

Who's On First? Defining the Roles of Entertainment Representatives *Agents, personal managers, business managers, entertainment attorneys, publicists*

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I have been asked by the *Malibu Times* to write a few columns on the current state of the entertainment business. There have been many changes in the Business during the time I have been practicing entertainment law; new media and economics alone have had a major impact.

In the next few columns I intend to discuss subjects like current deals, runaway productions and what California is doing about it, the new "windows" i.e. how films and television productions are distributed, new media original production and other subjects that I hope will be of interest.

Before I start, however, I want to make sure we are all on the same page and will review the role of key entertainment representatives. Forgive me if I am going over the obvious for those who know all this, but not everyone does. In my business it's important that people understand each other. So let's do a quick rundown of what these people actually do?

Agent: Most people know what an agent does. The old view of a short cigar smoking fast talking guy is stereotypical. Today's agent, for the most part, is a well educated, literate person who handles a lot of clients. Agents must be licensed by the State of California because they are considered an "Employment Agency" under the law. This puts certain restrictions on them. For example the State Labor Commissioner approves the commissions charged (which are generally 10% of gross earnings), approves agency contracts, requires Agents to go through a background check, insists on trust accounts and mandates the way fee disputes must be handled. (Note: Book agents often charge 15%. Some argue they are not "procuring employment" and thus do not fall under the employment agency law).

Agents (especially bigger agencies) "cover" the buyers (like studios, networks, and even producers) constantly communicating with them to see what Buyers are looking for, pitching projects or people, and often "packaging" clients so they can present a script, star, director and even a producer to a buyer. Agents are key to the business.

Unlike the past, several agencies now have "investors" who are not in the business but who are looking at the bottom line and want to see a return on their money. So big agencies are now getting into other businesses, for example William Morris Endeavor has taken stakes in digital firms for years and ICM is doing so as well. Some agencies represent companies (for branding purposes) and sports and music stars.

Personal Manager (also known as just "Manager"): Managers are not regulated by law. You could become a manager tomorrow without filling out a single form. Their fee is not regulated either so they can charge whatever they want. Most managers in my experience charge between 5% and 20% but the famous Coronel Parker reportedly changed his client Elvis a whopping 50%. Ah, those were the days. Technically, Managers are supposed to advise and council, i.e. "manage" the careers of their client. Under the law they are not allowed to "procure employment," themselves, but the reason many people hire a manager is to do just that. Many are very effective and like agents, a Manager can be a single

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person or a whole management company. They work with less clients than the typical agent and often spend more time with them. Often Managers develop projects for the client, and very often become producers of projects they have developed to put their clients into, something Agencies can't really do. Some people only work with a Manager (like some people work only with an Agent) and for some that works. So if you can afford them, good managers, working with an agent, can be very helpful for your career.

Business Manager: Not to be confused with a "personal manager" a Business Manager is basically an accountant. He or she (or a company) is a wonderful luxury, and do much more than an accountant. A Business Manager will not only do your tax returns, but will write your monthly checks, organize you insurance, find the best deals on cars, do financial planning and projections, watch over any investments, and generally monitor the details of life that many people don't have the time or desire to deal with on a day to day basis. Business Managers are not just limited to the entertainment industry, I know managers that help doctors, attorneys, business people, etc. They are usually paid on either an hourly or percentage basis (typically 5% of gross earnings) with some negotiation of what that covers.

Entertainment Attorney: Deals are much more complex these days than they have ever been. Whether you are negotiating a writer, actor, director, producer or book deal, or selling a film, the complexity of the rights alone, as well as credit, cash compensation, back end participation etc., require careful consideration. For that reason, it is key for Attorneys to work closely with the Agent and other members of the team early on when the deal is first being made. Otherwise, if Attorneys just review the final contract it is often too late to change or improve essential deal points. Attorneys can both save and make a client money; they look at the whole of the client's life, so they can spot issues that the Agent or Manager are not trained to spot, like tax, corporate and immigration issues, rights problems, weird definitions of "profits" and the like. In addition Attorneys coordinate the work of other team members to make sure everyone contributes what they know to the representation. Also, because clients are not one dimensional, they often need traditional legal work. If clients want to buy a house, need an estate plan, are sued or need to sue, get arrested, invest in a business etc., the Entertainment Attorney will help coordinate that work either by doing it himself (if he or she knows the area) or having one the specialized lawyers in the office (in a big firm) or a trusted affiliated firm (if the attorney is in a boutique) handle the matter under the Entertainment Attorney's supervision. Often Entertainment Attorneys play another role, which I personally enjoy. They serve as general counsel or "consigliere" to their clients acting as a sounding board for matters the client only talks to the Attorney about. That's an important role that we all take seriously.

To those key members of the team you can add **publicists**, who I think are very important (and may write about separately) - they design and manage publicity for the client - and kill stories when necessary, film sales agents, producer's representatives, an assistant, perhaps a stylist and many others. It takes a village if you can afford it.

About E. Barry Haldeman

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