



A star is born

Jonathan Silverman advises on evaluating management agreements for celebrities

Ask any eight-year-old what they want to be when they grow up and odds-on the answer will be one word: 'famous'.

Gone are the days when children aspired to be cricketers or ballerinas – the culture of celebrity is now well ensconced in the British psyche. Just watch any of the main television channels at the weekend.

As a result, the growth in artist management continues without seeming limit and now even impacts on those just starting their careers.

This presents an opportunity for the lawyer asked to advise on a management agreement for an artist, performer or sports person to ensure that there are adequate protections in place for the client who is likely to have little experience in business and may well not have anyone around them to help. A daunting prospect when faced with a seemingly sophisticated offering from an established management company, perhaps offering fame and fortune.

While the principal role of the commercial lawyer is to advise on the contractual terms, it is the one who is prepared to go 'the extra mile' to verify the credentials of the prospective management and to check on the remuneration structure who is likely to maintain that client relationship when the client's career really takes off.

So what should you look for when presented with a management agreement?

Do some simple due diligence on the management company, its directors or principals, to ensure that they do not have a chequered past. See if they will let you speak to other artists' advisers to gain a level of reassurance that the management do genuinely deliver to their clients.

Talk to the client generally to ensure you are comfortable that there is no degree of undue influence occurring, often the case with young star-struck artists, performers, or sportsmen or women.

Check your client's age. If he or she is

under 18 then remember that a parent will need to sign the contract (and it is worth checking if possible that both parents are in agreement) and consider re-executing the agreement once the client has turned 18.

Look carefully at the extent of the management being offered. Does it extend to all the areas of activity in which the client is likely to participate or just one specific skill set? Will the management financially benefit from spin-off rights or a change in career? How long is the contract intended to last and does it have reasonable termination provisions? Will the manager enjoy a share of earnings after the end of the contract and, if so, what rate and for how long?

Checklist

1. Complete due diligence checks on the management company.
2. Check the client's age.
3. How are the client's earnings to be handled?
4. Who will handle IP for the client? If no one has been identified, step in.
5. Ensure realistic safeguards and protections are in place.

How is the management to be remunerated? Are there any safeguards about incurring expenses? Will those be charged directly against the client's earnings or perhaps unilaterally deducted in addition to the management fee? Are there safeguards to ensure that the manager cannot simply enter into contracts on behalf of the client without prior approval?

Consider carefully how the client's earnings are to be handled and what is the proposed route. Take care to ensure the proper protections and safeguards are established, including a regular right of audit and perhaps requiring a counter signature on cheques above a certain

level. Identify how gross earnings are to be computed and against what earnings management fees are to be levied.

Look at image rights and IP protection and who will be taking care of those aspects. If it has not been addressed then, assuming you have suitable experience, deal with that aspect yourself for the client and try to ensure that it is your client who keeps control of those rights as their career develops. If the client has a successful career in the earnings from those rights then the earnings from those may well continue for many years thereafter.

Do not work in isolation. Most lawyers see management agreements infrequently so work with experienced specialist accountants to ensure that the management agreement is both commercially viable and equitable from your client's perspective, both now and in the long term. While you're talking to the accountants do not overlook the client's potential tax position; it's never too soon to plan.

Ensure that any prospective management puts together a business plan for the client before they sign the agreement and that the agreement expressly obliges the management to take an active role in promoting the client throughout the term of the management agreement.

Finally, try to ensure that however much the manager seeks autonomy, that you build in realistic safeguards and protections for your client so that they have the final say on their artistic and business future. Get it right and gain your client's confidence, so that you retain the role of trusted confidant and adviser. It could be the start of a successful career for your client and the source of work for you for many years to come.



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