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## ARTIST MANAGERS: BEFORE YOU SIGN ON THE DOTTED LINE

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Andrew Green talks to Brian Goldstein of GG Arts Law about the evolution of arts sector contracts post-covid and learns about the most common issues the entertainment industry lawyer resolves on a daily basis



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I speak with Brian Goldstein of [GG Arts Law](#) via video link from New York on 5 July, in the wake of Independence Day. This died-in-the-wool Anglophile has his own take on that 1776 break with Britain. 'Clearly the experiment has not gone well,' he quips. In fact, Goldstein spends plenty of time in his role as an arts/entertainment industry lawyer advising British artist managers... and is official adviser on US-related matters for the London-based [International Artist Managers' Association](#). Clearly, though, his expertise on all manner of arts-related issues is applicable globally.

With artist managers our focus here, however, we first delve into the minefield of issues that arise in the writing and execution of contracts. Those between artists and promoters – and between artists and managers – are getting ever more complex, Goldstein observes: 'Promoters are wanting to nail details down ever more thoroughly. And as artist managers progressively learn what can go wrong in working relationships with their artists, so do agreements with them become more fine-detailed.'

Which clauses in contracts with promoters prompt artist managers to seek assistance? 'All of them!' says Goldstein. 'Everybody likes to focus on date/time/fee/place... and the fun stuff – the repertoire – while ignoring all the other bits, but *everything* needs addressing to make sure everyone's on the same page. There's still a belief among some artist managers that what they're ignoring can't go wrong, relying on the idea that everything's done by tradition.'



## As the industry gets more complicated, contracts become more detailed.



As has been well-documented, the pandemic was a major wake-up call for artist managers and promoters. The small print of existing signed contracts was pored over. 'Suddenly both sides were properly reading clauses on, say, *force majeure* as the justification for cancellation without compensation,' Goldstein observes. 'I'd get calls from artist managers saying promoters had snuck this or that clause in and I'd say, "No, they didn't, it was there all the time. Didn't you read it?" So now everybody started not only reading contracts more carefully but also wanting to add in bits and pieces. For example, artist managers tried to put in things like, "We get paid regardless of cause of cancellation", which defeats the whole purpose of a *force majeure* clause.'

'I get managers wanting to know how they can guarantee cancellations never happen in future. My response is always, "OK, don't book anything." Equally, you have presenters asking how they can ensure they never have to pay out anything in respect of cancellations. So the two starting positions are far apart.'

The pandemic also brought forward rights issues to do with streaming performances in lieu of normal concert activity. Goldstein recalls one manager suggesting the streaming phenomenon was new. 'I replied that it's only relatively new to classical music. In other areas of the entertainment industry it's been very common. We've had to catch up. More elaborate streaming issues are now emerging. As the industry gets more complicated, contracts become more detailed.'

What no artist manager can expect in this situation is the development of any kind of standardised contract, says Goldstein. 'Every agreement should be seen as unique. I remember an artist manager once telling me he'd love there to be an app which allowed you to feed in date/time/fee/place and immediately a contract would be generated. That's just not feasible when there are so many variables.'

'If you're looking for silver linings from Covid, I think it forced a reluctant industry to embrace change and come up with really positive responses on things like deposits being paid to the artist before a performance happens. A willingness to anticipate, discuss and plan is the positive approach. Reluctance to take that attitude ends up costing more time and money.'

Now and again Goldstein engages with issues to do with the split loyalties every artist manager is bound to experience. 'Managers will say their work with an artist is the first priority – until something goes wrong with an engagement in such a way that the relationship with the venue or orchestra becomes paramount.' As an example, Goldstein cites the case of a manager reporting to him that an artist wanted to withdraw from an engagement in order to accept another offer and expected the manager to give the promoter some reason why this was acceptable. 'Lying is unprofessional and risks the long-term relationship with the promoter; blaming the artist means throwing him or her under the bus for breach of contract.'

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The answer, then? 'Strip away the altruistic reasons for working in the arts and you're left with the fact that this is a business – a business rooted in relative negotiating power. Sometimes a buyer is so important they can demand the terms they want. If you're lucky as an artist manager you have a product that allows you to control the conversation with a presenter. With a talented but new artist you likely don't have that kind of selling power. So you have to know where you stand.'

One of the most intriguing areas of the discussion with Goldstein reveals that artist managers are almost always reluctant for him to undertake negotiations on their behalf. 'They're generally very sensitive about anyone getting between them and promoters. You're mainly *advising* on what to say and do. On a rare occasion I might step in to help clarify situations, but if there's acrimony around, artist managers can be really protective even over my talking to their artists. And managers won't generally name individuals or organisations involved in a given situation. This can be difficult for me, not least when it comes to assessing the relative negotiating power either side may have.'



So what other issues does Goldstein expect to be dealing with going forward? 'I see international travel getting more problematic. Not just because of the craziness of US visa arrangements or because of Brexit. Travel never was absolutely seamless but it's now getting ever more complicated. Visa regulations are becoming more complex for various reasons.

'I also see artists becoming increasingly entrepreneurial, with the artist management business model having to evolve. Younger artists especially are realising they don't necessarily want traditional artist management, but rather favour assembling a more focused team of specialists such as a booking agent, publicity/marketing specialist, consultants, assistants, travel agents – and, dare I say, entertainment lawyers – as needed.'

A final word on the value of investing in an arts lawyer's advice? 'It's worth exploring options that can de-fuse a potential bomb rather than pretending it can't go off. A little bit of money spent on one artist or one situation will be applicable to many others.'

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