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Creating an independent record label

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FLORIDA INTERNATIONAL UNIVERSITY

Miami, Florida

CREATING AN INDEPENDENT RECORD LABEL

A thesis submitted in partial fulfillment of the
requirements for the degree of

MASTER OF MUSIC

by

Lorenzo Lee Callahan Jr.

2003

To: Dean R. Bruce Dunlap
College of Arts and Sciences

This thesis, written by Lorenzo Lee Callahan Jr., and entitled Creating an Independent Record Label, having been approved in respect to style and intellectual content, is referred to you for judgment.

We have read this thesis and recommend that it be approved.

Frederick Kaufman

Marlene Cassidy

Karen Fuller, Major Professor

Date of Defense: November 21, 2003

The thesis of Lorenzo Lee Callahan Jr. is approved.

Dean R. Bruce Dunlap
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Florida International University, 2003

ABSTRACT OF THE THESIS
CREATING AN INDEPEDANT RECORD LABEL

by

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Florida International University, 2003

Miami, Florida

Professor Karen Fuller, Major Professor

The primary purpose of this thesis was to illustrate the creation of a successful independent record label. The research analyzed current music business trends in addition to general business literature. The guidelines of general business were adapted and transformed to meet the needs of a record label. Interviews with individuals that have expertise in music business were also conducted to accurately assist in the development of a record label. It was determined that several important elements must be addressed when starting a record label, they are: Your Business Description; Marketing Strategies; Analyzing the Competition, and Financial Planning concerns. Although these were the most important topics when creating your label, other sections were added to assist with record label development. With proper research and planning, your record label will have a higher rate of success.

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INTRODUCTION

The problem to be examined involves the lack of knowledge as it relates to creating an independent record label. A successful business is sure to have a plan, and a music label should be no different. Often individuals assume that the music business is all about the music and fail to develop a plan of action. Creating a successful record label is a serious business, and should be approached in the same manner as any other business.

The music industry is an increasingly growing community. There are vast opportunities for individuals in this business. Success can largely depend on the amount of preparation and understanding of your business. It is critical to research every aspect of your label if you want your label to grow and prosper. Many individuals lack the appropriate planning and awareness to make the right decisions for their music label. Having a plan is the first step for any successful business. This study is designed to show the individual the importance of research when in the start up process of a record label.

A rise in home-based recording studios is significantly linked to the necessity of this study. Technology is expanding very rapidly; many new products in home recording have been created. This growing development has caused many people to develop an interest in starting their own music label.

Often many individuals start their own record label because they have grown frustrated with trying to have their acts signed. This is a common cause for many new label owners. If no one else would take a chance on their artist, than they will do it themselves. Many times individuals believe in either their own music or another's music

enough to invest their time and money. An artist having success with an independent label has a great chance of making larger labels take notice of their talent.

Some start labels because they would prefer having a finished product to present to a major label to get signed. Having a finished CD as opposed to a poorly done demo tape can tremendously increase your chances of success. Having a finished CD is more appealing and shows the major label that you are serious about your craft. With a CD already done, it is also possible to approach radio stations and local record stores about possible airtime. Even converting these CD's into MP3's are becoming an industry standard.

Others establish labels because they want to establish a solid business in the music industry. Many artist and managers simply do not like dealing with established labels. Whatever the reason you decide to start your label, make sure you are prepared to go the distance.

The upside of owning your own label is control. You have total control over what decisions and choices are made. The resources may not be as lucrative as the majors, but you answer to no one. Your independent label is as flexible as you are willing to make it. Having your own label means that you can get records out quickly. Majors are increasingly notorious for producing albums that never make it to the public ear. Also majors can have artist that get little or no promotion. According to Nicole Fortier, Adjunct Professor at Florida International University and Independent Music Publishing Representative,

Labels have proved profitable as a result of their marketing strategies and via agreements with the artists that allow for a profit if the music hits it big. Larger labels invest in many new artists with the hope that 1 in 50 hit it big. They operate with the understanding that they will invest in 50 new artists each year expecting to only hold on to a certain few once the results are in. In order for an indie to surface, the music must be incredible and marketed with innovation and determination.

Independents can focus on each artist, as they are not held down with the regulations and politics of a major label. Owning your label gives you complete control over the product from its production to marketing. You control how finances are used, independents are much more likely to take better care of their budgets than individuals at a major label. Money is spent wisely at independents as opposed to the extravagant budgets artist at major's waste. Many of these expenses eventually are taken from what is to be the artist's royalties, thus causing them to go in debt to the label. An artist can sell a ton of records and never see a royalty check.

The down side of owning a label is that it's easy to start, but harder to make it a success. Unless you have connections with a strong label for distribution, it can take all of the cash, determination, and marketing pizzazz that you can gather to succeed. Regardless of how great the record you have to sell, if you can't get it on the radio, or have some form of promoting budget, it will not sell. You have to get exposure for your album, or else, no one will know it exists. Along with all of the control is frustration. It can become very frustrating when you don't have a budget to get things done that are

important to the success of your album. It is even more stressful when you can't get good distribution or even get paid by the distributors. To add to your worries, it can be outright ridiculous when seeking airplay for your album. The constant frustrations of running the business side of your label can interfere with the creative side. The lack of help can also be discouraging to those just starting a label. Unless you have a large budget when beginning your label, often you will be doing most if not all of the work getting the label off the ground.

Before going into any business, there's a lot to consider. Starting a record label can be an uncertain venture. Besides the competition, the industry is filled with people who are simply not kind or that can't be trusted. Additionally, many things have to be considered when operating a label, such as whether an artist has a fan base or reasonable potential for media coverage. Just because you have pressed something, buyers don't appear out of thin air. If you want to sell your product, you have to identify where you will sell it before creating your label. Your chances of success increase with knowing what you are getting into before getting started.

Preplanning increases your chances of creating a viable record label. It is not uncommon for people to enter the studio and have a CD or tape pressed without first thinking of what will happen when it's ready. Many people manufacture their product without thinking beyond the present. They simply know that they have a great product and they want it heard. By the time the next step is decided, they are out of money to do what needs to be done to market it. Put together a plan of action. Decide where you would like to be a year after you press your first records. Writing a business plan can be critical in setting goals for your label and yourself. You should sit down and think it all

through—Where is your record going to sell? Who will buy it? Will it be a business or exist for other artist? Should you stay an independent or get picked up by a major? Where will you get more financing if you need it? You should get the answers to all of your questions before investing any amount of your money.

CREATING YOUR BUSINESS

From a business standpoint, a business plan for your label is essential. It is an outline of what should be done. Business plans can serve several purposes. You will undoubtedly need one if you are trying to get financing for your label. Few people or financial institutions will hand you any kind of loan money without one.

For your own reference, you should organize your goals within a business plan. This will help to stay focused and on track. Even if no one sees your plan, it helps you develop the steps needed to get your label operating.

Executive Summary

Anyone looking at your business plan will firstly want to know what kind of business you are starting. Your business concept section should start with an executive summary, this will outline and describe your label.

The executive summary is the first thing your reader will see. This means that it should have an immediate impact by clearly stating what you plan on accomplishing with your label. The summary should state who you are and your qualifications for wanting to start your label. It should also include your short and long-range goals (Ex: to record, manufacture, and market a record independently). Describe your greatest assets for accomplishing these goals, and if you are seeking capital, the types of financing you want. When asking for a loan, the amount and purpose of the loan requested, the repayment schedule, and security or collateral available should be stated. Provide a brief

history of your project, if one is in the works. How you got to the point of starting a label should also be answered. You should specify how the label would be managed (i.e., use of funds, perhaps equipment you plan to buy). Will there be any employees or staff of any kind? Are you going to hire independent promoters or do it all yourself? You must be specific about how the label will be operated. How will it be structured? You should also decide its legal form of operation, whether it will be a sole proprietorship, partnership, corporation, DBA or LLC. You want to be very clear about the path your business will take. After speaking with several music attorneys, they each suggest incorporating your label. However, at what point this is done is dependent on the amount of capital you are dealing with. Your executive summary should be between a half page and one page, maybe more depending on how complicated the use of funds are.

Business Description

This section of your plan expands on the executive summary, describing your business in much greater detail. It usually starts with a description of the music industry as a larger picture and how you plan to fit in it. What type of music will you be putting out and who will be your audience? You must keep in mind to target your market. How are labels that are marketing similar music doing? Is your product unique? Discuss any trends that are responsible for the industry's growth. In addition, how will you get distribution? What will you do in regards to advertising and publicity? You should try answering as many of these questions in your business description. If you are using your business plan for financing purposes, explain why the money you are asking for will

make your business more profitable. Will you use the money to expand, create a new product or to buy equipment? Include a description of all the facilities you may use, and what equipment you will need. Will you operate out of your home or a separate office? Where will you record your material? How about where you plan on storing your product? These things appear to be very trivial, however these are very real problems that arise. If you have placed thought into them, when they come up you will have already planned for them. Include a guesstimated time line you will need for each step of the process of creating your album, from the studio to profit.

MARKET STRATEGIES

Here is where you define your market, its size, structure, growth prospects, trends and sales potential. Based on your research, interviews, and any sales analysis, the market strategies section should focus on your consumers and your competition. How much of a market will your label be able to capture? This answer is critical to understanding how you will develop pricing strategies and distribution channels. Be sure to keep and document what sources you gathered your market information. Describe how your label will fit into the overall market picture. Be sure to emphasize your unique selling proposition, basically what makes your label different. Then explain why your approach is ideal for your market. Once you clearly define your market and establish your sales goals, lay out the strategies you will use to fulfill your objectives.

Thoroughly explain your pricing strategy and how it will affect the success of your label. Since your label is just starting out, you will have to keep in mind your product is new and may not have a large fan base. You will have to price accordingly to the demand. Describe your projected cost, and then determine pricing based on the profit you expect in return. Cost includes materials, distribution, advertising and any overhead cost you may have. Many experts suggest adding 25 to 50 percent to each cost estimate, especially your overhead, to ensure you don't underestimate your expenses.

Distribution is another important part of your marketing strategy. This includes the entire process of moving from the factory to the listener. How the product gets into your listeners hands is very important. Whether you decide to walk your album up and down the street or offer it in stores, these are forms of distribution. How much will it cost

to reach your target audience? Study your industry competitors, and decide what works for you. Watching others methods may give you an advantage of how to sale your records.

Competitive Analysis

How does your business relate to the competition? Your competitive analysis section answers this question. Take what you learned from your market research and detail the strengths and weaknesses of your competitors. This strategy can give you a distinct advantage over your competition. This section is an important part of your business plan. Often, new labels mistakenly believe their music will be an instant hit. In reality it takes hard work to get your music noticed. Your plan must show that you recognize this and have a strategy to deal with the competition.

Planning Marketing

Building a marketing foundation should include gathering information on what stores will be selling your music and making plans to get your product into them. Decide in advance what regional areas you want to target first with your music. Unless you have large financial backing it is best to work a small area initially. Trying to market your album nationally means you will have to manufacture enough pieces to go around, which can be a large investment.

When in consideration of where to market your music, be sure to start in a city that you have easy access to, or those that have the best potential for selling your music. Choosing a region to start does greatly depend on the music you produce. Some styles of music may not work as well in some areas as in others. Once you decide where you will first market your music you should start getting the word out about your artist.

Promotional Strategies

The process of putting out “the word” on your artist requires promotion. Successfully promoting your artist could mean life or death for your album. Publicity calls attention to your artist. Media coverage does not have to cost much more than some time and effort. The rewards of a good PR (public relations) campaign can be great. When people read about your artist, they are more likely to buy the record or attend the live show. A good record review generates sales. If nothing else, publicity can create interest or curiosity about the product or artist. Otherwise, potential fans won’t know your record exist. Getting publicity requires knowledge about the media, perseverance, a well thought out attack plan, a good press kit, and something that is worth promoting. It is always to your advantage to hire a professional publicist, but it can be done alone.

A publicist is someone hired to create publicity. A good publicist should be familiar with writers and editors of publications and producers of radio shows or TV, and know which publications would be best for publicizing a client’s product. Publicist can give you a more professional introduction to the media. If you decide to hire a publicist, get one who specializes in music or entertainment. The publicist’s job is to maximize the

chances of getting your artist covered by the media. Large labels either have publicist on staff or hire them. If you can afford to hire a publicist, word of mouth makes the best reference. Ask other indies to recommend someone. If you notice an artist getting great exposure, call the acts management or label and ask for the publicist's name. Get friendly with different journalist and ask who they recommend. When hiring a publicist always ask for references.

If you can't find the money to hire a publicist, try it yourself. Be prepared to work hard. It might take a while, but you can reach the media on your own. Create a good press kit, as eye catching as possible. Media people are often overwhelmed with tons of material. The best way to attract attention is to make your kit as appealing as possible. Be creative about making it stand out from the slew of material they get. Colors, folders, and a good use of words can open doors for your label with the media. Keeping your written material as short, sweet and to the point as possible will make the recipients very happy. Quality is always better than quantity. The less you send, the faster they can go through it, and it looks more professional. A basic press kit contains a bio, a photo, and a cover letter. You can have you recording inserted into the kit.

A bio (biography) tells the story of the artist. It should be no more than two pages, double space. A bio should be interesting, presenting a clear picture of the artist in a way that makes a journalist want to read it. If it sounds like a resume, it may not get attention. A bio should be written with the intention of enticing people in the media to do a story on that artist. Let that be your goal as you write it. Look for interesting facts about your artist and include them, even if they don't relate to music. Make journalist want to get to know your act better. Include any press clippings about the act that are

relevant to your press kit. Mount them on paper with the masthead of the publication it appeared in. Just don't send an overabundance of paper, this can have the opposite effect of what you are trying to accomplish. A cover letter should accompany the press kit. This introduces your label or the artist to the kit's recipient. A cover letter is your sales pitch, and should be written with the intention of convincing readers to do a story about or review of your artist's work. If you can catch the attention of readers with the cover letter, they'll be more likely to take time to go through the rest of the press kit. Also make sure to include your address, at least on the cover letter and on the CD if possible. Many people send press kits to publications and forget to put an address or some way to be contacted in the kit.

A good photo is important. When people open a press kit, a photo will catch their eye sooner than words. Your artists' photo should capture their personality. The feel of a photo depends on the genre of the music. Although headshots can work, a more interesting photo with action or flair may make more of an impression. Black and white photos can work well. Color photos can be pricey. Depending on the publication find out which ones they usually print, many publications take either one or the other. You can send an 8 by 10 black and white picture, with a note that color photos are available on request. It is also to your advantage to have your press kit information available to be emailed. Increasingly more publications are asking for photos and artist information to be emailed. When looking for a photographer, check the person's portfolio. There are loads of photographers around, so be sure to hire one that will best present your artist in the manner you want to present.

The advent of inexpensive folders has eliminated the excuse that sending a press kit in a folder can be too expensive. Folders that open up to show a pocket on each side can hold the components of your kit. They can be spruced up with stickers or any kind of paste on labels with the artist's name on them. If you have a nice logo for your label, get it printed onto stickers that can be placed on the covers of your kits. Always have the artist's photo prominently placed inside the kit. It's more visual than the written material and can catch someone's attention easily. Some people use binders to hold the material included in their press kit, which makes for a presentation almost like a book. These binders are easy to flip through, and recipients don't have to deal with a lot of loose paper, but they are they are not necessary. However, be creative about putting your kit together so that it is as attractive as possible. Be sure to include your label's business card or the card of your publicist.

Send press releases regularly. A press release is an announcement of something specific, such as the release of a record, a new band member, etc. People sometimes fax press releases instead of mailing them. Faxing is a good way to get to a lot of media quickly, but fax releases can often get read last. A better alternative is an e-mail release. I have even seen mailed releases go out a few days before the event and they are followed up with faxed releases. Keep a press release short and sweet, preferably on one sheet. The less you write, the greater the chance it will get read. Build up excitement about the artist. Whenever your artist has an event or something special, send a release. If the artist has a special show or concert, leave a number for media to get on the guest list. Sending releases allows the media to become familiar with your artist.

In order to work the media effectively, study it. Read the publications. Learn names of editors, writers, and reviewers. Get familiar with their individual formats. Gather media sources before your product is ready for sale. Finding out about the publications that could give your artist coverage takes work. Study local papers and see if they have a potential place for your artist. Be creative about formulating reasons why the media should want to cover your artist. The first places to go to begin gathering resources for media coverage are magazine shops and bookstores. Look through different magazines and make notes on which do reviews, which use photos as fillers, and which contain articles about the genre you are interested in. Be sure to note column writers and editors. Try to gather the addresses, phone numbers or website information of magazines or papers that you believe would be ideal for your artist. Be diverse in your choice of publications. Besides music only magazines, there are many that specialize in related aspects of music that you may fit into. If an artist has experience in music engineering you may be able to place them into a music engineering publication. There may be many angles you can use to your advantage in getting the artist exposure. Check out local cable TV shows to see if there is a place for your artist.

Always find out the name of specific folks to send your press kit to. Do not simply mark it editor "Editor" or "Producer." This often means no one may get to open it, also you need to know who to contact for a follow up. Call each publication, radio, or TV station that you think is right for you artist. Ask who would be the best person to send your press kit to. Make sure to be specific about your artist to ensure you reach someone that has an interest in your artist's music.

Different areas of the media offer different types of publicity. Be aware of your options when planning publishing strategies. Some are easier to get into than others. It depends on your goals. If you have trouble breaking into the professional media for your first clips, college newspapers can work great for you. Visit nearby schools and pick up their free papers. See which writers have done stories or reviews similar to the genre of your artist. Call the paper and ask how you can reach that person. Send your press kit to them and correspond with them as with a professional publication. When you contact your local college paper, invite them to send someone to your artist's concerts. Send the appropriate writer there a CD and ask him or her to review it. Remember, that these are students writing these papers. Many would love the opportunity to write about your artist. Make them feel important. Being in a college newspaper can also stir interest in your artist's CD, since students buy a lot of music.

FINANCIAL FACTORS

In order to start a record label you need money. There is not a specific amount that you should have on hand; it largely depends on many different variables. Whether you are working records regionally or nationally. What genre of music you are in? There can be many things to consider. The best thing to do when developing your budget is to itemize everything you will need money for and add it up, as you would when writing your business plan. Always allow extra for unexpected expenses. If you are starting your label with real money, I suggest working with an accountant from the very beginning if you are not good with budgets. If you are not starting with money in hand, once you have a budget you must decide where the money will come from.

Getting Loans or Investors

Many individuals will be financing their labels out of their own pockets. If you have the money, it can be the easiest way, giving you the most independence for your label. If you use your own money it won't be easy. Most investors will at least want a say in what product you put out and how you market it. So a loss of some control is common if your financing involves sources other than yourself. Depending on your circumstances, your background, and the strength of your business plan, financial backing can be hard to come by. Banks are hesitant to loan money for start up record companies because it is a risky business. If you get a loan from a bank or another company that makes loans, you will need to put up collateral. You have to own

something of value that can be taken from you if you don't pay back what you have borrowed. Unless you have a successful track record in the record business, it may be easier to get a personal bank loan rather than a business loan for your record label. If you are interested in a bank loan, get your business started first then apply when you can show serious sales. Many people are getting investors to put money into a label. The music industry is an exciting place, so people with money to spare find it appealing to get involved in on some level. By giving money to a smart music person, they can have a taste of the industry. Some people just want to be repaid with interest. Some want a percentage of profits. Some want a say in what happens at the label, which makes them the worst investors if they don't know what they are doing in the music industry.

Where do you find investors? Some people put ads in the local newspapers, or business journals. Keep your eyes open around you. Talk about your label to people, you never know who may hear about it and want to get involved. However, be careful about signing on with an investor. Use an attorney to structure the agreement so you don't have to give up control of your label. Spell out exactly what you have agreed to in return, and when. Even if a friend decides to invest, sign a formal agreement. You can't be too careful when it comes to money. Make sure a lawyer looks over anything you sign, no matter how straightforward it seems.

Affiliating With A Larger Label

Another way of getting financial backing is by going to a larger record label. There are many ways to do this. If you have a track record and the labels are familiar

with your ability, with a good business plan you may be able to just walk in and get a deal. If you have not had success on any level yet, you will probably have to prove yourself before any label takes a chance on you. Proving yourself can mean as little as putting out a record that develops an immediate buzz because the radios or clubs are playing it and it is getting great reviews or is attracting large crowds at shows. It can mean putting out several successful records or having several successful acts before anyone pays attentions to you. Nothing is nonnegotiable in the music industry. Just when you think you have heard all your options, a new one may open up. More labels are finding the ability to grow through bringing in smaller labels. The work that the smaller labels have done to get artist and build up a base is providing a better starting point for the major labels. According to Nicole Fortier, Adjunct Professor at Florida International University and Independent Music Publishing Representative,

I am of the belief that by affiliating with a larger label you may enjoy a greater capability to bring the music to the world but at the same time you lose certain control of the music and its marketing. A large label can make or break an album depending on their corporate belief in the music. If they do not push the music and you have given them the ability to do so the music may be lost in the enormity of the organization. To maintain total control an indie must hold the rights.

If you want to keep more control over your label, you can go for a P&D (Pressing and Distribution) deal with a larger label. A P&D deal means that the larger label presses up records and gets them distributed. Since the music industry isn't a simple place, there

can be many variables within the framework of this type of arrangement. Under the basic P&D deal, the indie label's responsibility is to sign the artist, produce the musical material, design and prepare the cover artwork, and give the finished master and artwork to the P&D company. In return, the P&D company is responsible for manufacturing the records, and getting them distributed through their distribution system. The indie is usually responsible for all of the marketing (except distribution), including promotion, videos, advertising, and publicity. When money comes in for the record the P&D company deducts the manufacturing cost, and a fee for distribution. The indie label gets the rest of the money. The larger label also holds money on reserve for returns. The P&D company is considered to be administering the deal, so it usually sends the indie a monthly written update on how much the record has earned. The indie has the right to audit the P&D company. However, there are variables on the money side of the deal. There is no standard percentage taken for distribution. There can be a similarity between a P&D deal and a royalty deal between an artist and a label. A royalty deal has escalations as the sales grow, which means a higher percentage of royalties are paid to the artist after a certain number of records have been sold. In a P&D deal, the distribution fee can have a reverse escalation under those same circumstances. This means that as sales get stronger, the P&D company takes a smaller percentage for distribution, with the indie label getting a larger share of the overall monies.

Joint venture deals have become more common. Whereas in a P&D deal the larger label gets a set fee per records sold, a joint venture deal involves the larger label sharing in the profits more equally. The label offering a joint venture pays all the operating cost. It usually handles promotion, videos, etc. Then it deducts all cost and a

small percentage for overhead (to cover administrative cost, etc.). The joint venture label's distributor takes an average of 15% to 25%, and the indie and larger label split what's left over. A joint venture deal is usually not structured as a partnership, in the legal sense of the word. One party isn't legally responsible for the other's obligations. In a partnership, the partners share in everything. In a joint venture agreement, when money is collected for the sale of records, all expenses are taken out first. Then the joint venture company and the independent label do a 50/50 split on what's left. This arrangement might not be the best one for you in the beginning. Since all of the operating costs are deducted from the top, you could stand to make less money in a joint venture if the record does not sell well. In order to get a joint venture deal, you need something serious going for your label. Labels like doing joint ventures to take advantage of the talent and street savvy of someone they know to have strong potential. But you will have to prove yourself before a label will want to be your partner on any level.

If you are starting a label and have no experience behind you, it may be easier to attract a production type of deal first. Production deals allow a label to get seasoned. They help establish a label without the expense and responsibility of marketing on a national level. Unless you are starting a label with extensive industry experience, a large budget and contacts, a production deal can provide experience and knowledge of the business. In a production deal, you get a recording budget, and royalty points on the record sales. Depending on the terms of the contract with your artist, any money earned may usually be split 50/50. You may be able to deduct certain expenses. Your label is responsible for getting a finished recording to the larger label. Most of the time you set a recording budget based on what the larger label is allowing you, and try to be sensible

about spending it all. Whatever is left over is considered an advance, which the artist gets a portion of. Production deals vary, depending on how much the larger labels want your artist. Once the recording is done, the larger label takes over and is responsible for almost everything else. You are free to do extra promotion since it ultimately helps you. But, you have no more responsibilities to the record. The record comes out on the larger label, with credit given to yours. If it sells and the costs are recouped, you get paid royalties in a way similar to a recording artist.

INDUSTRY ADVICE

Although this thesis covers a large amount of what you will deal with when starting your label, there are some things that are very important and should be addressed. Even though I have talked about how you should operate your business, I have not yet discussed the reason you have a label. Your artist! How your artist is managed plays an important role in your label's development.

Artist Management

If you are opening a label to put out only your own material, you can relax about artist agreements. But if you are signing another artist, it is absolutely imperative that you have a legitimate, binding artist's agreement between the artist and your label. Any artist's contract should come from an attorney. There are no standard recording agreements. Each one is a little different, depending on the circumstances. A lawyer may start with what's called a "boiler plate" contract that includes all the basic clauses involved in an artist agreement, usually on terms most favorable to the label. But that document is often amended based on many factors. For example, if an artist is the songwriter, the contract must cover publishing rights. Your lawyer will normally try to make the contract as much in your favor as possible. You can always give up something later on. But the writing of such an agreement defiantly requires a music lawyer's experience.

It is not uncommon for artist to try to break contracts with indie labels when they start seeing success. If a larger label wants to pick them up, why would they want to split royalties with you? By signing directly with a larger label, the artist will get more money, and control of the production budget. There are many artists that once a larger label becomes interested in them run directly to an attorney. And there are plenty of lawyers that will encourage their clients to get out of their agreement with your smaller label. That is why you have to make sure your recording agreement is legal and binding, and has no loopholes for your artists to crawl through.

It's also common for artists to sign contracts without going to an attorney. Later, in order to break the agreement, the artist may claim they had no legal representation and the agreement is unfair. You can't force artists to get legal counsel, but you can make an effort to convince them to use an attorney before signing anything. Some labels offer an advance to the artist specifically for the services of an attorney to negotiate their contract. Most lawyers will put a clause at the end of every recording agreement saying that the label advised the artist to go to an attorney and if they chose not to it was of their own free will. Aside from having no loopholes, an artist agreement should contain specific terms of longevity, and assign you control of specific rights. You want to have the artist locked into the agreement for at least a minimum number of albums. Instead of signing artists for a certain number of years, labels now sign them for a commitment of X number of albums. This guarantees that you as the label won't miss out on albums if the artist stays out on tour for a year, or takes forever in the studio. You want to get a commitment for as many albums as possible. If the artist does well, you will want to benefit from being able to release more albums before their agreement ends. If the artist doesn't do

well, the label has no obligation to record a second one. Therefore, you can't lose by getting a commitment for as many albums as possible. If you do not put out any more albums, the artist will eventually try to get released from the contract. Your lawyer will know how to handle any artist that do not live up to your expectations, and provide a clause for the label to release them.

Advances

It is good to give an artist a reasonable advance of royalties if you can afford it. For many indie labels starting out this won't be possible. When offering a contract to an artist, put it to them straight. Let them know that you can't give any monies up front, but you will do everything you can to promote the record well. Most artists may be willing to take those terms with an indie label. There are many artists that will take a chance just to get their material out there. You should try covering your artist's expenses for anything related to their records, and give them immediate advances when record sales monies start to come in.

Labels with real budgets either give their artists a fixed recording budget with a built-in advance or something referred to as an "all-in" deal. Artists are more commonly given an all-in deal, whereby a recording fund is allocated to pay for all of the recording cost. The artist is not given this money directly. You as the label owner monitor how the money is used and pay all of the recording expenses out of this fund. Whatever money is spent when the recording is finished goes to the artist as an advance. If you do all-in deals, it's good to remind your artist to be careful about choosing a studio and any other

people they hire to work on the album. You don't want them to cut corners on quality, but they should not get carried away and overspend. Point out that any cost saving will mean more cash in their pockets at the end.

If you can afford to give an advance, it's the right thing to do. How much you give is up to you. Speak with your lawyer to decide on a common ground between what's fair and what you can afford. Remember, since it is an advance on royalties, it is recoupable. If you believe in the record, you will feel more confident that you will recoup the advance out of the artist's royalties. Discuss any advances with your lawyer and your accountant before making any decisions.

Legal Representation

When starting your record label you should have a good lawyer. This does not mean laying out any money before you need legal advice. Having a lawyer on retainer is not necessary, but before you do business, at least know who will represent you when you need legal counsel. Never make legal decisions without consulting your attorney. Signing a bad deal could keep you from making the money you should, and kill your label. Do not presume you know something that you don't know. When choosing an attorney to represent you and your label, it's important to use someone with a specialty in music or entertainment law. Lawyers don't learn everything there is to music law in law school. They learn through experience. Many lawyers take classes to learn the basics they never got in school. If you don't have one who is experienced in music negotiations, you probably will not get the deal you should. Interview several lawyers before choosing

one. Some may give a free consultation or a few minutes on the phone. Have questions prepared to get a feel for them both as professionals and as people. Some lawyers are friendlier than others. Some are more businesslike. Some may be intimidating. Don't use one whose personality irritates you. This is really a business of relationships. If your lawyer can't win you over as a client, how will they get along with those they are negotiating with on your behalf?

Some lawyers may be interested in your projects. Those who appreciate your music will be more likely to work well with you. Music lawyers know that they probably won't make large amounts of money from fees paid by a new label. But, if they see you have potential to be successful, they may agree to represent you. Look for enthusiasm in your lawyer. Obviously, referrals from other labels are the best way to find an attorney. Ask around and network with others in the business. Most legal organizations available to people in the arts have a referral list that is available free. If you call someone cold that you have considered using, ask for names of some of their clients. Ask questions and see if you like the answers. There are music lawyers in all shapes, sizes, and for all prices. When you do find one that you like and whose fees are right for you, establish that you would like them to represent you when the time comes. When a deal comes your way, give the lawyer's name when you are asked who is representing you.

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