

Thought Leadership | *Titilade Adelekun Ilesanmi*

Fallouts: Towards Optimal Management Contract Relationships in the Entertainment Industry

(Originally published in *BD Legal Business (Business Day)*, 06.02.2020, p. 32)

Introduction

Whilst the entertainment industry comprises of individuals using their creative skills, abilities and contents for wealth and job creation; its management is running the affairs and careers of such individuals to ensure full optimisation of opportunities. The benefits of having a manager in any industry or organisation is indisputable: properly utilised, they help to run the day to day activities of the entity/individual, thus improving productivity. Imagine an artiste having to manage his own publicity, social media, calls, messages/email etc.; this will distract him from focussing on his 'real' job which is either making music, movies, writing, painting etc. From an opportunity cost of time point of view, such 'a jack of all trades' approach is inefficient. Having a manager also adds credibility to an artiste's career as they help bargain best deals, opportunities and give valuable advice on career decisions.



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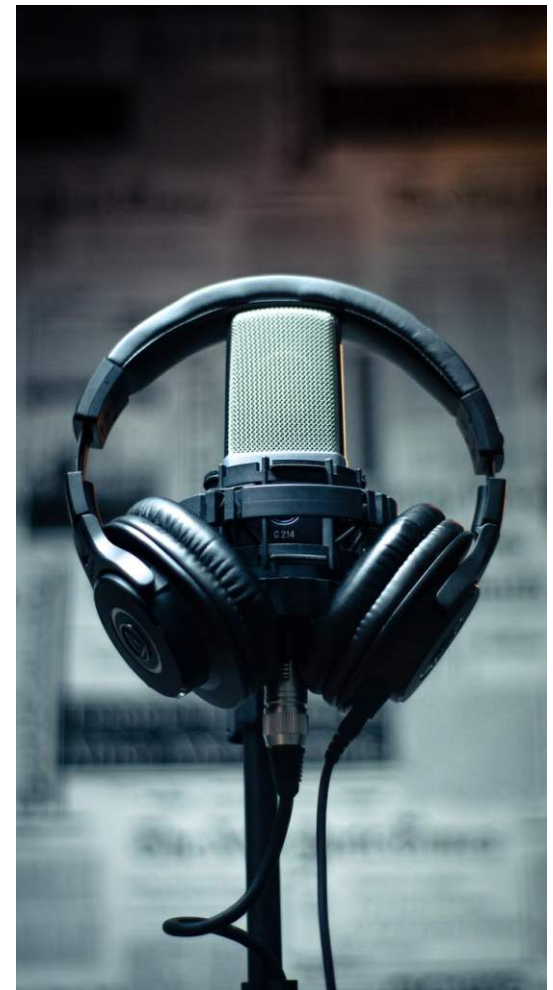
The relationship between a manager and his client/artiste could be very deep and personal, hence it is advantageous if steered along positive paths (leading to mutual benefits and long lasting friendships) rather than otherwise, which can result in economic losses and career and/or personal setbacks. For instance, Jenn Rosales, Rihanna's manager, also popularly referred to as her right hand woman, has been with Rihanna since 2007, at the early stages of her career. As some other examples has however shown, management relationships could be fraught with disputes, involving conflicts of interest, accounting, breach of trust and fiduciary duty etc., often culminating in the end of such relationships.

This article highlights roots of failed management relationships and proffers solutions through well crated, water tight management agreements, under various sub-headings below.

Common Roots of Failed Management Relationships

Breach and Forestalling Breach of Fiduciary Duty

It is often considered that managers, record labels and publishers are in a fiduciary position to their artiste, as such they are expected to act in good faith in their dealings with the artistes. Conversely this is not entirely the case, as there are numerous instances of malpractices by fiduciaries. For instance, Matthew Knowles manager of the 1990's female band 'Destiny's Child' was fired due to mismanagement of the band's funds. In *Ibrahim v. Osunde & Ors (2009) LPELR-*



1411(SC) at 30B-D, the Supreme Court stated that “... a heavy duty is placed on those in whom trust and confidence are reposed to show the righteousness of their transactions...”

Fiduciaries’ lack of transparency, exemplified by their failure to give proper account of monies received/spent has resulted in some failed management relationships. In 2018, a popular Nigerian female musician reportedly fired her manager-husband over alleged claims that he received money for a show on her behalf without informing her and squandered the money. Consequently, she still had to perform, but for free. Again, in 2014, a Nigerian male musician reportedly had a public fallout with his then manager; whereby the manager was accused of stealing the musician’s money by only declaring N5.5 million out of N58 million the artiste made from shows and

relationship. Thus, there will be some form of checks and balances, thereby preventing abuse of power.

Abuse of Powers

In most management relationships, managers are given the power to act on behalf of their clients in specified or all legal or financial matters, depending on the agreement of the parties. In most cases a power of attorney (PoA) is used, empowering the manager to sign specific contracts, institute lawsuits, hire and fire attorneys or other third parties, approve use of an artiste’s likeness for advertising and promotional uses etc. all on the on the artiste’s behalf. On the contrary, these powers have caused ultra vires acts and actions against the wishes of artistes.

Notorious examples include former manager of the Beatles, who allegedly and unilaterally signed away 90% of the Beatles

manager and artiste. For instance, one model is that no autonomous rights should be given to a manager, especially where contracts, legal documents, assignment rights are involved. Also, the MC should expressly state the type and duration of engagements the manager can attend or appear on behalf of the artiste. Irrespective of the foregoing it is important to note that every engagement rests on a separate and individual contract made agreed between parties.

Commission

In a typical situation, managers are usually compensated on a commission basis, usually 15%- 25% of income or gross earnings of the artiste (depending on the level the artiste is at in his career). However, where the earnings of the manager is not commensurate with the career progress of the artiste, doubts about the manager’s efficiency and value-add begins to ensue.



performances. In **Nelson v. Rye [1996] 1 WLR 1378**, it was held that failing to give account was a breach of fiduciary duty.

One effective way of controlling/forestalling potential fiduciary breach is separating the roles of financial reporting and general management, which should be carried out by a financial manager and manager respectively. This is common practice in other developed countries. In addition, all management contracts should provide that undertakings on behalf of the artiste should be mutually approved by both parties to the management

merchandising rights to a third party in England. Also, David Bowie's former manager spent the singer’s money lavishly; at one time he famously flew American journalists’ first class to London to watch Bowie perform. By the terms of the MC he was entitled to, half of Bowie’s earnings.

In 1980, the Bee Gees popular American Band, sued their manager claiming he had withheld US\$75million in royalties.

A watertight Management Contract (MC) and/or PoA is one way of protecting and balancing the rights and powers of a

Such scenario is why it is advisable that the MC provides for powers to increase commission as earnings reach a certain point, presumably after the first year. In the same vein, the MC should provide for a termination clause, empowering the artiste to terminate if he has not earned a specified amount or reached a certain milestone within a given time frame. Furthermore, offers ‘accepted’ and ‘turned down’ could be calculated in the total sum of offers made to the artiste; this is done to protect the manager. Also, the artiste must insist that for jobs to count, it must be similar jobs he has taken in the past. These provisions in turn, creates a standard for both parties such that managers are prevented from providing unsatisfactory offers and the artiste from refusing offers in order to terminate the contract.

Lack of Devotion

In every management relationship, a manager is expected to use his best efforts by devoting time and energy towards promoting his client’s career such as negotiating best deals, strategising and maintaining good public relations. In some MCs, parties agree on an initial period of one (1) year with an option to renew depending on the value the manager has contributed to the career of the artiste. parties may even agree upon commencement and up till the completion of the album or end of tour or promotional activities for that album.

However, where the artiste begins to feel that the manager is not showing the level of duty expected, the relationship is bound to experience tension. In some cases, lack of devotion is perceived where a manager has more than one client he is managing. In an Indian example, a popular Indian actor was said to have fired his manager because he felt that his manager was more focused on the manager's own dreams of becoming a producer that he neglected his career. At that time, the manager was also managing Kareena and Karisma Kapoor.

skills and better deploying his talents for substantial gain. To avert the down sides whilst optimising upside potentials of a professional career, it is imperative that artistes involve advisers in negotiating win-win MCs. Experience has shown that such course is often cheaper in the long run.

In dealing with this, where it is known that the manager will be working for more than one artiste, the MC should include a clause to the effect that: “the manager will not devote time to business activities that will jeopardise the artiste’s career.” The ultimate objective is that in the event lack of devotion, the manager could become liable for losses incurred by the artiste.

Also ‘Killers’ an American rock band counter-claimed against their former manager, and asked for compensation over lost touring and concert revenues, promotional opportunities and endorsements. Part of their complaints was that he was allegedly working as a consultant for their record label without their consent.

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Conclusion

Artistes can use their talents to become financially secure and also increase their wealth. However, they may not necessarily have the management skills to optimally commercialise their talents and ensure their interests are protected. Thus, having a professional management team would enable the artiste focus more on what should be his ‘core business’ – honing his

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