

# WHAT'S YOUR DEAL?

Understanding Recording Agreements in 2017

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# OVERVIEW OF RECORDING AGREEMENTS

- How do record deals work?
- Who owns the Masters and for how long?
- Different types of deals:
  - Exclusive Recording Agreement (traditional model)
  - Exclusive License (licensor retains Master ownership after license period)
- Length of a Deal
  - Generally for a specific number of records, rather than a term of years
  - Will often include some “firm” commitments, as well as “Options,” whereby Label has the unilateral option to extend the contract
  - Commonly a “Recording Restriction” even after the last Album is Delivered

# ADVANCES & RECOUPMENT

- Types of Advances
  - All-In
    - Label pays upfront, artist uses this money (hopefully) to make a record
    - Everyone, including producers, is typically paid from this budget
  - Recording Budget
    - Label sets forth amount and pays invoices reflecting production expenses
    - Label retains greater control, and thus more likely to stay within budget
    - Creators and production team, in theory, have greater assurance of getting paid
- Cash Flow – Is Bigger Always Better?
  - The size of your Advance relative to sales affects cash flow down the road
  - Large Check Upfront = Less likely to receive consistent checks downstream
  - Perception issues with artists

# ADVANCES & RECOUPMENT

- How does the label get their money back? Recoupment.
- Generally, expenses/advances are recoupable as follows:
  - Production Budget: 100%
  - Marketing: 50% (sometimes to a threshold)
- Cross-Collateralization of Accounts
  - Allows label to account profits from successful projects to cover negative balances on less successful projects
  - Limits Label's Exposure
  - Most commonly, debut records are expensive to “break” and see modest sells

# CROSS-COLLATERALIZATION

- **ALBUM 1:**

- Advance: \$100,000
- Royalties: \$10,000
- Artist Account: \$90,000 Unrecouped

- **ALBUM 2:**

- Advance: \$100,000
- Royalties: \$120,000
- Artist Account: \$20,000 Recouped

- **CROSS-COLLATERALIZED ARTIST ACCOUNT: \$70,000 UNRECOUPED**

# ARTIST ROYALTIES

- Digital vs. Physical
  - Sometimes have different rates, but not always
  - Why might these formats be calculated differently?
- Calculations as a percentage of Gross, Net, Adjusted Gross, etc.
  - Might dramatically affect the payee's bottom line
  - Typically calculated on the basis of "Published Price to Dealers" (PPD)
- What range of royalties should an artist expect?
  - New Artist: 13% - 16% of PPD
  - Mid Line Act: 15% - 18%
  - Front Line Act: 18% +

# ARTIST ROYALTIES

- Reduced Royalties
  - Budget Records, Compilations, Bargain Bin, etc.
  - Tip: Sometimes these records also don't count against deliverables
  - (BUT they can help you recoup your account)
- Reserves Against Returns
  - Artist might be able to get these capped at, say, 25%
  - Otherwise typically defined as a “reasonable reserve”
- Accounting Periods
  - Generally either Quarterly or Semi-Annually
  - Sometimes Monthly or Annually, though these are less common
  - Minor benefits to frequent accounting

# DELIVERY AND RELEASE

- Delivery Requirements
  - In addition to the Album, may include producer agreements, songwriter splits, etc.
  - Purpose is to protect the label
- Release Commitment
  - Baby bands may not even get this
  - Even so, remedy is often merely return of the Album



# CONTROLLED COMPOSITIONS

- Statutory Rates for Mechanical Licenses
  - Set by law
  - Currently ~9.1 Cents to the Songwriter for every track on the Album
- Reduced Rates
  - But when the Artist is also the songwriter, labels will sometimes contract around this.
  - 75% Reduced Rate is Common, especially for new artists
- Song Caps
  - Label might cap the number of mechanical payments to 10 tracks
  - So if the artist has more than 10 tracks, excess comes out of her share

# 360 Deals

- What Are They?
  - In addition to record sales, Label takes a percentage of Artist's outside income
  - Performance Fees, T-Shirt Sales, even Commercial Appearances
  - Can vary greatly, often between 10% - 20%
  - Sometimes have minimum thresholds before they kick in
- How did they come about?
  - Slumping record sales, strong tour revenue
  - Label justification is that it took the financial risk to build your brand
- Panelists' Perspective:
  - Are they fair?
  - Are they here to stay?

# FINAL THOUGHTS

- But do I really need a record deal in 2017? Panelists' Perspective
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