

Representation: Who Needs It? Who Does It,
What Do They Do, And Who Does It Best?
By Alan S. Bergman

Every artist thinks he or she needs help. Most Jazz artists by the nature of their art form, are destined to do most of the work related to their careers by themselves. But some may become successful enough to hire others to help with booking, recording or creating an act. They will certainly need expertise from a lawyer and an accountant. They may need financing or any combination the above. This article will review the various types of representatives analyzing their duties, compensation, advantages and disadvantages.

Personal Managers

The duties of a personal manager are often confused or intermingled with those of an agent. An agent's sole function is to secure employment. Agents must be licensed by the state where they do business. To the state they are no different than the employment agencies who find work for office or domestic help. A manager need not be licensed as long as he is not primarily in the business of obtaining employment. However, managers for emerging artists, especially those who don't have a record deal, quite often get caught in a conflict situation where they do spend a great deal of time trying to secure employment (a record deal is after all just another employment contract) and in some jurisdictions (especially California), may run afoul of the law. In fact, one way to break a management agreement is to prove that the manager really acted like an agent and since he was unlicensed, the agreement was illegal and therefore unenforceable.

Managers work solely on a commissions basis. The commissions may run from a high of 20% of gross income to a low of 10%. 15% is the norm possibly subject to escalation as income increases. This is in addition to an agent's commission on performances which will be an additional 10-15%. The management relationship is a unique one, almost like a marriage; intense, volatile and very personal. Management is a full time job. It is creative, administrative, promotional and often requires financing an artist's career. A manager sometimes thinks of himself as "Captain of the Ship." He relates to the attorney, the agent, the record company, the accountant, and the publishing company. He may or may not manage money. Some managers are attorneys, some are accountants, some are agents, some are music publishers, some are record people, and some combine all of these functions. Some managers are even promoters.

Jerry Weintraub and Bill Graham both were successful as managers and concert promoters. Weintraub even went on to be a successful motion picture producer. Former managers Irving Azoff, Tommy Mottola and Danny Goldberg ran major record companies.

The management agreement is an all-inclusive one, usually fairly one-sided since the manager quite often has the upper hand when it comes to negotiating with an artist. There is an agreement prepared by the “Conference of Personal Managers” which is about as fair as you can get. Getting a manager to sign it is another matter. In any management agreement, especially one where there is no record deal, there should be an “out” clause, whereby the artist can terminate the agreement if certain conditions are not met. These conditions may relate to the obtaining of a record deal, a publishing deal, or a certain plateau of earnings over a given number of years. The management agreement usually provides for a power of attorney for the manager to sign single engagement contracts and receive and disburse the artist’s money. But when the artist starts to be successful it is important that this function be shifted to an accountant or business manager.

The things to look for in a manager include, client roster, standing in the industry which translates to power when you need it, an adequate staff to keep up with all the administrative work, integrity, financial resources, genuine interest in your career and creative abilities to the extent you need that skill. Be careful however that the manager’s client roster is not so heavy with stars that you get lost in the shuffle. But you do need a real manager. All too often, a young artist meets an enthusiastic person in a club who offers to be a manager, but really does not have the expertise, contacts or the financial resources to do an effective job.

Lawyers

There have been many successful lawyers who became managers. Miles Lourie was a prominent litigation attorney before he managed Barry Manilow. David Sonnerberg went from practicing law to managing Meat Loaf.

If the lawyer is the manager, he usually offers to include his legal services as part of the management service. Artists who are not yet established usually can’t afford the lawyer’s hourly fees, so this is a valuable bonus. Some lawyer/managers will aggressively try and place the artist with a label and/or publisher. Lawyers have contacts; they can usually get the right people on

the phone. However, they don't always have the time to devote to an artist which effective management requires. They are not permitted to finance an artist. The legal concept is known as "champerty" and it is unethical for a lawyer to loan money to a client. Lawyers have expertise not only in legal matters, but also in tax, international, estate planning, and all the other complications which are byproducts of success. Many music business law firms also represent record companies, producers, publishing companies, and other artists, all of which are valuable contacts for an emerging artist. But if you use a lawyer as your manager, you should eventually get your own lawyer. Some people believe there is an unavoidable conflict of interest when the lawyer wears the management hat and most successful lawyer/managers recognize this and insist that the client have separate legal representation.

Accountants

Accountants can also make good managers. They can of course manage the finances, provide tax advice and are bound by a professional code of ethics. They have contacts and are usually adequately staffed, but rarely will they have the creative instincts and experience an artist may need. But, Sid Seidenberg managed B.B. King's career for many years and Herbie Hancock's current manager is ex-accountant, David Passick.

Producers

A Producer can also make a good manager. He can help put together a good creative package. He has good record contacts, he may have his own record label, he has access to a lawyer and accountant, and he can potentially finance an artist. But be careful. Quite often independent producers seek to sign an artist to very one-sided all-inclusive agreements, which include not only record production, but also management and publishing. While they might be successful producers, they may also just be middlemen who takes 40-50% of an advance and the publishing too. You also might find that while the producer produced a master which initially created interest, the record company eventually wants you to move into a different area creatively and having an ongoing obligation to a producer might be a handicap.

Publishers

Sometimes music publishers perform a defacto role as manager. Publishers can open doors and finance you as well. They can help obtain agents for the artists, help support dates, and even obtain a record deal. Publishers have signed new artists, created demos, used their influence to obtain a record deal and then benefited by ownership of the publishing. Tracey Chapman was a successful example of this, signing initially with EMI Publishing. But it does limit access to foreign subpublishing income and the advances are usually small as are the production budgets.

Of course many artists continue to represent themselves, or work with a friend or family member. A surprisingly large number of Jazz legends have been very well managed by competent, devoted and sometimes very tough wives. If you choose to go the self-managed route, I strongly suggest that you start with a consultation with an experienced attorney. Pay for it by the hour and let him run you through the business topics you'll need to be familiar with as a self-manager; booking, including a performance contract rider, recording agreements, international publishing, tax considerations and potential liabilities as an employer of sidemen.

There are good managers who started in another area, but in the long run, when any person in any one of these categories becomes a successful manager for one or more artists, whatever had been his or her prior career goes out the window and they become full time, personal managers. It's almost impossible to manage a successful artist and still have time to devote to a law practice or producing career. Whenever you are looking for a representative be sure the person has more than just enthusiasm for your talent. Look for credentials, financial resources, integrity, an interest in the creative input and the ability to devote sufficient time to your career. But regardless of how successful you become or how many people you have working on your behalf, never lose contact with the business aspects of your career; your record contract, your publishing and most importantly, your money. Staying involved is the best way to keep your career moving in the right direction.

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