problem of each user having to seek out the owners of each song for permission, the intermediary licensing organizations (namely ASCAP and BMI) sell licenses to anyone who uses copyrighted material that belongs to their members. ASCAP claims that "the public interest demands that such an organization exist" and that it is "the only practical way to give effect to the right of public performance which the Copyright Law intends creators to have." Permission is granted in the form of a

yearly blanket LICENSE THAT entitles a buyer to use anything in the ASCAP or BMI catalog during a calendar year. The price for this blanket license is determined by an elaborate formula that involves the demographics of radio and TV stations, concert ticket price, seating of the room, the form of music (radio, solo, band, show, theater, etc.) and number of hours per week music is being used. (Currently, television comprises 46% of ASCAP's revenues, radio 35%, and presumably performance venues provide the other 19%.) ASCAP may not deny a license to anyone, nor discriminate in their prices, and all similar users must pay the same rate. The cost of the blanket licenses, however, varies widely, and many complaints have been filed about unreasonableness of the fees, especially against ASCAP. A small nightclub might pay anywhere from \$200-\$700 per year to ASCAP alone. (There is a built-in but seldom used appeals process involving the U.S. Southern District Court of New York, whereby any purchaser of a license may contest the reasonableness of their fees to the court. The burden of proof of reasonableness is on ASCAP.) Muzak®, jukeboxes and some other groups like Ringling Brothers Circus and Disney on Ice have arranged their own special licenses at lower rates. Any organization that fails to buy a license is at risk of being sued by ASCAP on behalf of the copyright owner, who need not be present in the courtroom, incidentally, even though they are a party in the lawsuit. Even parades and political fund-raisers with a marching band have been sued, and the courts handed down a landmark judgement against The Gap clothing stores chain (Sailor Music vs. Gap Stores, Inc., 1982) that has launched an aggressive new ASCAP campaign against all manner of retail stores that play the radio or tapes for shoppers. (This ruling was recently overturned in appellate court, however) Even aerobics instructors who use music have been notified by ASCAP of their need for licenses for the dance music they use in exercise programs! The legalese states that: "a singer is performing when he or she sings a song; a broadcasting network is performing when it transmits his or her performances; (whether simultaneously or from records); a local

broadcaster is performing when it transmits the network broadcast... and any individual is performing whenever he or she plays a phonorecord... or communicates the performance by turning on a receiving set.

ASCAP has field agents on payroll, employed by their 23 field offices, who watch the newspapers and radio (and even hire clipping services) and when a new nightclub starts offering live music, for example, an agent will either show up or write a letter demanding money for the license. Refusals and arguments eventually lead to lawsuits, and the club always loses, often to the tune of tens of thousands of dollars in fines plus legal fees per infraction allowed by law. If a nightclub or even a store refuses to buy the license, then ASCAP or BMI will hire spies, often local music teachers or semi-professional musicians, who will make notes and testify in court as expert witnesses that on a certain day at a certain time a certain song was indeed played. Attempts by club owners to post "No ASCAP material to be performed here" signs or to ask that no musicians perform ASCAP material have not worked (*Dreamland Ballroom vs. Shapiro*, 1929; also *Shapiro, Bernstein & Co. vs. Veltin*, 1942), and invariably some musician unwittingly performs something in ASCAP's immense catalog. Note that even though the musicians or the employees decide what is played, it is the owner of the establishment where the music is played who gets sued. ASCAP bases this on the claim that "it would be a practical impossibility for ASCAP to locate and license musicians, who are often itinerant." Being a type of tort law, is not unlike the "deep-pockets" style of lawsuit that enables aggrieved parties to select which of the "jointly and severally liable" parties to sue, presumably whomever they might be likely to get money from, rather than just the party that caused the problem directly. According to current legal precedent, there is no way to beat this system, as numerous nightclub owners who felt that the fees were unjust have found out. Antitrust laws have given ASCAP a little

trouble over the years; however, current legal arrangements have created a seemingly monopolistic system that even powerful groups of television and radio stations have failed to break in court. (You are not free to shop at another licensing agency if you don't like the deal or the price ASCAP offers. If you use the music, either you pay their fee or they sue you if they catch you using it without the license. And they can charge you penalties up to \$20,000 + legal fees per infraction!) ASCAP has teams of lawyers who do nothing else and who are extremely well-versed in the technicalities of the law, and a tavern owner and a small-town lawyer have essentially no chance of winning a lawsuit. Legal right to do this has been established over a series of court rulings and legal precedents, and so far no one has been able to win a lawsuit against ASCAP for infringement of copyright by "public performance." Apparently ASCAP has the judicial system in their back pocket, and even organizations as large as CBS have lost lawsuits against them. To quote an ASCAP pamphlet: "ASCAP infringement cases are 'open-and-shut; for all practical purposes there is no defense to them."

Indeed, over the years the courts have struck down a myriad of challenges from schools, state universities, non-profit organization, private clubs and the like who have sought to find a loophole by claiming to be non-public or non-performing. People have unsuccessfully argued that purchasing of sheet music or records entitles them to be used in performances. A much-contested area has involved retail stores playing the radio or tapes. The law says that such use is legal if the components used are "of a type commonly used in private homes", though GAP Clothing Stores lost and then won their lawsuit, apparently because of their systematic and large-scale commercial intent to entertain their customers, even though they were using supposedly legal small home stereo components in all their stores. Apparently the courts have decided that stores with less than 620 square feet of space are exempt. Principals and officers of corporations have been found

personally liable for copyright infringement. Hotels, motels, universities, summer camps, members-only clubs and even semi-private organizations need licenses, as do non-profit and public radio stations. Peppercorn, a store in Boulder, Colorado that sells gourmet cookware recently lost a case in which they were playing music that was being sold in the store (supposedly an exemption), but because they were selling other things than music, they were ruled non-exempt and fined.

There are many stories of store and restaurant owners who had no idea what they were dealing with and actually thought they were being shaken down by the Mafia when ASCAP agents confronted them. Indeed, ASCAP has been sued on mob-like charges numerous times, and in the important ASCAP vs. Buffalo Broadcasting case in 1980-82, ASCAP lost in federal court on charges of price-fixing, racketeering and monopolistic activities. The decision was reversed in appeals court based on the court's odd determination that since a radio station could buy a per-song license (at a phenomenally higher rate per song) from ASCAP, there was somehow free trade and no price-fixing inherent in the blanket license. In the fine print of ASCAP's contract with broadcasters it says that a user may buy a per-song license, though apparently no licensee has ever bought one. It is extremely interesting to note that live music venues are not offered a per-song license from ASCAP as an option. They have only one choice: the blanket license.

Note that even though a record company that manufactures a recording pays the owner of the copyright mechanical royalties, the radio station that plays it must pay again for their ASCAP license; and a restaurant or store that plays that radio station to entertain their customers must pay a third time. This was determined in a landmark 1931 Supreme Court case against a New York hotel. Oddly, a different arrangement is now the case in television, and

restaurants pay for re-transmission of radio broadcasts but they do not have to pay the creators of television shows for cable re-transmissions of television in the bar!

(Fortnightly Music vs. United Artists, U.S. Supreme Court, 1968 and Columbia Broadcasting vs. Teleprompter Corp, 1974).

There are some types of organizations that are exempt from needing ASCAP licenses. These exemptions are the following:

1. Religious organizations (during worship only)
2. Non-profit educational institutions
3. Record stores and other establishments where the primary purpose of playing the music is to sell it
4. Government bodies (state and federal)
5. State fairs and agricultural events
6. Certain veterans and fraternal organizations during charitable social functions (added in 1982 in a last-minute legislative session)
7. Various "non-commercial" and charitable performances that have no admission charge, commercial intent or paid performers
8. Movie houses

ASCAP then does what they refer to as "random" sampling of radio airplay, and through a bewildering series of calculations that weight the performances according to the estimated audience size of the station, they distribute money collected from licenses to owners of copyrights of material that has been logged in their surveys. ASCAP secretly tapes 60,000 hours of radio broadcast a year and 30,000 hours of television for their samplings. Based on their estimate of 600 million broadcast performances a year, at an estimate of 12 songs per hour, this divides out to about one tenth of a percent of all airplay gets sampled to determine who gets nearly \$300 million!! ASCAP samples in 3 hour television and 6 hour

radio segments, called units, and their strategies for taping are not public information. Neither ASCAP or BMI does any survey of performance venues (clubs, concerts, festivals, etc.); therefore all money collected from licenses of performance venues is paid out based on radio airplay. The assumption is that this is fair and reasonable. Unlike ASCAP's taping of broadcasts, BMI does their sampling directly from radio station logbooks.

PROBLEMS WITH THE SYSTEM

Complaints against the unfairness of the music licensing system seem to involve ASCAP far more than BMI, and many performance venues have no complaints with the usually somewhat lower fees BMI charges. For this reason, most of the following complaints and problems deal specifically with ASCAP.

- Performance venues, especially those that feature traditional or non-commercial music, feel very strongly that while their licensing fees are being collected, none of the money will ever reach the hands of those who wrote the specific music being played on their stage; musicians often perform only their own or traditional music. Promoters have even offered to submit logs of performances so compensation could be done fairly, so far to no avail. And there are currently no provisions for a performer to receive a pro-rated per day share of whatever was paid to ASCAP or BMI for the year for performances of original works in a venue that has bought a license. ASCAP maintains that the music played at the thousands of performance venues where it collects many millions of dollars are fairly represented by the radio airplay samplings. (In the case of what ASCAP calls "serious music concerts" where the artist is paid more than \$1500, the promoter is allowed to submit a concert program or list of

works performed and pay for only those works performed. Under no other circumstances that I am aware of are concert venues allowed to pay for only the works performed. And I can find no actual definition of "serious music" in any ASCAP literature.)

- Works in the public domain pose a number of questions. When ASCAP or BMI surveys a performance of a traditional song it is assigned a much lower "weight" and the owner of the copyrighted arrangement receives less money than if the music was original. BMI pays 20% of the rate of original music and ASCAP 10%. This means that when the pie that is divided up, (ASCAP collects all the money and divides it up according to the results of their surveys) those who control the copyrights of arrangements of those public domain works will get less money and the shares that go to the non public domain music will be a little larger. Some people feel that the other 80% or 90% of the money that would have gone to the owner should belong to the American people or to some public fund. Others take issue with the whole concept of an arrangement of a public domain work, claiming that there technically is no such thing as public domain, since arrangements become property of their arrangers. This is certainly the case with centuries-old classical and folk music, whose copyrights have long since expired, but whose performances are being regulated by ASCAP and BMI as copyrighted arrangements. In fact, ASCAP has over 40 arrangements of Beethoven's Moonlight Sonata on file, and even more amazing, nearly 80 versions of Row, Row, Row Your Boat! Thus if you had a nightclub and no ASCAP license, and their spies caught someone performing one of those pieces, even though the song is in the public domain, since an ASCAP writer or publisher has copyrighted an arrangement of the song, it is conceivable you might still possibly be sued for infringement of copyright. (The

promoter of a small bluegrass festival informed me that they were cited by ASCAP because a Bill Monroe song was performed: Monroe's music is all BMI, but the song in question, Uncle Pen, had been arranged and recorded by Ricky Skaggs, an ASCAP artist!)

- There are many who feel that ASCAP's system of identifying unknown works that are collected in their samples is flawed, since it depends on their use of what they call "musical experts" who listen to the 60,000 hours of ASCAP samplings each year, identify the works and write down musical notation and somehow log the pieces they cannot identify. Players of experimental types of music which are not easily written down in standard musical notation feel that this system is not fair to them, and that the "experts" are only likely to identify well-known pieces of music and have no real way to identify fringe or little-known pieces when they show up on samples. There also has been much controversy about mis-identification of pieces. The identities of the "experts" are not made public, nor is there is no way for a copyright owner to know if their work was ever sampled and then either not identified or misidentified. The money could easily be paid to someone else without an eyebrow being raised anywhere. Unquestionably a large amount of money is passing through this system without any public scrutiny, and the possibilities of error or corruption are immense.
- The thousands of artists and record labels that comprise the non-commercial outer fringes of the music business are victims of the sampling systems, which discriminate against them statistically. Radio stations that pay higher licensing fees to ASCAP are more likely to be surveyed in the "random" surveys, and when performances on them are logged, they count more than performances on smaller stations.

- It is arguable that there should be only one licensing organization, not three, and that all performances of radio and TV use of music should be logged and paid for by a no-frills, para-government agency. This is the case in most European countries already. The computer power needed to manage a census of all airplay is readily available at this time. The phone company routinely logs far more phone calls than ASCAP would log in a census of radio station playlists. However, this would mean paying money to many small record labels and artists that is currently going to larger ones, and the forces of change that might initiate such a system are not likely to come from within due to the power structure within ASCAP. (Incidentally, ASCAP just switched over from an index card system to a computer in late 1990!) At this time ASCAP only does a complete census of music performed on network television and major airlines, HBO, Disney on Ice, and Ringling Brothers Circus.
- Many people feel that ASCAP spends a disproportionate amount of money throwing parties, printing ultra-glossy materials, maintaining a staff of expensive lawyers, renting office space in Lincoln Plaza, when they could be more efficient and thus pay a higher percent of their take back to the copyright owners in royalty payments. In 1990 ASCAP paid 81% of the collected \$358 million back in royalties, and regularly has a roughly 20% "operating budget". The rent on their office headquarters in Lincoln Plaza in New York is nearly \$4 million a year, or \$283,000 a month! By contrast, the huge United Givers Fund advertises that they only need 5% of their income for administration! A licensing organization such as ASCAP could operate just as easily if it modeled itself after the austere United Parcel Service's standards of efficiency instead of the Rockefeller Foundation. (Perhaps some of the ASCAP writers who need day jobs since they are not getting royalties, should at least be hired as

secretaries, janitors and window-washers, so ASCAP could funnel at least some of their exorbitant costs back to their own members who receive no royalties!)

- ASCAP's "random" taping of some 60,000 hours of radio airplay as the basis for distributing hundreds of millions of dollars has been challenged as having too much inherent error; that it is not provable that it is indeed a fair and just way to compensate copyright owners for use of their work. For example; currently, the percentage of fees paid by public broadcasting stations is somewhere between 5.8% and 6.3% (depending on whom you ask), yet the sampling system only samples these stations 690 hours per year, which divided into 1500 stations comes to 27 minutes per year per station, or about 4.5 seconds a day, and slightly more than 1.1% of the 60,000 hours. The system is clearly top heavy and greatly favors the few who get heavy airplay.
- The "random" system used to determine who gets how much money is of course not random, and the exact workings of it are not readily available. The independent consulting firm of Robert Nathan & Associates is very much involved, and it is clear that the more money a licensee pays per year to ASCAP for their license, the more likely it is that they will be surveyed, and the more that a sampled performance is "weighted" when the time comes to pay out the money. ASCAP calls this the "follow the dollar" principle. Airplay on big radio stations is worth more to the copyright owners than airplay on small ones. Presumably the highly secretive Arbitron company's ratings of radio station market shares are used as the guidelines for determining license rates.
- ASCAP's policies and the rates charged to copyright users are determined by its 12-member board of directors (who are elected by the membership), and votes cast in their elections are weighted according to the amount of money paid that

year. If you did not receive royalty money from ASCAP last year, you cannot vote this year. Because of this, it is unlikely that changes to make sure smaller writers and publishers get a fair share will come from within ASCAP.

- Many states, (including Nebraska and Wyoming which still have them on the books), have passed laws prohibiting the collection of music licensing fees (at one time in the 1930's, shortly after the system was set up, there were some 30 states that banned its operation) and Louisiana, Wisconsin, Mississippi and Georgia currently have laws that tax ASCAP's collection, Georgia at the rate of \$1000 per county per year! Somehow, federal courts have ruled that even if a state law prohibits ASCAP from operating, they can still do so under federal decree. (Nebraska vs. Remick Music, 1946 and Ocasek vs. Heggland, 1987) There has been some recent activity in state legislatures trying to tax and regulate ASCAP, and nothing definitive has happened yet. Kentucky and Ohio are currently considering a gross-receipts sales tax. Presumably ASCAP passes taxes on to the user in states that impose such taxes.
- ASCAP can use as much of its members' money as it needs to fight court cases to protect its interests, and it is very hard to fight their lock on the legal system without equal amounts of operating capital. They can appeal and re-appeal, drawing on the hundreds of millions of dollars they take in every year in fees. They are under no obligation to distribute any particular percentage of the money they collect. With the explosive international growth of the multi-media entertainment industry and its domination by American-owned copyrights, the money involved in performance-rights licensing continues to grow, and so do the questions about the inherent fairness of the system. ASCAP's total money collected jumped from \$200 million to \$350 million from

1983 to 1990. With the explosive growth of the internet, there also remain numerous questions of how copyright royalties will be regulated in cyberspace. Exactly what the average person or music business participant can do to learn more about the system or to reform it is unclear. ASCAP will probably not start policing itself, and just start paying money to starving artists. Change will be slow, and only if groups of individuals organize and contact their congressional representatives or appeal to ASCAP or the District Court of New York does there appear to be much hope of change in the near future. ASCAP is currently lobbying very hard to impose a tax on DAT (Digital Audio Tape), and it is likely that they will find more and better ways to reach into our pockets when we seek entertainment. The old days when everybody made their own music are gone forever, and gone also are the old ways of paying the piper or the fiddler for the music.

WHAT IS A COPYRIGHT?

A **COPYRIGHT** is basically the right of the creator of an original work to control the use of their work.

HOW DO I COPYRIGHT A SONG? OR, MORE PRECISELY, HOW DO I REGISTER MY COPYRIGHT IN A SONG?

Technically, you own the copyright in a song the moment you write it down or record it, and you immediately have the benefits of that copyright. As a practical matter, to be sure you can protect your copyright you should register it with the U.S. Copyright Office. This makes it easier to prove your ownership of the copyright in the event of infringement, and also enables

you to collect more money in the event of winning an infringement suit.

To register a copyright of a song you've written, you need to send three things in one envelope or package:

- An application form (typed or written in black ink) - [PA](#) if you're registering a song, and [SR](#) if you're registering a sound recording. Note that these Adobe Acrobat forms now have fill-in fields, so you can type all the information in before printing them, a major plus if your typing skills are better than your handwriting.
- A registration fee of \$30, submitted as a check made out to Register of Copyrights. If you are submitting multiple works in one package, you may write a single check for the total amount.
- One copy of the work if it is unpublished, and two copies if it is published. The copies may be either written (scores or lead sheets) or phonorecords.

If all goes well, you receive a certificate of registration in a few months.

HOW DO YOU USE COPYRIGHT NOTICES?

Copyright notices were once required on all works, and are still required for any works first published before March 1, 1989. For works first published since that date, a copyright notice is not required to maintain copyright protection for the work, but it remains a Very Good Idea. If you make sure the copyright notice appears on all copies of your work, then no one who violates your copyright may claim "innocent infringement" in court.

CHAPTER 4

“MAKING A SONG”

WHAT IS SONGCRAFT AND WHY DO I NEED IT?

Good songwriters use songcraft to give their songs emotional impact and make them memorable. The song-building tools and techniques we call 'songcraft' are not arbitrary; they weren't invented just to create formula songs without depth or originality. They exist because songwriters have found that they help listeners to understand and remember the message at the heart of a song. A successful song needs both emotion and songcraft. If you have emotions but no craft, people will not understand you. If you have craft but no emotion, people will not care. we are going to show you how to find a title and turn it into a lyric, after that you'll learn about melodies, rhythm and chords or, if you only want to write lyrics, how to find a collaborator. These techniques and hands-on exercises apply to ALL styles of songwriting from rock to rap, from country to R&B.

HOW DOES A SONG GET STARTED?

This can be one of the most difficult tasks in songwriting - getting started! And it's also one of the most important because if you start well, you'll have a lot less trouble down the line. Once you get past this point, a song tends to dictate where it wants to go - your job is to keep it on course. Like the captain of an ocean liner you probably won't have to make many sudden turns, just watch out for icebergs. Still, getting started is a tough business because - just like an ocean liner - you've got to overcome a lot of inertia. You know you want to write something but you may only have a vague idea or a feeling about what it is you want to express.

So what DOES come first - lyrics, melody, or chords? The answer is... none of the above!

When you look at a CD cover, before you even play a song, what

do you see? When you go into a record store or online to buy your favorite song... what do you ask for? When a DJ reads Don't start writing a song until you have a title that moves you. The title is going to be your chorus, your hook, the heart of your song, so it must be a phrase that rings true in your ears. Something that makes you say, "I've got to know more about that!" Because if YOU want to know, others will want to know. The title is going to be the thing that everyone remembers (hopefully). Most important: It's going to define the message of the song. It will be your guiding principle, your beacon.

So start looking around for good titles that have energy for you. Action words, images, or short phrases make good titles. Attention-grabbing newspaper headlines are full of good titles. You'll end up throwing out most of these or using some for lyric lines, but others will become the titles that drive your songs.

How a title becomes a lyric?

The best way to demonstrate this is to give an example. Let's say I'm interested in writing a song called "California Girl." (The title occurred to me one summer morning when I was sitting on the beach in Santa Monica eating sushi for breakfast, feeling very much like a California girl. You never know when a title will hit ya!) Okay... I don't know what this song is about yet or why this phrase interests me but it does, so I need to find out more.

First: Ask Questions. Start by asking the questions this title wants to have answered. Let's say your title is "I Drove All Night." What questions need to be answered: "Where did you drive?" and "Why did you do that?" Now apply this idea to "California Girl": "Who is she?" and "What is she doing?" How I answer those questions will determine what my song is about. Now, you may answer them in very different ways than I do and that's just fine. There could be several songs written with the title "California Girl" and they

would all be different. My "California Girl" is no longer the teenager of the Beach Boys songs. I want to know how her life turned out, what she thinks about when she remembers those long ago golden summers. This has a strong emotional pull for me so that's the song I should write. You might want to write a party song or a song about young lovers on a beach. Your choice will depend on which of those ideas has the strongest emotional appeal for you - THAT is the song you should write. Notice that I didn't start this song by wanting to tell a story or relive something that happened to me. Instead, I am just following my feelings. This is how songwriting (or writing poetry) teaches you about yourself. If you already know what you want to write, don't write a song, write an essay. A song is about DISCOVERING!

Second: Make a list of words, phrases, or images suggested by the title. "California Girl" obviously makes me think of sun, waves, playing, warmth, ocean, paradise, beach, sand, etc. Sand makes me think of flowing, changing, so I add the words "flowing" and "changing" to my list, then try to think of things that flow and change: time, water, dreams and add them to my list, too. After you have a list of related words, make a list of words, phrases, and images that are opposites.

Writing rap and hip-hop songs to a rhythm track!

If you are writing rap or hip-hop, much of the info and many of the exercises in the lyric writing section will be useful. Obviously, rhyming plays a much greater role in rap and hip-hop than it does in pop, country, rock, or pop/rock. But the advice about writing from a title, staying focused by answering the questions suggested by the title and using lists of related and opposite words all apply. The fresh rhymes are up to you! You are going to need a beat to write to. If you don't already have software like Fruity Loops or

Reason, look for midi files of rap songs you like - there are lots available on the internet. You don't need anything but a computer with its own internal sounds. OR download an inexpensive (or freeware) sequencing program that will allow you to open these as standard midi files. Mute everything but the percussion parts and use these as your rhythm track to write to. You, or a collaborator or producer, will need to create new beats later if you are going to commercially release the song but, for now, this track will give you something to write to. Rap songs do have a verse / chorus song structure, some even have a bridge. The crossover urban hits of Destiny's Child and Usher break out in big melodic choruses then return to spoken rap for the verses. Street and gangsta rap have a spoken chorus that consists of repetition of a hook/title lyric. ("Drop it like it's hot / Drop it like it's hot...") Often, rap songs will open with the chorus (Usher's "Relationship" or Kanye West's "School Spirit"). You can use rap songs as ghost songs for creating melodic choruses and framing general song structure. Melodic choruses have a chord progression you can use. Verses usually imply a chord if they don't actually play it. You can use the chord progression or change it to suit your taste. Be careful that you don't use the melody or lyrics of the ghost song - these are copyrighted.

#1: For rap and hip-hop writers, there is a very active forum for collaborators at the [Fruity Loops](#) web site for users of Fruity Loops software. For dance and trance writers, the forum at [ReasonStation](#) and the [Propellerheads](#) web sites are excellent. Obviously, it helps if you are already using the Reason or Rebirth software.

#2: Go to the clubs and concerts in your area that feature local bands. When you find a band playing the kind of music you are interested in, ask if they are willing to work with an outside writer. When they tell you they write all their own songs, tell them you'd like to collaborate on songs you can sell to other artists. They'll be

interested, believe me!

#3: Check out the local music store. They usually have a guitar or piano teacher or will put you in touch with one. The teacher might be interested in writing with you or may know a student who is looking for a collaborator.

#4: The music department in any community college or university will have a bulletin board. Post a message that says you are a lyricist looking for someone to write with, include the style of music you are interested in along with your name and contact info.

Where to find collaborators

So let's say you now have this fabulous lyric (or melody), it's got emotional integrity and good song form but you don't play guitar or keyboards - or you're a musician who doesn't write lyrics - and can't take it to the next step. Time to look for a collaborator! But before you do that.... write out your lyrics or record your melody. Indicate which section is the chorus, verse, and bridge. If you used a ghost song, BE SURE you did not accidentally use any of the lyric or melodic phrases from the original song. The lyric and melody are copyrighted material and you must NOT use them. Besides, that song is not your song; it doesn't say what YOU want to say. Once you have done that, forget you ever met the ghost song. Do not mention it to your collaborator.

SONGWRITING SOFTWARE

There is a unique software program called Band In A Box (Windows/MAC). BIAB is like having a song collaborator who never tells you your ideas stink. It will create a chord progression or you can type one in or play one on a midi keyboard. It will create a drum, bass, piano, guitar, and string arrangement based on your chords. You can select from many styles - finding one that sounds good can take a little while but you only need one or two good styles. It can play the arrangement on the internal sounds in your computer or a midi keyboard. (The guitar parts are terrible so mute them. Drums, bass, and piano are all quite good.) BIAB will even create a melody and a title. Melodies tend to be a little generic but you can keep the bits you like and have it create new melodies as much as you like. It's inexpensive, fun, creative, and a great place to start a new song from scratch! If you have a sequencer or software synth you like to use, you can export BIAB files as Standard Midi Files and import them into other music programs. This software looks funny on the surface and there's definitely a learning curve, but it's the best all-in-one creative tool for songwriters!

CHAPTER 5

HOW TO BECOME A "PROFESSIONAL" PRODUCER/ENGINEER

The producer is pretty much the creative director. He usually doesn't operate the equipment or anything like that. He's the one who helps guide the artists and tries to get the best performance possible from them. He may also make suggestions about song arrangements and overall sound, and will try to convey to the engineer the type of sound he wants. Producers don't necessarily need any formal background in audio engineering, although many of them are very capable audio engineers as well. They also don't necessarily have to have any musical training either, but they certainly need to have a good ear for music and be able to communicate with all the musicians, and so those with a good understanding of music and music theory tend to do a little bit better in general.

On the other hand, the engineer is usually just the technical guy who sets up and operates all the recording equipment, and is responsible for getting the best possible sound to tape. His job is to focus on things like proper signal level to make sure nothing is distorting or being recorded at too low of levels, make sure the gear is operating correctly, and to try to get the type of sound that the producer and artists want. He is the technical guy, although a musical background is also very helpful.

Now days, the line between producer and engineer has blurred quite a bit, and you'll often find one person doing both roles at the same time. It can be tough to try to do both, to listen for the technical aspects as well as to concentrate on the performance and try to coach the artists, but many people do both jobs at the same time. Also, in many styles of music these days (especially rap/hip-hop, and electronic music) the "producer" is the person who also comes up with the music and/or beats. Even with your standard pop/rock bands, many producers will still contribute to the music on the albums and may play several parts themselves.

So.... after that long introduction, lets get to your question!

The short answer is that there is no set path to becoming a producer or an engineer. However, one common path into the career goes something like this:

- You go to a school and take audio engineering and music production courses.

- You finish school with some kind of bogus degree that really doesn't mean much to anyone.

- You beg and plead with all the major studios in your area to get an "internship"

- You get lucky and land an internship and work your ass off for quite a while cleaning bathrooms, making coffee, being a gofer, and assisting the real engineers, all without getting paid anything at all.

- If you show a LOT of ambition and talent, and are able to round up some clients of your own to bring into the studio (so that the studio makes some money off of you), then you might be lucky enough to be able to hang around for a while after the normal internship term is over (most big studios rotate their interns on a regular basis to make room for new interns fresh out of the music schools)

- If you are able to bring in enough clients and the studio really likes you, maybe they will consider you an "employee" or an independent that they will work with on a regular basis. Keep in mind that you will only get paid a measly hourly wage ONLY for

time that you actually bill to clients. You won't get any other benefits in most cases. So, unless you can bring in a lot of clients on a regular basis, you still aren't going to earn enough to make a living. That seems to be the most common path into the business. Very few people who go down that path ever get to the point where they can actually earn a living from it (no matter what the music schools try to tell you). This is particularly true in the music recording business. You have a better chance of making a living if you become very GOOD at digital editing on the popular DAW systems (Pro Tools, Sonic Solutions, etc.) and try to land a job at a studio that does mostly production work for corporate clients. Corporate clients (TV, Radio, Film, Multimedia) will pay much more per hour than most music clients will. There is usually plenty of corporate type of work, so those types of studios tend to do much better and can actually afford to hire skilled digital audio editors on occasion (if they expand, or one of their other editors breaks out on his own). If you want to actually make a living working in someone else's studio, then getting into one of these types of studios has a much better chance of doing it for you.

Another way to do it, especially in the music business, is to just do it on your own! Find some bands and artists in your area to produce. Offer them your services for free when you start out to build up your demo reel and a bit of a reputation (you'd be working for free at a major studio as an intern anyway, so you might as well start for free in this pathway as well). If you don't have the gear to do it on your own, then just have the band cover the studio time at a bigger studio, but still give them your services for free. Getting started on your own takes a lot of hustling. It's more sales than it is engineering/producing. You've got to build up a good client list, and do a really great job for them so that they will come back to you in the future as paying clients, and so that they will also spread the word around about you. Word of mouth is very important in this business! Don't let anybody go away unhappy because BAD word of mouth carries much more power and spreads faster than

good word of mouth! You will also want to try to build up relationships with record labels, and agents and managers as well. If these people like your work, they may send more work your way. If you have a great ear for finding and producing talent, then these people will be interested in hearing your latest productions and so you will be in the position to "shop" bands/artists to these people and earn some sort of commission or royalty if they get signed to a big deal. You may want to see a lawyer and have him draw up a standard production deal contract that you can use for these artists that you work with. Typically it's better to just get paid up front and not bother with contracts, but when you are starting out and doing a lot of work for free, a contract might pay off if one of those bands happens to get some sort of deal. But, be aware that if you sign a contract with them, it might actually hurt their chances of getting a deal with a bigger company since many bigger companies don't want to hassle with the extra expense and time needed to buy out your contract with the artists. So.... there are a few ideas for you. The best thing to do is to just get out there and do it! Get a real job to support yourself, and then in your free time start producing and recording as many bands and artists as you can until you become good enough and have a good enough demo reel to start getting some paying clients. Even when you start getting paying clients, it will probably still be quite a while before you are able to actually make a living from it and quit your day job!

CHAPTER 6

“STUDIO EQUIPMENT & RATES”

In the recording studio business, the goal is to create near-perfect environments. The economic and reputation cost of blowing a recording session for technical reasons can drive a studio out of business. One of the cardinal rules of recording studios: make them sound great. The requirements for professional production studio construction are significant. Recording artists in these rooms can produce peaks of 110dB to 120 dBA, which adjacent rooms ideally should be dead quiet. Moreover, outside noises, from the control room, street, hallway etc. can damage hours of hard work. These requirements exceed what standard construction techniques can deliver, and require new technologies to satisfy critical customers. Achieving high STC ratings for walls and ceilings has been a costly enterprise. Quiet Solution offers entertainment construction professionals a complete line of high-performance products to soundproof walls and ceilings to meet the demands of world-class production and recording studios. The installation can be easily done either at time of new construction or as a rehab project. Production facility designers occasionally specify resilient channels, hats and clips to try to achieve high STCs. A word of caution: these techniques are famous for failing. Acoustical engineers estimate failure rates of 50% during installation, and a financially dangerous 90% within three years due to “improvements”. A simple installation of a shelf or other wall attachment can destroy a resilient channel installation. The most effective way to mitigate noise in entertainment facilities is to (i) identify and measure the noise source, both internal and external; (ii) set a dB goal for the desired level of quiet, and translate that goal into the appropriate Sound Transmission Class using the formula “dB in noisy area minus dB desired in quiet area = required STC”; (iii) select and specify the appropriate Quiet Solution Soundproofing System materials for your project.

OUTBOARD EQUIPMENT

- 2 * DRAWMER DUALGATES DS201
- 1 * DRAWMER DUAL EXPANDER LX20 COMPRESSOR
- 1 * DRAWMER DUAL COMPRESSOR DL221
- 4 * BEHRINGER NOISE GATES
- 3 * CRYSTAL SOUND GRAPHIC EQUALISERS (10 BAND)
- 1 * 27 BAND TRESHAM AUDIO GRAPHIC EQUALIZER
- 1 * ROLAND DEP 5 DIGITAL EFFECTS UNIT
- 2 * IBANEZ DM 2000 DIGITAL DELAY LINES
- 1 * TASCAM PE 40 PARMETIC EQUALIZER
- 1 * ALESIS NANOVERB
- 1 * ALESIS MICRO VERB EFFECT UNIT
- 1 * YAMAHA SPX90 MULTI EFFECTS UNIT
- 2 * LEXICON ALEX DIGITAL EFFECTS PROCESSOR
- 4 * DUAL BEHRINGER COMPRESSOR LIMITERS
- 1 * ALESIS MIDI VERB 2 16-BIT DIGITAL EFFECT UNIT

RECORDING/MASTERING

- HDR2496 HARD DISK RECORDER WITH ON-SCREEN EDITING FACILITIES IN REAL TIME.
- SPIRIT STUDIO SOUND CRAFT 24 CHANNEL AND 48 CHANNELS ON MIX DOWN
- 3 * FOSTEX RD8 ADAT RECORDERS - TOTAL 24 TRACKS DIGITAL
- 1 * TASCAM DA 20 MARK2
- 1 * CASIO DIGITAL RECORDER (DAT PORTABLE)
- 1 * TEAC V-375 CASSETTE DECK
- 1 * TEAC V-370 CASSETTE DECK
- 1 * TOSHIBA CD PLAYER
- 1 * SONY REEL 2 REEL
- 4 * PHILLIPS CDR RECORDERS
- 1 * ALESIS MASTER LINK FOR CD MASTERING

MIDI SETUP

- ATARI MEGA 2 4MB RUNNING STEINBERG'S CUBASE V - 2
- 1 * S950 FULLY EXPANDED AKAI SAMPLER
- 1 * S6000 EXPANDED TO 158 MEG AKAI SAMPLER + FULL LIBRARY WITH JAZZ DRIVE, CD ROM SETUP
- 2 * ROLAND U220 RS PCM SOUND MODULES
- 1 * GR50 GUITAR SYNTH MODULE
- 1 * ROLAND 626 DRUM MACHINE
- 1 * BOSS DR 50 MK2 DRUM MACHINE
- 1 * DX7 YAMAHA KEYBOARD PLUS 2 SOUND CARDS
- 1 * ALESIS DM5 DRUM MODULE
- 1 * ROLAND SPD 20 DRUM PAD

INSTRUMENTS

- 1 * DX7 KEYBOARD
- 1 * 5 PIECE HORNER DRUM SET
- 1 * FENDER RHODES MARK1 STAGE PIANO
- 1 * ROLAND CUBE 60 COMBO AMP
- 1 * HONDO MARK2 BASS GUITAR
- 1 * DX21 KEYBOARD
- 1 * PEAVY BANDIT 112 SHEFFIELD COMBO AMP

MICROPHONES

- 4 * AKG MICRO MICS MK2
- 4 * AKG C1000
- 2 * AKG D80
- 1 * AKG 190E
- 1 * CALREC CW870
- 2 * ASTATIC CTM27
- 1 * AUDIO TECHNICAL VOCAL AT4033A
- 1 * AKG D112
- 1 * AKG D321
- 1 * SHURE PROLOGUE 16L

- 2 * PZM
- 4 * SOUND LAB UD 222

MONITORING AMPS

1 * PAIR YAMAHA NS10 STUDIO MONITORS NEAR FIELDS

- 1 * PAIR TANNOY 12 LITTLE RED MONITORS
- 1 * TECHNIQUES POWER AMP CLASS AA SU-V660
- 1 * RANE HEADPHONE AMP + 6 BEYER DT211 HEADPHONES + 4DT100'S
- 1 * PAIR GENELEE 1030A MONITORS

SAMPLE DEMO RECORDING PACKAGE

A DEMO PACKAGE (5 SONGS) IS ONLY \$200. THE DEMO PACKAGE INCLUDES:

- **16/24 TRACK DIGITAL RECORDING**
- **FREE SETUP TIME**
- **AS MUCH ENGINEERING (RECORDING/MIXDOWN) TIME AS NEEDED.**
- **5 DEMO (CHROME, HI-BIAS) TAPES W/ LABELS ***
- **1 CD-R (MASTER) ****
- **FREE USE OF MULTI-TRACK MASTER TAPES (MASTER TAPES MAY BE PURCHASED FOR \$20.00 EACH)**
- **FREE DIGITAL EDITING AND MASTERING (FOR PROFESSIONAL FADE INS/OUTS, MAXIMUM FIDELITY, AND HOTTEST LEVELS)**
- **FREE PRODUCER/ENGINEER**

* ADDITIONAL TAPES ARE \$2 PER TAPE.

** ADDITIONAL CDS ARE \$20 EA.

PAYMENT & TERMS

\$200.00 to be paid when the final product (tape/CD) is delivered. A \$50.00 deposit will guarantee your time. Otherwise time is booked on a first-come first-served basis.

The Fine Print: We assume that the band is well rehearsed on all the songs, and that all solos, intros, and endings have been planned out beforehand, and the studio will not be used as a rehearsal hall. Rehearsals, remixes, and adding more parts after a completed mix are extra. Extra time due to those circumstances will be billed at \$30.00 per hour.

STANDARD RECORDING PACKAGE

A standard recording package is only \$100.00 per song. The package includes:

- As much recording/mixdown time as needed (within reason*)
- CD stereo master (extra CDs are \$20.00 each)
- Free use of multi-track master tapes (master tapes may be purchased for \$40.00 per set)
- Full Digital Editing and Mastering for maximum fidelity and hottest levels
- Producer/Engineer is included at no charge

All for \$100.00 per song

Payment & Terms

\$100.00 deposit to reserve studio time, to be paid in advance of the session. the Balance is due at the start of the recording session.

Digital Editing And Mastering

Flat \$30.00/Hour Rate.

CDs Made from your Cassette/Phonograph Record

First CD (includes Spacing and Normalizing) - \$40.00

Additional CD - \$20.00

CHAPTER 7

“WHAT IS CD MASTERING?”

WHY IS A "MASTER" BETTER THAN A "TRANSFER?" A transfer sounds just like your original recording, where as a master is your original recording optimized! Most companies offer "transfer" services and charge extra for separate tracks and noise reduction.

MASTERING PROCESS

- 1) A digital recording is made of your tape.
- 2) Tape noise, hum & hiss is removed from the recording.
- 3) The recording is then "normalized" to achieve maximum volume without distortion.
- 4) The recording is then edited into separate tracks.
- 5) Other manipulations may be required to improve the sound such as "Harmonic Enhancement", "Compression" "Mic Rumble filter" "Click & Pop removal" or "Fade Outs." The "Master" is now ready for CD duplication! Once your master is made, CD copies can be produced.

MASTERING FORMATS

For many years, the standard professional format was the 3/4" U-matic cassette made with the Sony PCM-1630 processor. Another format was promoted by JVC but never gained widespread acceptance. Today, other professional formats include Exabyte DDP and the PMCD (developed by Sonic Solutions and Sony). Each format has its advantages. Professional format masters are also called "cutting production masters", because the glass master is made directly from them. Why should you be interested in

professional CD mastering formats? Because if you aren't submitting your material in a professional CD mastering format, then you may be paying too much for CD pressing. Some CD service bureaus (when asked to do so) will give cash discounts of up to \$300.00 to a customer who supplies a master in a professional format.

PCM-1630

The 1630 format is growing quite old, but is still accepted at some plants. There is a PQ code burst before audio begins in the PCM-1630 format. Some consider the format somewhat fragile, since the U-matic machine requires expert maintenance and precise alignment.

PMCD

The pre-master CD was originally developed jointly by Sonic Solutions and Sony, and is now available from others. A true PMCD contains the PQ code burst in the leadout area; for this reason relatively few CD recorders are capable of making a true PMCD. The PMCD has the advantage of being easily played on an ordinary CD player before glass mastering. Some pressing plants and CD service bureaus require PMCDs and other disk-at-once CDRs to be accompanied by a hard copy printout of the PQ code information in order to document its authenticity, and thus to prevent confusion with ordinary recorded CDs which may be track-at-once.

EXABYTE DDP

Exabyte DDP is A 8mm data tape format. It robust, but is not easily playable. CD-ROMs are often mastered from Exabyte DDP format.

SPECIAL DAT FORMATS

There are two special DAT formats which are accepted at certain CD pressing plants: 1 a DAT striped with SMPTE 30hz ndf time code with frame accurate ID codes and frame accurate delivery sheet, and 2: a similar DAT, but with the addition of a PQ data burst during audio lead in (accepted only at some European CD pressing plants). Neither DAT format should be used unless there is a specific arrangement to do so with a CD pressing plant which is capable and willing to accept the particular format.

PREVIOUSLY MANUFACTURED CDS

CD pressing plants may accept previously manufactured CDs received in good condition as masters.

CDs Made on an Ordinary CD Recorder

While the manufacture of compact discs is done to stringent standards, economic pressures can force CD pressing plants to take shortcuts when material is supplied in a non-professional CD format (i.e., track-at-once, instead of disk-at-once CDs). Some CD pressing plants will accept CDs recorded on ordinary track-at-once CD recorders, but the glass master might be made from an analog transfer from the customer's CD. Other plants will reject such CDs outright. The problem with track-at-once CDs is that there is a digital mute before each track selection and this interruption in digital data causes excessive errors during the glass mastering.

Finally, some plants accept masters via the internet, or as image files on CD-ROM or DVD-ROM discs. Mastering is more than a fresh set of impartial ears, although this is certainly one advantage. It's having digital gear that processes at a high enough resolution for the resolution of your project, and gear that doesn't truncate, and offers you dithering options when you need them, and has tried and tested quality algorithms and proper DSP practice. It's quality

A/D and D/A and properly maintained and calibrated tape machines. It's understanding PQ codes, ISRC codes, noise reduction, and different master formats that will come in and be delivered. It's having the proper gear to make masters that glass can be cut directly from. It's knowing what glass mastering is in the first place, and why that's not done at the "mastering" houses we are talking about, It's knowing the difference between mastering and pre-mastering. It's attention to detail, cleaning heads and tails, adjusting fades when necessary, making the album even from track to track, not thinking normalization will do this for you, understanding emphasis, not losing bits of data that are important or passing bits of data that are incorrect, knowing what to do about DC, phase relationships, balance, clicks, pops, dropouts, and how to prepare a proper log for the replication plant. It's knowing when to use analog or digital, how to get to and from digital with the least degradation. It is NOT simply putting an EQ and a limiter on the mix bus so your CD is loud and bright. If you don't understand the difference, you are sadly missing out on one of the most valuable assets in the completion of your project that you have put your heart and hard work into.

CHAPTER 8

“PRESS KITS”

PRESS KITS

A "press kit" and a "promo-pack" are essentially the same thing. However, each serves its very own purpose. The press kit is most commonly used to inform the media about an artist. It consists of certain promotional materials that are used by the media to create interesting stories or "write-ups" about an act.

The "promo-pack" is simply a variation of a "press kit." It's used for booking shows, "shopping" for record deals and publishing deals, assembling a management and legal team, and for gaining radio and television airtime.

The only real difference between a "press kit" and a "promo-pack" are some of the items included in each, and to whom they're SENT. All of the contents are put together in attractive looking FOLDERS, WHICH include artwork or the artists' logo on them.

A TYPICAL PRESS KIT CONTAINS THE FOLLOWING ITEMS...

- THE ARTIST'S BIOGRAPHY
- A PHOTO OF THE ARTIST/BAND
- A FACT SHEET
- "WRITE-UPS" AND/OR PRESS RELEASES

A TYPICAL PROMO-PACK CONTAINS ALL OF THE ABOVE ITEMS AS WELL AS...

- A DEMO TAPE/CD (3-5 OF YOUR BEST SONGS!)
- A SONG LIST
- A LYRIC SHEET

Be sure to include your copyright and contact information on ALL of your press kit and promo-pack items!

CHAPTER 9

“RADIO PROMOTIONS”

INDEPENDENT PROMOTER. Radio stations receive a large number of CDs each week. Non-commercial radio stations (which include college, public, community, and most web stations) get between 10 and 100 CDs each per week, while commercial radio stations get 50-300 each per week. Non-commercial stations are run by volunteers or students who may only be at the station for an hour or two each week; they are very hard to reach. Only after several weeks of pursuing them (and providing artist information to them) do they finally start considering your music. We contact many (but not all) of the stations every week on a rotating basis for this purpose.

Commercial radio stations are difficult because they receive far more CDs per week, and they play far less new music (most of these stations add only two or three new songs per week to their playlists.) On top of this, larger commercial stations wait until many other stations are playing your music before they will consider it themselves. So an airplay "story" must be developed, starting with the smaller stations first. And at commercial stations, any music that is not followed-up on is not even opened. Consultants are also a factor with commercial stations. The main decision that will have to be made by you is whether you want to go for non-commercial, commercial specialty, or commercial regular-rotation airplay (larger labels go for more than one.) All campaigns can sell records if you have a sales staff on the phones, calling the stores. But if you don't, you can still generate a lot of other results which can be used as a tool to secure gigs,

distribution, record deals, publicity, or can be used as a stepping stone to regular rotation (and thus, it's great training for new artists and new labels).

A NOTE ABOUT NON-COMMERCIAL RADIO: College/non-commercial radio, IF IT FITS your genre, should always be part of your campaign even if you simultaneously do commercial radio. Non-commercial radio is so low cost (and so responsive), that for each dollar spent it is the best overall value for generating awareness among the people that work in the music/radio/retail/press business. Also note, however, that non-commercial radio is NOT designed to reach many listeners. As just stated, it is instead designed to impress ONLY the people who work in the music/radio/retail/press business.

STATION SELECTION: Radio Promotion companies keep a comprehensive database of over 1,700 broadcast (plus cable and web) non-commercial radio stations, along with 11,000 commercial stations, in the U.S. and Canada. Stations are selected based upon format, AM/FM/Satellite/Cable, rating, city, state, and chart-reporting status. Regardless of which stations are chosen, a complete listing of the selected stations is provided each week in your report.

CHARTING: If you are looking to "chart" your music in the radio trade publications, then we will choose an appropriate chart for you, depending on what you are trying to accomplish. Note that you do not need to subscribe to these charts yourself, since we

supply you with all the information, both in your report and also in your chart copies that we send you.

MAILING: You are provided with mailing-labels and ID stickers; you simply mail these items with your CDs. You buy the postage and the mailers. (A bubble-cushioned self-sealing mailer is recommended, and can be ordered for 30 cents each at 800-745-8800 (item #1710).

COMPACT DISCS: Non-commercial radio is very forgiving about what you send them; CDR's...the type that are "burned" on a computer, are OK. But for commercial radio, professionally finished CDs are required. This means the CD must be of the mass-produced glass-mastered variety (usually with a 500 minimum run.) The CD must have a silk-screened or thermal-printed label (not a stick-on label,) and the inserts must be lithographed (not color-copied or computer-printed.) Compilation CDs (featuring different artists) are only acceptable for non-commercial radio, and only if you are trying to promote/chart the whole package... not just one particular artist; to promote a particular artist, you must send a single/EP/album of just the one artist.

The exact song lengths should be placed both on the outside of the CD package, and, on the CD itself. For commercial radio, 3-minute songs are great, 4-minute songs are acceptable, and 5-minute songs should be avoided. College radio is wide open, however. The artist and CD name should be printed on both CD's,

the case, and the spine of the package, where it can be EASILY READ in a dim room on a wall of 5,000 CDs.

Albums, EPs, or singles may be sent to either commercial or non-commercial stations, depending on what you are trying to accomplish. But regardless of which one you send, use a REGULAR SIZED plastic jewel case with NO plastic wrapping. Period!

RESENDS: After the initial mailing, some re-sending will need to take place. This is due to lost mail, packages misplaced at the stations, changing personnel, consultants that need copies, others at the station who need their own copies (non-commercial stations especially,) etc... Having enough CDs is critical for a promotion. you must have enough (without having to wait for a production run) to be able to do resends WITHOUT DELAY. Resends require about 30 percent extra copies; they start occurring at the second week of the promotion, and continue on to the end. All resend info is provided each week in your report.

REPORTS: You receive an airplay report each weekend which tells you what each station's status is with regards to airplay (low, medium or high), resends, comments, etc. Stations are sorted by state, city, and call-letters, and include a history that goes back eight weeks in your campaign. You can use this information to coordinate your airplay with any publicity, performance, or retail/street promotions that are occurring. (Or, you can include these reports in your demos that you are sending to labels.)

FOCUS WEEKS: After the promotion has progressed, you may want to spend a few weeks focusing on something besides simply "airplay". Station ID's (i.e., "Hi, this is the John Doe band, and you're listening to KXYZ"), station visits, telephone interviews, CD give-aways, or station-recommended-pointers to clubs, retail or press, may be chosen if you decide to extend your campaign. To focus properly, ONE of the above focus topics should be chosen and worked for at least one month. Results are printed on your weekly report.

ROLE OF THE INTERNET: For the new artist or new label, the web is the best invention yet for helping you to make your printed information available. It is also great for such things as offering CDs to those "outer lying" areas that you cannot get regular distribution to. You will not, however, make a lot of money using the web as your only "airplay", because less than one percent of listeners (web OR radio) buys CDs. Web-listening is very limited because only a few hundred people will get to hear your music, and even then, they will probably hear it only once and then move on. So your sales are going to be less than one percent of this number that hears it. If you want many thousands of people to hear your music, you must go to standard broadcasters. That is what they are for. And that is what radio promotion is for.

DISTRIBUTION: If this is your first release, you may have the urge to "set up traditional distribution" so that you can use your airplay to sell product. This is a good long-range (3-year) goal, but for the time being we recommend using "tour distribution" instead. Tour distribution is where you use radio to get more and bigger gigs,

and then you sell your product ONLY at these gigs. This process works every time, and, there are no delays and hassles like you get when you attempt to set up traditional distribution. Plus you get paid in cash each night!

QUARTERBACKING: This includes the hiring and managing of the individual promoters for artist/labels that require radio, retail, press, and booking. This is a turnkey service.

OTHER PROMOTERS:

(1) Beware of promoters who use their own "charts"; if they publish their own charts, they can just put you wherever they want to on them (and they will remove you just as quickly.) So if they say they will be charting you in any particular magazine, ask them specifically if they have anything to do with the editorial, charts, or ownership of that magazine, and further, request a copy of the magazine to inspect for yourself.

(2) Some promoters will say they will "test" your music for free at the stations they "call". This makes it look like they are working for several weeks for free, asking stations for an opinion of your music; they then report back the "great results" to you. Reality: They never test your music. They put it on a shelf for a few weeks, AND THEN call you with the "great station opinions." Nobody ever gets back bad results. The question to ask these promoters is this: "When you get back your results, will you give me the names and numbers of the stations, so I can check their opinions myself?"

(3) Some (actually, a lot of) promoters will tell stations to "drop" you after your campaign ends. Thus, you could be charting exceptionally well for a few weeks, then after you stop paying the promoter, you are instantly (as in the next week) off the chart. Stations across the country do not normally decide to drop an artist like this all in the same week... they only do it when the promoter tells them to. So ask the promoter specifically this: "If I were to call several of the stations in your campaign and ask the PD if you ever tell him to drop an artist, what would he say?"

(4) Beware of promoters who claim to promote (or used to promote) a "bunch of major acts". If they used to then something happened which caused them to lose those projects. If they are currently promoting them (worse), you will simply be the last priority (of 10 or 20 major projects) when they are talking to the stations. You simply do not put indie (independent) projects before major label projects. Plus, these promoters have no additional tools to push you, like they do the majors.

(5) Finally, if they really did promote a large artist, they will be able to give you direct contact info for the artist or management. Call this artist or management and ask who did the hiring for them if he/she did indeed hire that promoter. The biggest trick that most promoters use is to say that they promoted a big artist, when in fact they had nothing to do with that artist at all. (Most people will not question it). Again, if the big artist/label/manager paid money to the promoter to promote the music, then the promoter will have their contact phone numbers, and will not mind you calling them. If the promoter does not want you to call them, then the promoter

was not involved with that artist. Don't fall for the trick of "If YOU were Madonna's manager, would YOU want indie artists calling YOU?" There are two options for your independent music in the music business: You can either try to be your own record label (and/or PR firm, music company, entertainment agent, etc.), or you can partner with others who will do the work for you if you pay them. Either way, you need to know who does what. A Record label, PR firm, music manager, music publishing company, entertainment agency, music distribution firm, entertainment lawyer, music magazine, and most any other entity in the music industry are all part of a "mass media" wheel that generates airplay, publicity, gigs and record (CD) sales. All this is part of a record deal (from a record label), or, it can be used to get a record deal. Alternatively, you could decide just to keep as much of it in-house as possible, thus creating your own operation. This is a realistic option if you will be in the business for five or more years, and you are willing to work at least 30 hours a week at it. A real record company handles four basic areas of music marketing: Radio, PR (public relations), gigs, and music retail. The radio portion is what this entire site is about; radio is the most complicated part of the music industry, and the most expensive part of the budget of a major record label. If you hire an independent radio promoter, they can also help a little with PR, gigs and retail, provided the airplay campaign is large enough.

The PR (publicity) portion of the entertainment industry is obtained by hiring a PR firm (or PR person). A large record label has these people on staff, but will still hire out for more push. A smaller independent record label sometimes will just try to do its

own publicity, maybe by just focusing on some local music magazines. Big mass media music magazines, however, will be beyond what an independent music label can get.

The gig portion of your music marketing is obtained by partnering with an entertainment agency who book gigs for you (good gigs can get you some PR too.) Small music labels will just try to book their own gigs. Note that an entertainment agency for gigs is not the same as an entertainment agent that an actor would have.

For the retail part of the music industry, a record company would hire a retail promoter, whereas a small independent record label would just call stores on their own. Note that this is NOT the same thing as music distribution, which is simply a middleman between the record company and the music retail stores... they just take retail orders once the retail promotion person causes the sales to happen. If you have no retail promotions person, you will have no sales, regardless of the radio that you do.

The entertainment industry has a few other entities you will have to work with... like the music manager (i.e., personal manager) and the entertainment lawyer. While they are not into music-marketing or mass-media details the way a record label or radio promoter would be, they are needed with things like music publishing and general operation once you are on the road (but probably not before.)

SAMPLE PRICES

OPTIONAL MAILING LABOR FOR CD.....\$1.00 EACH
 OPTIONAL MAILING LABOR FOR CD+VINYL.....\$1.50 EACH
 OPTIONAL BDS TRACKING.....\$1,000
 OPTIONAL MEDIABASE TRACKING.....\$1,000
 OPTIONAL R&R INDICATOR TRACKING.....\$1,000
 OPTIONAL QUARTERBACKING.....\$10,000

NON-COMMERCIAL RADIO (8 WEEKS)

JAZZ, BLUES, FOLK, AMERICANA, PIANO (UP TO 100 STATIONS)...\$ 2,500
 CMJ CHARTING FOR METAL, ELECTRONIC, JAZZ, WORLD, AAA,
 OR HIP HOP (250 STATIONS), OR NON-
 CHARTING FOR ALTERNATIVE.....\$ 2,500
 CMJ TOP200 CHARTING (UP TO 500 STNS; INCL EXTRA PHONES)...\$ 4,000
 CMJ TOP200 CHARTING (UP TO 700 STNS; INCL EXTRA PHONES
 AND CMJ CORE STATIONS).....\$ 6,000
 REGIONAL (NON CHARTING, ANY GENRE) (50 STATIONS).....\$ 2,000

COMMERCIAL SPECIALTY (8 WEEKS)

SPECIALTY NON-CHARTING (UP TO 90 STATIONS, ALL SIZES).....\$ 2,000
 SPECIALTY CHARTING (UP TO 90 STATIONS, ALL SIZES).....\$ 3,000
 DANCE MIXSHOW CHARTING (100 STATIONS).....\$ 2,000
 REGIONAL (NON-CHARTING, NON-BDS) (20 STATIONS).....\$ 2,000
 FMQB TRACKING FOR METAL OR ALT. (OPTIONAL).....\$ 200/MO

COMMERCIAL REGULAR ROTATION FOR AC, POP, R&B (8 WEEKS)

75 STATIONS (SMALL MARKETS).....\$ 2,500
 150 STATIONS (SMALL MARKETS).....\$ 4,000
 R&R INDICATOR (MEDIUM AND SMALL MARKETS).....\$ 7,500
 FMQB CHARTING (100+ STATIONS, MEDIUM AND SMALL).....\$ 6,000
 REGIONAL (NON-CHARTING) (20 STATIONS).....\$ 2,500
 FMQB AC TRACKING (OPTIONAL).....\$ 400/MO
 HIGH-LEVEL AC PROMOTION (INCLUDES FIELD STAFF).....\$10,000 TO
 20000 (ADDITIONAL)
 HIGH-LEVEL POP/R&B PROMOTION (INCLUDES FIELD STAFF).....\$40,000
 (ADDITIONAL)
 HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (UNRATED MKT)..\$200/STATION
 HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (SMALL MKT)....\$500/STATION

HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (MEDIUM MKT)\$1,500/STATION

COMMERCIAL REGULAR ROTATION FOR AAA OR SMOOTH JAZZ (8 WEEKS)

50 STATION SPECIAL (MEDIUM AND SMALL)\$ 2,500
 FMQB / R&R CHARTING (75 STATIONS, ALL SIZES)\$ 7,500
 REGIONAL (NON-CHARTING) (20 STATIONS)\$ 2,500
 FMQB AAA TRACKING (OPTIONAL)\$ 200/MO
 HIGH-LEVEL PROMOTION (INCLUDES FIELD STAFF)\$10,000 (ADDITIONAL)

COMMERCIAL REGULAR ROTATION FOR ROCK, ALT, URBAN (8 WEEKS)

R&R INDICATOR CHARTING\$ 5,000
 REGIONAL (NON-CHARTING) (20 STATIONS)\$ 2,500
 HIGH-LEVEL PROMOTION (INCLUDES FIELD STAFF)\$40,000 (ADDITIONAL)
 HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (UNRATED MKT) ..\$200/STATION
 HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (SMALL MKT) ...\$500/STATION
 HIGH-LEVEL STATION GIVEAWAYS OR COMMERCIALS (MEDIUM MKT) ..\$1500/STATION

COMMERCIAL REGULAR ROTATION FOR COUNTRY (8 WEEKS)

SMALL MARKET NON-CHARTING (50 SMALL STATIONS)\$ 2,500
 MUSIC ROW CHARTING (80 SMALL STATIONS)\$ 4,000
 R&R INDICATOR CHARTING (75 MEDIUM STATIONS)\$ 7,500
 HIGH-LEVEL PROMOTION (INCLUDES FIELD STAFF)\$10,000 (ADDITIONAL)

GOSPEL OR CHRISTIAN REGULAR ROTATION (8 WEEKS)

100 STATIONS (ALL SIZES, CHARTING)\$ 2,500
 200 STATIONS (ALL SIZES, CHARTING)\$ 4,500
 REGIONAL (NON-CHARTING) (20 STATIONS)\$ 2,500
 R&R TRACKING FOR CHRISTIAN (OPTIONAL)\$ 200/MO
 HIGH-LEVEL CHRISTIAN PROMOTION (INCLUDES FIELD STAFF)\$ 5,000

CHAPTER 10

“BOOKING AGENTS”

Q. WHAT DO BOOKING AGENTS DO?

A.

Booking agents are in a different field from managers. Booking agents are the people that actually book shows for the artists that they represent. They make all of the arrangements with the people promoting the shows. Fine details like lighting, sound, meals, hotel accommodations, transportation and even snack foods are all handled by bookers for their artists. For concert buyers, they work to find the right artist that will fit in the need and budget that is available. Many of the major booking agents won't represent a client unless they are already with a major label and have national distribution of their music. Because of this, most indie artists do their own booking and generally do not have as many riders (extras) that they require. Fees that booking agents charge different fees for the services that they provide. The cost factor of having a booking agent has to be weighed against what they can do for clients and buyers alike.

DAILY / HOURLY RATE: Booking fees are charged by the day or by the hour (minimum 2 hour booking)

OVERTIME: Overtime rates apply before 9am, after 6pm on all bookings over eight hours. The overtime rate is one and half times the normal rate between 6pm and midnight. A special is negotiated for night work between midnight and 9am. Work on Saturdays is at one and a half times the normal rate. Work on Sundays and Bank Holidays is double the normal rate.

TRAVEL: Will be charged at half the hourly rate; this applies to travel outside a 5mile radius of models base.

USAGE: Additional fees are payable for the right to use the photographs (or reproductions, or adaptations of, or drawings there from, either complete or in part, alone or in conjunction with any wording or drawings: including electronic imaging) for all known or anticipated purposes other than the initial Permitted Use (e.g. Packs, Posters, Show Cards, Record Covers, Swing Tickets etc.). In general, the additional fees cover the right to use one image for one year from the date of the booking.

ALL BOOKINGS EXPECT EQUITY CONTRACT TV

COMMERCIALS: the agency charges the client a supplement fee of 20% on all hourly, daily and usage fees. THE AGENT WILL INVOICE BOTH AGENCY FEES AND MODELS FEES. Unless agreed at the time of booking the model disbursement is included at 66.66% and the agent's fee at 33.33% of the invoice total. Any agreed expenses will be added where appropriate.

EQUITY CONTRACT TV COMMERCIALS: the fee negotiated by the agent is the artists fee from which the agency commission will be deducted at 20% of the invoice total. Any agreed expenses will be added where appropriate.

On all invoices payment is required within 30 days of invoice in all cases the person booking the model will be invoiced and solely responsible for payment unless otherwise agreed at the time of booking. We reserve the right to invoice the 'ultimate client' (ie: designer / manufacture / owner of the product in question. All fees are for the right to use pictures and, once agreed, are payable whether or not the use is appropriated.

EXCLUSION FEES A special fee will be negotiated when the work is in conjunction with a product which precludes work for competing products. It is the client's responsibility to check whether conflicting work has been done if a model advertises a

product he/she is able to work for any competitor unless an exclusion fee is negotiated.

Provisional bookings will be automatically cancelled if they are not confirmed within 24 hours of the proposed booking or if a definite booking is offered and the provisional cannot be confirmed.

CHAPTER 11

“MANAGEMENT”

MUSIC INDUSTRY MANAGERS

You will definitely need a manager once you've obtained a record deal. Your music manager will help your record label in their efforts to distribute and promote you. Are you ready to have a music manager? You've been doing tons of shows & you've sold a few thousand CD's. Lately it seems like you are handling more & more business. Sooner or later you are going to want to hire a music manager to take care of things so that you can concentrate on your music & recording. Don't under estimate how much business & administrative work there is to do in the music industry. If you get picked up by an inexperienced music manager that has no idea how to manage a successful artist your record label will replace him / her. Most successful record labels will require you to have a successful manager. A successful music manager can also help you acquire a record deal with a well known record company. You will need to make sure that your manager is qualified & can lead you in the right direction. This section will help you identify what you are looking for in a manager. These days a lot of artists choose their friends to be their manager. This is not the best idea unless of course your best friend is Phil Robinson. It is very important that you choose your music manager wisely & get everything in writing in order to protect yourself from getting screwed. Picking the right music manager may take some time so you will need to be patient. Managers can do many things for you as well as provide creative direction and manage your finances. Your music manager should have extensive knowledge in the music industry. He/she should have experience in your genre. A great music manager will always have a fair and un-constricting contract. It is very important that you don't go with a manager that has too many other acts. If you are not a priority you will not get the attention that you will need & it will be much harder to succeed in the music industry financially.

WHAT PERCENTAGE DOES A MUSIC MANAGER GET?

Make sure that your manager is a legit music manager & not just some tired dreamer without a work ethic. The music industry is a tough nut to crack & everyone is not capable of dealing with the trials & tribulations. There is a set rate of 15-20% that managers should receive in exchange for their services. This percentage is deducted from your gross income. Management contracts are usually no longer than two years with an option to extend that time if the manager gets you a record deal & is exceptional at taking care of business. There should be an agreement that at any time either party can terminate their relationship. Music managers can and will sometimes act as an investor if he/she really believes in you. If your package is not up to par they will do the things necessary to bring your package to a certain level of professionalism. This includes photography, recording, mastering, story/ biography. It is your business Managers job to handle anything administrative and financial including publishing deals, royalties, recording, public relations, publicity and promotion.

Remember it is your business Managers obligation to get you work. This is NOWHERE near a perfect world, so you need to acquire enough information about the music industry so that you do not put all of your trust in your manager. You should definitely research and discuss things together. Since you will be doing business world wide make sure that your Manager only gets commission for the deals that he makes in the country that he does business in. When you expand to over seas you will need to hire co-managers to help your manager in that region. The contract that you have with your manager should also state if they are your manager for other areas of the entertainment industry as well. It is not unlikely for musicians to become actors and vice a versa. It will also be your Managers job to keep accurate accounting records to ensure that no one is being ripped off. A music Managers role is some what sophisticated these days so it would not be a bad idea to

make sure that they have taken a course in Music Management. Music managers have a lot of responsibility including development, getting a booking agent for tours, developing a great promotional package, creating the artists image including wardrobe & stage presence, getting the artist a web site, songs, producers, studio time, publishing, publicity, etc.

SUCCESSFUL MUSIC MANAGERS CAN GET YOU A RECORD DEAL

A&R people tend to listen to successful music managers & music producers opinions. If a successful well known music manager sends a demo to a Record Label A&R person the chances of the A&R person actually listening to the demo are extremely high. Record labels like when a successful music manager RECOMMENDS an artist to them. This saves the A&R a lot of research when looking for new talent to sign. There are several things that the right music manager will be able to do, one of them is get you a record deal. When speaking with music managers you must be extremely professional.

ARTIST MANAGEMENT AGREEMENT

AGREEMENT made as of this day of _____, 2005, by and between Day 1 Productions Inc. residing at

15301 Riding Path Court Laurel, MD 20707 (Hereinafter as the "Manager")

And _____ residing at _____ (Referred to as the "Artist").

WITNESSETH:

WHEREAS, Artist wishes to obtain advice, guidance, counsel, and direction in the development and furtherance of Artist's career as a performing and recording artist, musician, composer, arranger, writer, producer, and publisher and in such new and different areas (whether related or unrelated) as Artist's artistic talents can be developed and exploited, including but not limited to the fields of motion pictures, television, radio, recording, legitimate theater, music and book publishing, advertising, concerts, public appearances, and commercial tie-ins in any way connected with or appurtenant to the entertainment industry ("Artist's Career"); and

WHEREAS, Manager, by reason of Manager's contacts, experience, and background, is qualified to render such advice, guidance, counsel, and direction to Artist;

NOW, THEREFORE, in consideration of the mutual promises herein set forth, Artist and Manager agree as follows:

1. Services of Manager

Manager will render such advice, guidance, counsel, and other services as Artist may reasonably require to develop and further Artist's Career, including but not limited to the following services:

- a. To represent Artist and act as Artist's negotiator, to fix the terms governing all manner of disposition, use, employment, or exploitation of Artist's talents and the products thereof;
- b. To supervise Artist's professional employment and, on Artist's behalf, to consult with employers and prospective employers so as to ensure the proper use and continued demand for Artist's services;
- c. To be available at reasonable times and places to confer with Artist in connection with all matters concerning Artist's professional career, business interests, employment, and publicity;
- d. To exploit Artist's personality in all media and to approve and permit for the purpose of trade, advertising, publicity, and otherwise the use, dissemination, reproduction, or publication of Artist's name, photographic likeness, voice, and artistic and musical materials;
- e. To engage, discharge, and direct such theatrical agents, booking agencies, and employment agencies as well as other firms, persons, or corporations who may be retained for the purpose of securing contracts, engagements, or employment for Artist. (It is understood, however, that Manager is not a booking agent but, rather, will represent Artist in Artist's dealings with such agencies. Manager is not obligated to and will not render any services or advice that would require Manager to be licensed as an employment agency in any jurisdiction);
- f. To represent Artist in all dealings with unions;

g. To exercise all powers granted to Manager pursuant to section 2 of this Agreement.

Manager will exert all reasonable efforts to further Artist's Career as well as to cooperate with Artist in the interests of promoting Artist's Career during the term of this agreement. However, Manager is not required to render exclusive services to Artist or to devote Manager's entire time or the entire time of any of Manager's employees to Artist's affairs. Nothing herein contained will be construed as limiting Manager's right to represent other persons whose talents may be similar to or who may be in competition with Artist or to have and pursue business interests that may be similar to or may compete with those of Artist. Manager will have the right to delegate Manager's powers and responsibilities to others, but Manager agrees that, notwithstanding the foregoing, Manager will be primarily charged with fulfilling the obligations assumed by Manager hereunder.

2. Artist's Appointment of Manager

2.1 Sole personal manager. Artist hereby appoints Manager as Artist's sole personal manager throughout the world in all matters usually and normally within the jurisdiction and authority of personal managers, including but not limited to the advice, guidance, counsel, and direction specifically referred to in section 1 above, subject to the provisions of paragraph 2.3 below. Artist will seek such advice, guidance, counsel, and direction from Manager exclusively. Artist will not engage any other agent, representative, or manager to render similar services, and Artist will not perform such services on Artist's own behalf and will not negotiate, accept, or execute any agreement, understanding, or undertaking concerning Artist's Career without Manager's express prior consent. The exclusivity referred to herein refer only to personal managers and is not intended to prevent Artist from

seeking the advice and counsel of attorneys, accountants, business managers, and any other professionals other than personal managers. Artist does have other obligations such as work, school, etc.. Therefore when it is time to conduct a business meeting, practice, or performance there must be (10) day's prior notice. Manager understands that the Artist has priorities and will work around his schedule to fit around the Artist time.

2.2 Power of attorney. Artist hereby irrevocably appoints Manager for the term of this agreement and any extensions hereof as Artist's true and lawful attorney-in-fact, to:

- a. Sign, make, execute, and deliver all live-personal-appearance contracts in Artist's name;
- b. To execute, accept, endorse, and collect all bills of exchange, checks, and notes representing Artist's compensation as Artist's said attorney;
- c. To demand, sue for, collect, recover, and receive all goods, claims, money, interest, or other items that may be due to Artist or belong to Artist and to make, execute, and deliver receipts, releases, or other discharges therefore, under sale or otherwise, and to defend, settle, adjust, submit to arbitration, and compromise all actions, accounts, claims and demands that are or will hereafter be pending, in such manner as Manager in Manager's sole discretion shall deem advisable;
- d. Without limiting the foregoing, generally, to do, execute, and perform any other act, deed, or thing whatsoever that reasonably ought to be done, executed, and performed, as fully and effectively as Artist could do if Artist were personally present.

Artist hereby ratifies and affirms all acts performed by Manager by

virtue of this power of attorney. Artist expressly agrees that Artist will not exert any of the powers herein granted to Manager by the foregoing power of attorney without the express prior written consent of Manager and that all sums and considerations paid to Artist by reason of Artist's artistic endeavors will be paid to Manager on behalf of Artist. It is expressly understood that the foregoing power of attorney is limited to matters reasonably related to Artist's Career. Artist further understands and acknowledges that the power of attorney granted to Manager is coupled with an economic interest on Manager's part in Artist's Career, in the artistic talents of Artist, and in the products of that Career and those talents and the earnings of Artist arising by reason of such Career, talents, and products. Such power is therefore acknowledged by Artist to be irrevocable during the term of this agreement and all extensions and renewals hereof.

2.3 Limitation on appointment: It is expressly agreed that Manager's jurisdiction and authority as personal manager and the power of attorney and compensation due Manager under this Agreement are limited solely to matters reasonably related to Artist's Career and Artist's professional business interests relating thereto and do not include Artist's business interests, which are separate and distinct there from.

3. Compensation & Terms of Agreement

3.1 Percentage of gross earnings. As compensation for services to be rendered hereunder, Manager will receive from Artist's gross earnings (as defined below) or will retain there from the sum equivalent to Fifteen percent (15%) of all gross earnings with respect to:

- a. Any and all contracts, engagements, and commitments entered into or negotiated for during the term hereof;

- b. Any and all renewals, extensions, additions, modifications, amendments, substitutions, or supplements of all contracts, engagements, and commitments referred to in paragraph 3.1.a entered into or negotiated for during or subsequent to the end of the term hereof;
- c. All musical compositions written during the term hereof;
- d. Any and all judgments, awards, settlements, payments, damages, and proceeds relating to any suits, claims, actions, or proceedings arising out of or connected with any alleged breach or nonperformance by third parties of any of the contracts, engagements, commitments, or other agreements referred to in paragraphs 3.1.a and 3.1.b, above, or the musical compositions referred to in paragraph 3.1.c above, arising out of or connected with Artist's Career or any services performed by Manager during the term hereof.
- e. Artist hereby acknowledges, confirms and agrees, that costs for promotion, publicity, employment of professional(s), and like or related expenses paid on Artist's behalf which shall from time to time be incurred by Manager with the knowledge and consent of Artist shall be paid by Artist, except as provided herein:
 - (i) Expenses which do not exceed the amount of \$200.00 per month may be incurred by Manager without the consent of Artist;
 - (ii) All expenses which are NOT substantiated with receipts, vouchers, or paid bills outlining the product, service, etc. made on behalf of Artist;
 - (iii) Expenses in excess of \$200.00 per month incurred by Manager or other person to which Artist has NOT consented.

Manager's percentage of Artist's gross earnings as herein set forth

will be payable notwithstanding the termination or expiration of the term hereof. Artist hereby irrevocably assigns to Manager an interest in such gross earnings to the extent of such sums of money. This assignment is intended to create and does hereby create an assignment coupled with an interest that irrevocably vests in Manager for Manager's sole benefit upon the execution of this agreement.

3.2 Gross earnings. The term "gross earnings" as used herein refers to the total of all earnings, which will not be accumulated or averaged (whether in the form of salary, bonuses, fees, royalties or advances against royalties or royalty guarantees, interests, percentage shares of profits, merchandise, shares in ventures, products, properties, or any other kind or type of income that is reasonably related to Artist's Career) received by Artist or by any of Artist's heirs, executors, administrators, or assigns or by any person, firm, or corporation, including Manager, on Artist's behalf, irrespective of the date so received whether during or after the term hereof. For these purposes, it is understood that no expense, cost, salary, share of income, or disbursement, including, but not limited to, necessary commissions for booking agents incurred by Artist in connection with the receipt of gross earnings, will all be deducted there from prior to the calculation of Manager's compensation hereunder.

3.3 Artist's formation of corporation. In the event that Artist forms a corporation during the term hereof for the purpose of furnishing Artist's services or exploiting any aspect of Artist's Career, Artist agrees that such corporation shall offer to enter into a management agreement with Manager identical in all respects to this agreement (except as to the parties thereto) for the then-unexpired portion of the term. If Manager accepts such offer, then the gross earnings of such corporation prior to the deduction of any corporate income taxes and of any corporate expenses or other deductions will be included as part of Artist's gross earnings as herein defined, and

any salary paid to Artist by such corporation will be excluded from Artist's gross earnings for the purpose of calculating the compensation due to Manager hereunder. If Manager refuses such offer, then the gross earnings of such corporation (prior to deduction of all corporate income taxes, corporate expenses, and all other deductions) will be excluded from Artist's gross earnings as defined hereunder, and such salary as is paid to Artist by such corporation will be included as part of Artist's gross earnings as herein defined. In addition, in the event that during the term hereof Artist forms a corporation as hereinabove contemplated or enters into a contract with a corporation of which Artist is a majority stockholder for the purpose of furnishing Artist's services or exploiting any aspect of Artist's Career, then, in addition to all other consideration to be paid to Manager hereunder, Manager will be entitled to purchase at least - percent (49 %) of the capital stock of such corporation at the same price as such stock is initially offered to the other stockholders. Artist will neither enter into any contract with a corporation of which Artist is a majority stockholder nor create a corporation for such purpose unless such option is made available to Manager.

3.4 Payment. Artist's gross earnings as herein defined shall be paid directly to Manager by all persons, firms, or corporations, and held in trust by Manager for Artist's benefit until the earnings are paid to Artist or Artist's designee, and Manager may withhold his compensation there from and may reimburse himself there from for any fees, costs, or expenses advanced or incurred by Manager on Artist's behalf or in connection with this agreement. Alternatively, at Manager's request, Artist will use Artist's best efforts to arrange for Manager to receive Manager's percentage share of Artist's gross earnings directly from the source thereof, and, in such event, Artist will receive payment of Artist's share directly from the source thereof as well. Nevertheless, in the event that Artist receives gross earnings directly, Artist will be deemed to hold in trust for Manager that portion of Artist's gross earnings

that equals Manager's compensation hereunder and such disbursements incurred by Manager on behalf of Artist. Artist will be solely responsible for payment of all Artists' expenses, including but not limited to booking agencies' fees, legal and accounting fees, union dues, publicity costs, promotion or exploitation costs, traveling expenses, and wardrobe expenses. In the event that Manager advances any of the foregoing fees, costs, or expenses on behalf of Artist or incurs any other reasonable expenses in connection with Artist's Career or in the performance of Manager's services hereunder, Artist will promptly reimburse Manager for such fees, costs, and expenses.

3.5 Exclusion from compensation. Notwithstanding the foregoing, in the event that Manager will have a financial interest in or receive a percentage from any entity for the use of Artist's services or Artist's artistic products, Manager will advise Artist of Manager's connection with such entity, and Manager agrees that Artist's gross earnings from such employment or use will be excluded from the definition of "gross earnings" hereunder, and Artist and Manager will in good faith negotiate another mutually acceptable arrangement as to that employment or use.

3.6 Term of agreement and option to extend. The term of this agreement shall extend for three (3) years from the date of execution hereof. The Manager will have the option to extend the agreement for a two (2) year term.

- a. The manager will be deemed to have automatically exercised at the completion of the term in effect unless the Manager advises the Artist of termination of the Agreement at the end of the term in effect in writing at least sixty (60) days prior to the end of such term.
- b. At the end of the initial term, the Artist may request to extend the agreement for a period of one (1) year, if and only if:

1. Such request is made to Manager in writing at least sixty (60) days prior to the end of such term and Manager consents to extension, and
 2. A record label and or related contract is in negotiations and/or existence.
- c. This agreement shall be automatically extended and incorporated into
Any and all record labels or distributions negotiated/
consummated
During the term of this Agreement to the full term of the record label and/ or distribution.
- d. This agreement shall be deemed null and void if upon its execution, it remains dormant for a period of six months without any performance from either the Artist or the Manager.

4. Warranties, Representations

Artist represents and warrants that:

- a. Artist is under no disability, restriction, or prohibition with respect to Artist's right to execute this agreement and fully perform its terms and conditions.
- b. No act or omission by Artists hereunder will violate any right or interest of any person, firm, or corporation or will subject Manager to any liability or claim of liability to any person.
- c. Manager hereby represents that Manager will use Manager's best efforts and resources to promote, develop, and enhance Artist's career and earning capacity in the entertainment industry, and will confer with counsel and advise Artist in all matters and things relating thereto.

5. Books and Records

Manager will maintain accurate books and records of all transactions concerning Artist, which books and records may be inspected by a certified public accountant designated by Artist, on reasonable notice to Manager, at Manager's office, during regular business hours. Manager will account to Artist on a regular basis for all sums due to Artist from Manager no less frequently than thirty (30) days after bank clearance thereof for all sums due Artist from Manager.

6. Default and Cure

In order to make specific and definite and/or to eliminate, if possible, any controversy that may arise between Artist and Manager hereunder, as a condition precedent to any assertion by Artist or Manager that the other is in default in performing any obligation contained herein, the party alleging the default must advise the other by registered or certified mail, return receipt requested, of the specific nature of and facts on which it is claimed that the other is in default and of the specific obligation that is claimed to have been breached, and the other party will be allowed a period of thirty (30) days after such receipt of such written notice within which to cure the default. During such period, no breach of any obligation shall be deemed to be incurable.

7. Assignment

Manager may assign this agreement or any or all of Manager's rights hereunder, in whole or in part, to any person, partnership, or corporation, provided that will be:

- a. An employee of such person, partnership or corporation;
- b. A partner(s) of such partnership; or
- c. An officer or stockholder of such corporation; and provided further that either or will be available to render services to Artist

hereunder. This agreement will be binding on and inure to the benefit of the Artist's and Manager's respective heirs, executors, administrators, and successors, although Artist will have no right to assign this agreement except to a corporation as provided in paragraph 3.3 above.

8. Miscellaneous

8.1 Entire Agreement. This agreement sets forth the entire agreement between Manager and Artist with respect to the subject matter hereof, and no modification, amendment, waiver, termination, or discharge of this agreement or any provision hereof will be binding on either party unless confirmed by a written instrument signed by the party to be charged.

8.2 Applicable law. The validity, construction, and effect of this agreement and any and all extensions or modifications thereof shall be governed by the laws of the State of Maryland.

8.3 Partial invalidity and waiver. In the event that any provision hereof will for

Any reason be illegal or unenforceable, the same will not affect the validity or enforceability of the remaining provisions hereof. A waiver by either Manager or Artist of any term or condition of this agreement in any instance will not be deemed to construe it as a waiver of any such term or condition for the future or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement will be cumulative, and none of them will be in limitation of any other remedy, right, undertaking, obligation, or agreement of either Manager or Artist.

8.4 Arbitration. Any controversy or claim arising out of or relating to this agreement or breach hereof will be settled by arbitration held in the State of Maryland before one (1) arbitrator in accordance with the rules of the American Arbitration Association, and judgment on the award rendered by the Arbitrator may be

entered in any court having jurisdiction thereof.

8.5 Age of majority. Artist hereby confirms that Artist is eighteen (18) years of age or older.

8.6 Relationship of the parties. Nothing herein contained will be construed to constitute a partnership or joint venture between Artist and Manager as Manager at all times will be acting as an independent contractor hereunder.

8.7 Notice. Any notice, accounting, or payment that either party hereto is required or desires to give to the other will be directed to such party's address as set forth above or the most recent of such other address as such party will from time to time designate in writing to the other party.

8.8 Headings. The headings contained in this agreement are for convenience and reference purposes only. They do not form a part hereof and will not affect the meaning or interpretation of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as of the date and year first indicated above.

By: _____

ARTIST

GROUP NAME

Date: _____

By: _____

(MANAGEMENT COMPANY

Date: _____

CHAPTER 12

“GETTING SIGNED TO A RECORD LABEL”

WHAT DOES A RECORD LABEL DO?

It is the Record Labels job to create and distribute records. In exchange for money Record Labels obtain the right to copy and distribute an artist's record. The record company provides a recording agreement for the artist to sign that states the terms of their agreement. The Record Label obtains the exclusive right to reproduce the artist's material in exchange for a cash advance and mechanical royalties. There are many types of Record Labels and they all have their benefits and disadvantages. There are Major Record Labels, Mini Major Record Labels and Independent Record Labels. The biggest Major Record Labels are Sony, Universal, WEA, and BMG. Some of the other Major Record labels are Warner Bros. Records, DreamWorks, RCA Records, MCA Records, Capital Records, Atlantic Records, and Columbia Records. A Mini Major Record Label is a company that affiliates with a major record label. How this works is the Mini Major Record Label usually signs its own acts, promotes its own artists, produces its own records and has the Major Record Label distribute the records. The two Companies will split the profits from this joint venture by a certain percentage, usually in the favor of the Major Record Label. An example of a Mini-Major Record Label is Geffen, Interscope Records, Black Ground Records, Priority Records, Bad Boy Records and Maverick Records. Some examples of Independent Record Labels are No Limit Records, and Aftermath Records.

Are you a great artist looking to get signed by a successful record label? You have just had your CD mixed and mastered & bought 1,000 CDs from a manufacturer. What do you do now? Artists & musicians these days need to take matters into their own hands. I suggest that you buy the newest music industry resource book and start sending packages to all of the most successful Record Label A&R people, music Managers music agents & music producers in

the music business. You can get the greatest music industry resource which is called All Music Industry Contacts. Don't just send your demo hoping that someone is going to listen to it. There are ways that you can get permission from a Record Label to send your music. It is very important to create a professional sounding demo, take studio quality 8x10 pictures & have a complete one page biography. Like with any product under the sun packaging is very important. If you are not familiar with photo shop it will definitely be worth it to hire a professional graphic designer to design your CD cover. These days the most important thing you will need as a recording artist is a great website. Most record company A&R people, music managers, music agents, music publishers & music producers will ask you if they can check out your website instead of having you send them a demo. Make sure that your website allows visitors to listen & download your music samples. If you really want a record deal with a successful record company you will need to go to great lengths to promote your own music. I recommend that you get a professional promotion package together your self. Some record labels insist that you already have some kind of following. If you are going to sell your records online you should get a barcode first at <http://www.cdbaby.net/resources/barcode.htm> If you are already a seasoned recording artist or music producer you should already have a complete & mastered LP or close to it. As a professional recording artist it is your responsibility to get with music producers & complete albums. You should have a head start. Creating records is sometimes the least of you're A&R person's problems. So now you've got your Music demo, Pictures, Biography, a great website with pictures & audio clips. Sounds like your ready to approach Music managers, record company A&R people, Music agents, Music producers & music publishers.

D.J.'S

DJ's are a great way to promote your music or event. If you're an artist then it would probably be a good idea to get with a DJ. The DJ's can mix your music down, spin your hot singles at local clubs and radio, and they can put your CD's in the hands of other artist when they come to their club. If you cannot find a hot DJ don't worry you can always pay a DJ a little bit of cash to spin your tracks, and if it gets a good response then he may add it to his rotation! Most DJ's put out mix tapes featuring established artist mixed with unsigned artist in an effort to introduce them to the market this is where an A&R come in.

A&R'S

WHAT DOES A RECORD LABEL A&R DO?

The record label A&R position is probably one of the most hectic jobs in the music business. A&R stands for Artists & Repertoire. The main function of a record label A&R is to help their artists creatively while helping the record company financially by signing hit acts and developing them. They are usually music industry professionals that are hired to oversee the entire recording process which includes finding the right songs for their artist, working with the right music producers, finding the right recording studio, etc. A major record label A&R must stay on top of current music industry trends in order to create acts that will do well for the record label that employs them. Even if a record company A&R really likes a band they still may not be able to sign them. Usually it is the head record label A&R that makes the final decisions. The reason why being an A&R can be extremely stressful is because with every act that you sign your job is on the line. Since there is a high rate of failure in the music industry A&R people try to sign artists that are already somewhat established. If an A&R does not prove to the

record label that they can generate hit acts they will be let go from the company.

Most A&R people were producers, promoters or artists themselves. Basically record label A&R people are hired to present a trustworthy face to artists and musicians. Usually record company A&R people are in their thirties because they are old enough to know what they are doing & young enough to know what the new trend is. If you get signed you better believe that it is just the beginning, there are still a lot of things that could go wrong. Someone at the record label may drop the ball or your record label A&R person may have to deal with flaky or unhappy music producers that aren't really into the project and are too busy to put their heart in it. You're A&R must also fight for you to get the attention of the record labels publicity, sales and promotion departments. It definitely takes a lot of work on an A&R person's part to get a recording artist from signing to being added to radio play lists and having a video on MTV. The recording process for a record label A&R is very intense because they must make sure that there are enough radio friendly songs on the release. If the A&R feels like there are not enough quality songs he / she will have the artist write and record more.

HOW CAN YOU CONTACT A RECORD LABEL A&R?

There are a lot of record label A&R people that accept unsolicited material. The ones that accept unsolicited material may ask you to put a certain code on your package so that they know you have permission to submit. Whenever I find time I usually sort through everything because you never know what you are going to hear. Most A&RS know exactly what they are looking for in an artist & if they see it in you they will more than likely sign you without any hesitation. If you get your act together & promote yourself aggressively there is a chance that a record label A&R will come to you. Green day is one band that didn't really have to look for a

record deal. All they did was become a local hit & sell a good amount of CDs on their own, next thing that you know a majority of the major record labels wanted to sign them. It is always a great idea to do as much as you can on your own.

These days record companies spend less time developing acts, it's almost like they are looking for artists that are already polished and ready to go. Your package should include 3 of your greatest songs with the best one first because most A&R people will not keep listening unless the first song gets their attention. At times I get a full complete CD from artists that did not include a note telling me which song or songs I should check out. I didn't have time to listen to the whole CD and didn't feel like searching around for a great song. In the package you must also include a quality 8x10 photo, a biography that tells the A&R a story about the artist and how much local or regional success he / she has. Make sure that you leave your contact information home address, email address, home phone cell phone, etc. Make sure that your demo CD is clearly and neatly labeled.

If an A&R is interested they may ask for more songs, when your next show is, etc. Since successful music managers, music producers, and music publishers act as filters for the A&R people you may want to get them to shop your demo for you. Your demo may have a better chance of someone listening to it if the person who sends it is well known or has a track record in the music industry. You can use music industry resource like All Music Industry Contacts to find a successful music manager, producer or publisher to shop your music. This music business is all about being professional and persistent so work hard at getting your music to the people who can make things happen. Record label A&R people hate when representatives call them or leave messages that are full of hype like I have the best new artist, you better sign us quick or we'll be with universal records or my artists

are hotter than the ones out. The only thing this does is make them never want to meet you.

HOW DO A&R PEOPLE LOOK FOR TALENT?

The internet is becoming a great way for record label A&R people to find new talent because artists are becoming savvy enough to get sites up with MP3 samples of their music. Technology is making the job of finding new talent easier and easier. I like it when a successful music manager or producer recommends an act because I trust their judgment, but I would never rely on this alone. There are a lot of magazines out there that offer demo reviews for artists. I like to associate with people who program college radio stations because they usually know exactly what's new and hot. Just like it's a stock broker's job to research potentially profitable stock, it's an A&R person's job to research potentially profitable artists. I tend to like artists that are already selling albums locally and are having those records counted by sound scan. The first and most important thing that an A&R person is looking for is hit songs. The second thing is a star quality front person that looks good, has style and charisma. The third thing is an artist or band that has a great powerful stage presence and performance. One of the main reasons why Brittany Spears sells so many records is because she is sexy and shows off her body. Let's face it sex sells and will sell until the end of humanity. Did you see the makeover they had to do on Clay Aiken before he could be seen as a star quality recording artist? They changed everything but that boy's dental records.

BREAKING INTO THE MUSIC INDUSTRY AS A MUSIC PRODUCER

A music producer can play many roles from acting as a creative source to hiring musicians and financing a particular music project. Usually music producers have knowledge of the over all recording process and help guide the artist or musicians through the recording process. A producer will be able to get the best records possible out of the artist they are producing. A music producer does not have to be the person sitting behind the mixing board; they usually hire a sound engineer to record, mix and master the records. I know a lot of music producers that are also very capable sound engineers, I happen to be one of them as well. Usually music producers are musicians and can play or program more than one instrument. Being able to play music is not a pr-requisite to becoming a music producer. If you want to become a music producer you must be able to communicate with artists and musicians, you will also need to have a good ear for great music. Music producers tell the sound engineer what kind of sound they are looking for in the studio. I feel that music producers should definitely have knowledge of analog and digital recording equipment so that they can give the sound engineer their input. Most sound engineers are musicians as well and can help the music producer with the over all musicianship, song structure, and desired sound. As a music producer I like using sound engineers that get into the project technically and creatively and think that it is extremely important to go to school and take audio engineering and music production classes.

The most important thing for a music producer to learn these days is pro-tools because you will be able to do many things like TV, Radio, Imaging and Film projects. A great way to start off making a living being a music producer is to get your music published and placed in TV and Film projects. You can do this by contacting Music Publishers and Music Supervisors. As you start making

money as a music producer you will want to record and produce as many great bands as possible for a small fee. At first it is not as much about the money as it is about your reputation and experience. The music business does not pay right away so people usually take jobs as interns and work their way up. The music industry is all about word of mouth. If you produce great songs and create a good buzz there will be a lot of work coming your way. A&R people, artists and musicians like working with reliable music producers. If anything don't be known for being lazy, too expensive, or flaky.

It is extremely important to build strong and lasting relationships with music industry professionals like Record Label A&R people, Music Managers and Music Publishers. it's all about your reputation. You want to be known for creating great songs in a timely fashion. A&R people like contacting producers that they know have a great talent for finding and producing exceptional acts. Make contact with successful A&R people, Music Managers, Music Publishers and Music producers because these people will want to hear what you have. These music industry professionals will have the capabilities to shop your product in exchange for an advance and royalties. As a Music Producer you can have your artists sign a contract stating that you have exclusive rights to produce their material. If you are planning on trying to get your act signed with another record label this is not a good idea. Most record labels will not sign a band that is under an exclusive contract with a Music Producer or Music Manager. A record label may only want the artists and not the baggage that has to come along with them. Record labels don't like to buy out contracts and avoid this procedure at all costs. I like to think of myself as one of those music producers that started out producing music for the love and everything eventually started paying off. I know you have heard this a million times "Do what you love and the money will follow". You can offer artists a deal like if they pay for studio time you will make their beats and produce them for free. We suggest

buying a pro-tools system like the M-Box or DIGI 001 to start with. These systems are great for beginners and can churn out awesome sounding records. They are extremely easy to set up! All you need is a computer PC or Mac. Plug the sound card into your PCI slot on your motherboard connect the DIGI 001 install your pro-tools software and your set. We recommend pro-tools to anyone that is interested in becoming a music producer because it is both professional and affordable. In this digital world a music producer's best friends are always going to be his computer, guitar, midi keyboard and recording software.

WHAT DO MUSIC PUBLISHERS DO?

A music publisher is basically a copyright administrator who can turn music into money. Publishing companies have the capabilities to collect & generate income from your recordings. Publishing rights are the right that you have to a song that you wrote. You must be the only writer to own 100% of the publishing from the minute you wrote the song. As long as your work is original you own it.

First of all there is two parts to music publishing, one part is the writers share and the other part is the publishers share. You automatically own both parts unless of coarse you give up some of your publishing rights to a music publisher in exchange for a cash advance. After you sign a publishing contract with a music publisher they will be able to issue licenses to companies that want to exploit your music in exchange for money. This contract is called a music publishing agreement. It is clearly stated in this contract exactly how much of your publishing the publisher owns, how many songs you/the writer must deliver, what territory the music publisher administrates your copyright in, the length of your music publishing agreement & most importantly how much you / the writer will get as an advance. You may get a healthy advance if the publisher thinks that your songs are great. The advance that a

music publisher gives you is recoupable, meaning you will not start receiving royalties until the amount of your cash advance is paid back to the publisher.

What isn't recoupable in the music industry?

It is the music publisher's job to collect your royalties. Even if you are your own publisher it is still a good idea to have one of the large music publishing companies like ASCAP administer your copyright for a fee of around 15%. Most small publishers are not as capable of keeping track and collecting the money that is generated by your music. The music publisher can acquire 100% of your music copyright or you can sign a co-publishing deal where you will split the ownership half & half. In a half & half deal the co-publisher / writer owns 100% of the writers share & 50% of the publishers share. What kind of deal you get will usually depend on how much pull or success you have. A music publisher is not going to put your music to work without owning a piece of it, unless of course you hire them to administer your copyright for fifteen percent. Without a music publisher it would almost be impossible to track when & where your songs are being played. Obtaining a music publishing deal is a great way to use your recordings to generate income. It is extremely important that you do not infringe on another copyright when creating your works. It usually states in a music publishing agreement that the writer will be responsible if his / her works are not original. A music publisher can generate income from your music by tracking radio play, placing your music in TV or film projects & or by selling your song or musical composition to another recording artist. As a music publisher you have the right to lease or sell your music license to a licensee. Basically the rights to use music are leased and bought everyday.

CHAPTER 13

“HOW MAJOR RECORD LABELS OPERATE”

MAJOR LABEL STANDARD OPERATING PROCEDURE

By industry definition, a major label is a label that commands a high percentage of the annual sales of records, and has their own distribution system. (THE Big 5 distribution companies currently are: WEA, BMG, SONY, UMG, and EMI). When pursuing a major label deal be absolutely sure that this is what you really want. Here are some points that might help you determine if this is the right thing for you to do:

OPTIONS

A major label often signs artists for six to eight records (not years).

A&R

Research the A&R person. Know whom they've signed, who they've worked with, who they've worked for, and how long they have been employed.

NUMBER OF RELEASES

Find out how many records the label releases per year. You don't want to sign with a label that releases too many records.

Remember, they only have so much time and enthusiasm to put into the promotion of each record. Many major labels have between 12-25 releases coming out each month.

Here are some clauses that you will encounter (and sometimes have to watch out for) in a contract with a record label:

EXCLUSIVITY

Every record contract includes a provision stating that the deal is "exclusive." In other words, during the term of the agreement, you can't make records for anybody else. Therefore, an exclusivity clause in a contract refers to the fact that you may only contract

with this record company (you are “unilaterally married” to that company.) I strongly recommend that your attorney define the extent of exclusivity.

TERM

The duration of the contract. (How many records? Any time constraints?)

PRODUCT/CREATIVITY

Who will control the amount of product and the quality of the product? You always want as much creative freedom as possible; the record company often maintains a veto power when letting a band choose the producer, engineer, studio, etc.

RECORDING COSTS

HOW MUCH (RECOUPABLE) RECORDING MONEY WILL YOU GET? DON'T OVER DO IT! REMEMBER, YOU WILL HAVE TO PAY IT BACK FROM YOUR ROYALTY RATE AS APPLIED TO ACTUAL SALES.

ADVANCES

How much (living) money will you get that is recoupable? What about other advances, such as videos, and touring? Remember, you will have to pay back that amount to the label.

ROYALTIES

The money paid for your service as recording artists. Outside of U.S. is calculated differently. (Canada: 75–90 % / UK, Japan, Australia: 60–70 % / Rest of the world: 50 %–of U.S. rate).

VIDEO

Who controls the music video and how the costs are apportioned. Try to have only 50% of the cost recoupable.

PUBLICITY

The label will need your permission for name, likeness and voice in order to publicize your record. Also, ownership of your website URLs may also be a point of negotiation.

MERCHANDISING

Same as with Independent labels

UNION

Your promise to join a union (AFTRA, AFM).

AUDITING

Your right to audit the books. Make sure this clause is included in the contract.

ACCOUNTING

The label's responsibility is to report financially to you (reports to artists usually occur every six months; i.e., if an accounting period lasts from January till June, the label will report to the artists approximately in September).

ASSIGNMENT

The record company's right to sell the contract. Majors sometime shuffle acts around from one affiliated label to another within their family of labels.

CONTROLLED COMPOSITION

How the label will pay mechanical royalties. Standard practice is that the label will only pay on 10 songs on your record, and at 75% of the current statutory mechanical license fee. (As of 2002, 8 cents per song, per unit sold.) This rate changes every two years.

TERMINATION

This clause specifies the songs you may not be allowed to record for a set time after the ending of the contract.

SIDEMAN'S CLAUSE

You might want to consider including a sideman's clause. A sideman's clause allows an artist to do studio work. The artist still needs permission from the record company; they however, can't

say no unless they have a very good reason. Under normal circumstances -- without such a sideman's clause -- you would be prohibited from performing for any other band/label under the terms of an exclusive contract. If you have a sideman's clause in your contract, make sure all members of your band sign the document.

KEY MAN CLAUSE

If a significant label executive resigns, or leaves the company, you may terminate the deal. The label may also put such a clause in concerning a band member.

I hope this information was useful for you. Knowing some basics about the realities of recording contracts before you get involved with them can save you a lot of grief down the road. Remember, record company lawyers have a reason for every clause in their contracts—so should you.

when a record label A&R, music manager, music publisher or music producer states that they only accept solicited material this basically means that you need to ask permission to send a package. Simply mailing them your demo & promotional material in high hopes that they will listen to your music is not likely to be successful, although this strategy has worked for some artists in the past. Making contact with your intended music industry professional & making sure that they are expecting your package seriously increases your chances of being heard. You should definitely make contact with those that accept unsolicited material to make sure that they are expecting your package as well. You should always call first before submitting your material. This will ensure that your package will get priority over another unsolicited package.

You don't have to be a famous music mogul to be solicited. When speaking with A&RS, managers, publishers & producers you must be extremely professional even when you are speaking with an assistant. These people are responsible for filtering out calls from amateurs. The important thing is to build a relationship with everyone you come in contact with. Find out the names of everyone that you come in contact with. Ask them questions like who they have worked with in the past & what styles of music they prefer. It is much better to pinpoint A&RS, Managers, producers & publishers that work in your style of music. Don't waste your efforts! Always be ready to explain who you are & what you are doing.

If you have a website with some music clips the manager or label will tend to listen to what you have to say. Don't ever call a record label like a rookie & start telling them that you are platinum & whatever. These days the most important thing an artist can have is a website. When calling record labels it is extremely important to make friends with assistants, secretaries & receptionists. Ask them if they will accept your package & listen to your music. You may even be doing them a favor by entertaining them for a few minutes. Remember that some people who work at record labels are just doing a job & sometimes don't get the money or respect that they deserve. Try & lighten up their day with your upbeat personality. If you want to be in the music industry you must be able to handle rejection as well.

If I get negative results when trying to speak with someone it only makes me more persistent & determined to prove to them that I am important. Don't be surprised if people are rude or a little hard to deal with, this is the music business. Sometimes you may have to kill them with kindness. At least if they hear your name & listen to your music you made a new contact in the music industry. When

an assistant answers the phone you should already know what you are going to say to him or her. Don't sound anxious or be overly aggressive. Think of the assistants, receptionists & secretaries as a filter.

The warning no unsolicited material is usually used so that record companies don't get swamped with submissions. It's not that A&RS & Managers don't want to listen to new material. It's more like they don't have the time to listen to everything. If a record label hasn't heard of you yet you should always give them a call first. When your package is solicited it gets priority over something that is not solicited. This doesn't necessarily mean that they aren't going to listen to your music at all. Most record labels do have people that listen to unsolicited material. It is usually an assistant A&R or an intern. Other companies may throw unsolicited material away or send it back to you. It is a known fact that a lot of huge artists were discovered by someone listening to unsolicited material.

Record Labels, music managers, music publishers & music producers get a good number of packages each day. When you call them to let them know that you are going to send a package, ask them for some kind of code that you can write on the package so that they know it is solicited. I'm not saying that this is standard practice by most labels anymore but they will still do it. Another great way to ensure that your package will get reviewed is to have a messenger deliver it. I know it is expensive so only use this tactic when your odds are good. Only use this strategy when your intended target is looking for an artist or producer with your characteristics.

WHY BECOME INDEPENDENT?

- Major labels sign artists to contracts that redirect control and ownership of publishing, copyrights, and promotional licensing away from artists.
- Major labels loan artists upwards of \$500,000 for recording, tour support, and video production that must be repaid from up-front record sales. This money is called an "advance."
- Artists are compensated, on average, \$0.75 per unit sold in retail for a new/breaking artist and upwards of \$1.25 per unit sold in retail for established artists.

EXAMPLE:

Let's say as an example that major label X signs New Band Y to a three-album recording contract and extends a \$300,000 cash advance to Band Y as a promotion/production budget for the first release.

1. Band Y signs away all music rights into perpetuity and agrees to receive \$0.75 per unit sold in retail for the first release.
2. From the start, Band Y must sell 400,000 copies in order to recoup the initial \$300,000 label investment. (400,000 x \$0.75 per unit = \$300,000.)
3. Label X extends 5,000 'promotional copies' that are charged back to the artist. In this case, let's just say that the label decides to invoice the artist for those promotional giveaways at wholesale cost, which is the price retail stores pay for the product they resell to consumers in stores. For this example we'll value the promotional pieces at a wholesale cost of \$10. 5,000 promotional giveaways x \$10 = \$50,000. Band Y must now sell an additional 66,666 units at the rate of \$0.75 to recoup the 5,000 units given to

retail for promotion. At this point, Band Y must now sell a total of 466,666 copies to break even.

4. The two most common additions to any successful project are the band manager and some sort of legal counsel. Normally, a manager will take a certain percentage of whatever advance has been extended to the band on top of a 10% share of all band revenues generated from product sales, performances, and in some cases, publishing. Though Band Y generates no tangible profit from the 466,666 units sold to repay the label, both the manager and attorney qualify those sales as band revenue. So, if 466,666 units are sold at \$0.75 per unit, 10% of the \$350,000 or \$35,000 ($466,666 \times \$0.75$) generated belongs to the manager. And let's say an additional 10% (\$35,000) is reserved for legal fees. In addition to those units sold to repay the label, Band Y must now sell another 93,333 units to pay off management and attorneys before any band member can receive compensation from product sales. In total, Band Y must sell the equivalent of 559,999 to fulfill contractual obligations before they make any money for themselves.

After reaching the break-even point, all units sold will pay out like this: Band Y makes \$0.75 per unit; manager's cut = \$.075; lawyer's cut = \$.075. This means that, for every unit sold, Band Y can expect to receive -- at best -- \$.60 cents per unit after first selling 559,999 units. Meanwhile, the label receives credit for a gold album and achieves a gross profit of \$5,179,991 ($\$10 \text{ wholesale rate} - \$0.75 = \$9.25 \times 559,999 = \$5,179,991$). The manager for Band Y and legal team made \$42,000 respectively from album sales.

YOUR APPROACH TO THE INDUSTRY

- You can be recognized by people who can help you further your music career, through the use of a professional demo and presentation that meets industry standards.
- You can be seen and heard by the executive branches of the music industry by having your audio or video e-mailed to their computer screens as solicited material.
- In order to double or triple your income performing, it will be necessary to join the convention Bureau in your area. This will give you access to conventions coming to your city. You may solicit these companies with a press kit followed up by a phone call to the entertainment chairman. Go ahead and book yourself. Each gig should pay between \$250 to \$500 per night.
- Why do some singers/songwriters get signed, while others don't? Talent, determination, good positive attitude and the professionalism of your presentation are major factors in this matter.
- When you approach music industry decision-makers, the professionalism of the company representing you is a major factor. Make sure the company you choose is an accredited company with a proven track record.

- You can recognize companies that are only after your money and have no sincere desire to help you advance your music career. It is easy to recognize these companies. Their representatives will always speak derogatory statements about other companies and try to have you spend large sums of money to produce a demo.

WHAT IS THE PROPER APPROACH A NEW ARTIST OR SONGWRITER SHOULD TAKE WHEN PURSUING A CAREER IN THE RECORDING INDUSTRY?

FIRST CONSIDER THE REQUIREMENTS

- **YOU MUST HAVE TALENT**
- **YOU MUST HAVE A POSITIVE ATTITUDE**
- **YOU MUST BE DETERMINED.**
- **YOU MUST BE ABLE TO TAKE REJECTION**
- **YOU MUST DEVELOP A STYLE OF YOUR OWN (WE CAN EVALUATE YOUR STYLE AND ASSIST YOU WITH THIS)**
- **YOU MUST CULTIVATE PROPER THINKING**
- **YOU MUST HAVE A BUDGET TO GET YOURSELF STARTED**
- **YOU MUST PRESENT YOURSELF IN A PROFESSIONAL MANNER**
- **YOU MUST HAVE AN AIRPLAY QUALITY DEMO AND PRESS KIT FOR PRESENTATION**

A demo and press kit will require money out of your pocket. Don't believe the statements from the misinformed or books that state if you're good enough you don't have to pay, that some record company will pay your way. This thought is still around. However, it is diminishing as artists and songwriters are gaining the truthful facts about the recording industry and proper presentation methods.

The truth of the matter is no record company will invest in an unknown!

Record companies have limited resources. The people who make decisions put their jobs on the line when they sign and commit resources to an unknown artist. From their perspective, it is much safer to invest in an artist who already has some sort of track record and following. You **MUST** be willing to work for yourself if you expect others to help you! There is no substitute for honest, consistent effort on your own behalf. Hire a company that has credits behind them, a company that has worked with the recording stars and has a reputable standing in the recording industry. Let them produce and promote you. They have the know how.

CHAPTER 14

“DISTRIBUITION”

Most musicians think that the one thing they really need is distribution. However, if no one knows about your project, they are very unlikely to buy it, and distributors know that. Distributors don't want to fill their warehouses with boxes of CDs and DVDs that will just sit and sit.

Online distribution is different in that regardless of where someone is, they can buy your product -- the question is, will they?

We have found that our distribution partner has been successful at "appetizing" fans for new music by creating mp3 samples of music for people to listen to before they buy. Additionally, buying CDs online tends to be less expensive than in stores, and consumers are realizing this and migrating their purchasing towards e-stores.

If your project can build sales online, eventually you will have the leverage to approach distributors that place CDs in stores.

25 THINGS TO REMEMBER ABOUT RECORD DISTRIBUTION:

- 1) Distributors will usually only work with labels that have been in business for at least 3 years or have at least 3 previous releases that have sold several thousand copies each.
- 2) Distributors get records into retail stores, and record labels get customers into retail stores through promotion and marketing tactics.
- 3) Make sure there is a market for your style of music. Prove it to distributors by showing them how many records you have sold through live sales, internet sales, and any other alternative methods.
- 4) Be prepared to sign a written contract with your distributor because there are no 'handshake deals' anymore.

- 5) Distributors want ‘exclusive’ agreements with the labels they choose to work with. They usually want to represent you exclusively.
- 6) You will sell your product to a distributor for close to 50% of the retail list price.
- 7) When searching for a distributor find out what labels they represent, and talk to some of those labels to find out how well the distributor did getting records into retailers.
- 8) Investigate the distributor’s financial status. Many LABELS have closed down in recent years, and you cannot afford to get attached to a distributor that may not be able to pay its invoices.
- 9) Find out if the distributor has a sales staff, and how large it is. Then get to know the sales reps.
- 10) What commitment will the distributor make to help get your records into stores?
- 11) Is the distributor truly a national distributor, or only a regional distributor with ambitions to be A national distributor. Many large chain stores will only work with national distributors.
- 12) Expect the distributor to request that you remove any product you have on consignment in stores so that they can be the one to service retailers.
- 13) Make sure that your distributor has the ability to help you setup various retail promotions such as: coop advertising (where you must be prepared to pay the costs of media ads for select retailers), in-store artist appearances, in-store listening station programs, and furnishing POP’s (point of purchase posters and other graphics).

14) Be aware that as a new label you will have to offer a distributor 100% on returns of your product.

15) You must bear all the costs of any distribution and retail promotions.

16) Be able to furnish the distributor with hundreds of 'Distributor One Sheets' (Attractively designed summary sheets describing your promotion and marketing commitments. Include barcodes, list price, picture of the album cover, and catalog numbers of your product too).

17) Distributors may ask for hundreds of free promotional copies of your release to give to the buyers at the retail stores.

18) Make sure all promotional copies have a hole punched in the barcode, and that they are not shrink-wrapped. This will prevent any unnecessary returns of your product.

19) Don't expect a distributor to pay your invoices in full or on time. You will always be owed something by the distributor because of the delay between orders sent, invoices received, time payment schedules (50-120 days per invoice) and whether or not your product has sold through, or returns are pending.

20) Create a relationship that is a true partnership between your label and the distributor.

21) Keep the distributor updated on any and all promotion and marketing plans and results, as they develop.

22) Be well financed. Trying to work with distributors without a realistic budget to participate in promotional opportunities would be a big mistake.

23) Your distributor will only be as good as your marketing plans to sell the record. Don't expect them to do your work for you, remember all they do is get records into the stores.

24) Read the trades, especially Billboard for weekly news on the health of the industry, and/or the status of your distributor.

25) Work your product relentlessly on as many fronts as possible...commercial and NON-COMMERCIAL airplay, internet airplay and sales campaigns, on and offline publicity ideas, and touring...eternally touring!

HOW TO PRODUCE AND MARKET A CD FOR FREE!

- Step one: convert your songs to MP3 format
- Step two: upload your songs to MP3.com
- Step three: upload your cover art and inside art.
- Step four: release the songs on a CD

MP3.com pays you 50% of whatever you charge for your CD. No overhead, no initial investment. They handle all money and distribution, and then send you a check. You get money for every time your song is downloaded in MP3 format, and you get money every time you sell a CD.

MAKE YOUR OWN CD'S

1. WWW.DAY1PRO.COM
2. WWW.CDBABY.COM
3. WWW.CDARMY.COM
4. WWW.DISCMAKERS.COM
5. WWW.CDCOWBOY.COM

DISTRIBUTION COMPANIES

ANGELICA'S RECORD DISTRIBUTORS, INC.

827 EAST AVENUE H, SUITE 210, ARLINGTON, TX 76011-7728
(817) 633-7801
LATIN POP, REGIONAL MEXICAN, TEJANO
RECORD DISTRIBUTORS

BMG DISTRIBUTION - ARISTA/NASHVILLE

9330 LBJ FREEWAY, SUITE 1150, DALLAS, TX 75243
(972) 480-5157; (972) 480-5142; FAX (972) 480-5159
COUNTRY
RECORD DISTRIBUTORS

BMG DISTRIBUTION

9330 LBJ FREEWAY, SUITE 1150, DALLAS, TX 75243
(972) 480-5120; (972) 480-5100; FAX (972) 480-5130
RECORD DISTRIBUTORS

BMG ENTERTAINMENT

9330 LBJ FREEWAY, SUITE 1150, DALLAS, TX 75243
(972) 480-5122; (972) 480-5100; FAX (972) 480-5130
TONY.EDWARDS@BMG.COM, DANCE/ELECTRONIC, ROCK
RECORD DISTRIBUTORS; VIDEO DISTRIBUTION

CDSTREET.COM

1350 MANUFACTURING, SUITE 111, DALLAS, TX 75207
(214) 747-7900; (877) 692-7999; FAX (214) 747-7979
GLENN@CDSTREET.COM, ALL GENRES
RECORD DISTRIBUTORS; MERCHANDISERS

ON-LINE SERVICES; RECORD STORES

CENTAUR RECORDS - CONSORTIUM TO DISTRIBUTE COMPUTER MUSIC

P.O. BOX 50888, DENTON, TX 76206

(940) 369-7531; FAX (940) 565-2002

JNELSON@MUSIC.UNT.EDU, DANCE/ELECTRONIC, COMPUTER
RECORD LABELS; RECORD DISTRIBUTORS

THE CONNEXTION

10 NORTH CADDO, SUITE 182, CLEBURNE, TX 76031

(817) 641-3668; (888) 606-6874; FAX (888) 605-6874

ANSWERS@THECONNEXTION.COM

MERCHANDISERS; ON-LINE SERVICES
RECORD STORES; RECORD DISTRIBUTORS

CRYSTAL CLEAR SOUND RECORDING STUDIOS

4902 DON DRIVE, DALLAS, TX 75247

(214) 630-2957; FAX (214) 630-5936

STUDIO@CRYSTALCLEAROUND.COM, ALL GENRES

RECORDING STUDIOS; MASTERING
COMPACT DISC MANUFACTURERS; RECORD DISTRIBUTORS

CULVER COMPANY - ENTERTAINMENT SOFTWARE, INC.

432 WESTFORK DRIVE, SUITE A, ARLINGTON, TX 76012

(817) 265-7435; FAX (817) 275-2022

CLASSICAL, COUNTRY, JAZZ, POP

RECORD DISTRIBUTORS

MAS DISTRIBUTORS

321 WEST MOCKINGBIRD LANE, DALLAS, TX 75247

(214) 634-4110

TEJANO

RECORD DISTRIBUTORS

MICHAELS RECORDS

3868 SHORECREST, DALLAS, TX 75209

(214) 348-4151

RECORD PRODUCERS; RECORD PROMOTION AND RECORD POOLS
RECORD DISTRIBUTORS; RECORD LABELS

NAVARRE CORPORATION

3453 GALAWAY BAY DRIVE, GRAND PRAIRIE, TX 75052

(972) 988-0005; (800) 728-4000 ; FAX (972) 660-5527

COUNTRY, DANCE/ELECTRONIC

RECORD DISTRIBUTORS

P M D & B, INC.

4623 TRAVIS STREET, SUITE 509, DALLAS, TX 75205

(214) 219-9100; FAX (214) 219-9101

PETEMANI@EARTHLINK.NET, CLASSICAL, POP

RECORD PROMOTION AND RECORD POOLS; RECORD DISTRIBUTORS

MUSIC BUSINESS CONSULTANTS

PILLAGE MUSIC - B.C. EXPERTISE

1132 STINNETT PLACE, DESOTO, TX 75115

(972) 230-1091; FAX (972) 230-1091

INTERNETMUSIC@NETSCAPE.NET, ROCK, TEJANO

RECORD DISTRIBUTORS; BOOKING AGENTS

POINT OF GRACE MUSIC DISTRIBUTION

3575 NORTH BELT LINE ROAD, SUITE 345, IRVING, TX 75062

(972) 767-2698; (877) 447-2233 ; FAX (972) 767-2691

PGEDIST@YAHOO.COM, CHRISTIAN/GOSPEL

RECORD DISTRIBUTORS; RECORD LABELS

CASSETTE DUPLICATION; COMPACT DISC MANUFACTURERS

RJ DISTRIBUTING - R2M RECORDS

3639 GUS THOMASON, MESQUITE, TX 75150

(972) 686-7770; (972) 686-9727; FAX (972) 686-3989

DJALL4U@AOL.COM, DANCE/ELECTRONIC, RAP/HIP HOP

RECORD DISTRIBUTORS; RECORD LABELS

SONY MUSIC DISTRIBUTION, INC.

8115 PRESTON ROAD, SUITE 700, DALLAS, TX 75225

(214) 634-1700; (214) 833-8000; FAX (214) 692-7932

ROMEO_THOMAS@SONYMUSIC.COM

RECORD DISTRIBUTORS

TEXAS UNSIGNED, INC.

PMB 600 - 18352 DALLAS PARKWAY, SUITE 136, DALLAS, TX 75287

(972) 248-8186; (214) 352-2092; FAX (972) 248-4572

TEXASUNSIGNED@AOL.COM, BLUES

RECORD DISTRIBUTORS; ON-LINE SERVICES

UNIVERSAL DISTRIBUTION

1501 LBJ FREEWAY, SUITE 550, DALLAS, TX 75234
(972) 484-3001; FAX (972) 484-0026
RECORD DISTRIBUTORS

UNIVERSAL MIND PRODUCTIONS

132 FOREST BROOK, OAK LEAF, TX 75154
(972) 949-4193
DANCE/ELECTRONIC
CONCERT AND EVENT PRODUCTION; RECORD STORES
RECORD DISTRIBUTORS

CHAPTER 15

“HELPFUL HINTS & LINKS”

WEB SITE INFO

A website is a great way to market and distribute your works. Web services include Web site technical requirements analysis, a domain name, web host, site planning, graphic design, implementation, marketing support and monthly maintenance. Public sites allow you to maintain a presence 24 hours a day, worldwide! Private sites allow you to effectively use the power of the Web to manage your business and focus on providing a high level of customer satisfaction. If you want to design the site your self you can at www.register.com.

HELPFULL INDUSTRY LINKS

1. WWW.DAY1PRO.COM
2. WWW.BANDRADIO.COM
3. WWW.MUSICIANS-RESOURCES.COM
4. WWW.TVTRECORDS.COM
5. WWW.GIGMASTERS.COM
6. WWW.UNIVERSALATTRACTIONS.COM
7. WWW.ALLHIPHOP.COM
8. WWW.MUSICCONTRACTS101.COM
9. WWW.FRESHAGENTS.COM
10. WWW.KOCHRECORDS.COM
11. WWW.MI2N.COM
12. WWW.MUSICTRADES.COM

13. WWW.MUSICIANS.ABOUT.COM
14. WWW.MUSIC-LAW.COM
15. WWW.GETSIGNED.COM
16. WWW.MCRD.COM
17. WWW.101DISTRIBUTION.COM
18. WWW.CRGRAFIX.COM
19. WWW.INNOVATIVEDESIGNUSA.COM
20. WWW.FRIENDSHIPPRODUCTION.COM
21. WWW.USPTO.GOV
22. WWW.MASTERLINK.COM
23. WWW.HIPHOPMUSIC.COM
24. WWW.HIPHOP.COM
25. WWW.RAPMUSIC.COM
26. WWW.WYSHMASTER.COM
27. WWW.BLUEHOUSEPRODUCTIONS.COM
28. WWW.PASSIONDC.COM
30. WWW.FRESHFLAVOR.COM
31. WWW.IGNITION-DESIGN.COM
32. WWW.FIVEDC.COM
33. WWW.NEBENTERTAINMENT.COM
34. WWW.CLLCOMMUNICATIONS.COM
35. WWW.DCLIFEMEDIA.COM
36. WWW.POWERGRAPHIXINC.COM
37. WWW.RIAA.COM
38. WWW.RLABELS.COM

39. WWW.SPACE380.COM

40. WWW.123WORLD.COM

Now you have all the tools necessary to build on your dreams. Always remember to do your research before paying out any money's to companies in the music industry. You are the little guy on a budget and they are more than willing to take advantage of that. So be smart, hopefully this book will have pointed you in the right direction, good luck with your music career!