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Idol Counsel

Howard Siegel, center, with some of his most popular clients, "American Idol" finalists

BY ERIQ GARDNER

Howard Siegel represents all of the 'American Idol' finalists. Yes, all of them.

NEW YORK — It was a brutal audition. Before a scrutinizing panel of judges, Howard Siegel took center stage for a key performance during the second season of "American Idol." But this contest wasn't shown on television, and the singers in the room sat in quiet examination, listening to Siegel's explanation of what a respected entertainment lawyer could do about their contract situation.

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Peters wants more clarity in licensing

BY SUSAN BUTLER

At first, the hearing seemed routine: Rep. Howard Berman, D-Calif., was chairing the session before the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property. Members were hearing yet another update on efforts to reform the compulsory license for compositions, section 115 of the Copyright Act.



Peters

Register of Copyrights Marybeth Peters began testifying about the importance of license reform to promote legitimate digital music offerings. I quickly leafed through pages of her prepared testimony and then hesitated on page 8.

"As we have seen, licensors have rarely turned down the opportunity in the digital age to seek royalties, even when the basis for their requests is weak at best." Was the copyright chief criticizing copyright holders? As I read on, the last two pages made Peters' position very clear. She sees licensing structures for music publishing as an obsta-

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'Idol'

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19 Entertainment, true to its pedigree as producer of the phenomenally successful singing competition, had organized a mini-contest among several lawyers so the show's finalists could select one to represent them collectively in deal negotiations.

After a quick vote, Siegel won the job, which he passed to other lawyers after that season. Now, in the show's sixth season, Siegel is back representing all 24 finalists.

It's a job that, at first glance, might not seem terribly complex. After all, what kind of leverage does Siegel, a partner at Pryor Cashman, have in negotiating for clients who have been plucked from obscurity and given the opportunity of a lifetime?

But Siegel says his efforts do make a difference for the aspiring "Idols."


Like most reality programs, "Idol" requires everyone featured on the show to sign a broad release and rights grant before auditioning. If chosen as a finalist, contestants must sign additional contracts with producer Simon Fuller's 19 Recordings Ltd., 19 Merchandising Ltd. and 19 Management Ltd. Producers get management and merchandising rights and also have an option to sign the winner and others to a recording contract with Sony BMG, though that option is not always picked up.

During the show's first season, portions of a 14-page agreement that contestants signed were leaked on a popular music listserv. In the contract, contestants granted broad exclusive rights to Fuller, including the "unconditional right throughout the universe in perpetuity to use, simulate, or portray ... my name, likeness (whether photographic or otherwise), voice, singing voice, personal-


'IDOL' CONCERNS

"American Idol" has become a cash cow for most people associated with the show. We had questions about some of the deals.


THE CONTESTANTS:
Do the 'Idols' get paid for their appearances on the show?
 "Idol" lawyer Howard Siegel says that finalists become members of the American Federation of Television and Radio Artists. As such, producers must pay them guild-dictated wages. According to AFTRA's national program director, a principal performer on a reality or variety show earns \$921 per episode. "Idol" contestants who belong to the guild also get residual fees from syndicated reruns, and show's producers are obligated to make payments to the health and retirement accounts of these members.




THE VOTING:
Who is making money off the 'Idol' democracy?
 Phone voting is free. But last season, 64.5 million "Idol" text messages flew across the Cingular network, up from 7.5 million during Season 2. These votes cost "Idol" fans 99 cents each. Cingular pays 19 Entertainment about \$30 million for the right to be tied to its show, and according to sources, "Idol" producers keep most of the money. from voting.



THE MUSIC:
Do publishers ever refuse to license songs for the show?
 Once chosen, finalists submit five to 10 songs they'd like to sing, and it's up to the show's music supervisor to clear these and other selected songs for performance. For each song, lawyers for its music publisher must grant "synch rights," which most top songwriters have the right to approve. Show reps won't cite specific artists who've turned "Idol" down because they often change their minds. "Idol" pays the same fee to each publisher depending on the number of seconds used in the broadcast.



THE JUDGES:
How much does Simon Cowell make?
 "60 Minutes" recently reported that the cranky judge earns \$30 million per season for "American Idol" and \$38 million per season for "Pop Idol" in the U.K. He's also a producer on several other British and American reality shows, including "America's Got Talent" and "The X Factor," and continues to receive significant (but undisclosed) compensation for his role as an A&R executive at Sony BMG, which has an option to sign "Idol" winners. Cowell's pop-opera creation, *Il Divo*, has sold more than 18 million records worldwide.



ity, personal identification or personal experiences, my life story, biographical data, incidents, situations and events which heretofore occurred or hereafter occur ..."

Besides putting their publicity rights in 19's hands, the finalists' long-term management contracts gave the company a huge cut of any future fortunes derived from record

royalties.

But Siegel says that contracts have been improving in finalists' favor since the first season and that contestants now sign "much more generous" term sheets than the typical new act with a major label. These contracts "are certainly not anywhere near low-end deals," he says.

Siegel believes he's a big

part of the reason why. The collective bargaining power of a single lawyer who negotiates with 19 quickly after the finalists are announced is "leverage in and of itself," he says. Individually, at the time they sign these contracts, contestants have not become household names and can't command A-list concessions. The only bar-

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Idol

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gaining power may be a mass walk-out among the finalists that could cripple the show — something Siegel says has not been discussed.

“19 as any music industry employer wants people who aren’t dissatisfied,” he says.

“American Idol,” spawned from the U.K. reality hit “Pop Idol,” debuted in summer 2002. The program, which features a much-imitated three-judge-and-viewer-vote competition format, has become a cultural and ratings juggernaut (an estimated 30 million viewers tune in each night) and has launched the music careers of such Billboard chart-toppers as Kelly Clarkson, Clay Aiken and Carrie Underwood.

Siegel’s participation in the show actually dates back to its first season, when he was contacted by runner-up Justin Guarini to take a look at the agreements he was being asked to sign.

Afterward, Siegel says, 19 thought it would be a good idea to continue giving its finalists representation before handing them contracts. Hence, the beauty contest for the right to represent participants in the king of all beauty contests.

Siegel stresses that he was hired by the “Idol” contestants — not by 19 — after pitching his 35 years’ in the music industry and experience repping Guarini. (Contestants also are free to hire additional lawyers.)

Siegel, who has spent almost his entire legal career at Pryor Cashman, is former chair of the New York State Bar Assn.’s section on entertainment, arts and sports law, an associate member of the National Academy of Recording Arts and Sciences, and editor in chief of Enter-

tainment Law, a 750-page treatise.

Based in New York, Siegel traveled to California earlier this year with partner Ken Schulman to meet with Andy Stinson, their legal counterpart at 19. During a week-long session, they negotiated the deals signed by each of the contestants.

“Every year, there are hundreds of changes in terms of procedure, administration and economics,” Siegel says.

He declines to go into specifics about what those changes are but says that in general he negotiates business issues, including advancement of royalties, a company’s obligation to release a record and promotion as well as creative issues, including the extent an artist will have meaningful input into the way a record is produced and marketed.

Despite annual predictions that the show has reached its apex in popularity, “Idol” continues to draw attention unlike anything in entertainment.

But while most contestants sign their deals and perform without complaint, the show has not always stayed on good terms with its participants.

After being named runner-up in the voting but becoming the breakout star of the show’s second season, Clay Aiken hired Atlanta entertainment lawyer Jess Rosen and was able to extricate himself from his management contract. Other contestants, such as Season 4 finalist Mario Vazquez, have followed suit, leaving lawyers to debate whether contestants are getting a fair deal.

Gary Fine of Kleinberg Lopez Lange Cuddy & Edel in Los Angeles says he doubts much has changed since the show’s first-season contract was circulated.

“While I’m sure having a lawyer like Howard may help



Howard Siegel with former “Idols” Kimberly Caldwell and Ruben Studdard.

some, Simon Fuller is in a unique position of leverage, and the deal terms are probably what they are,” Fine says. “‘American Idol’ can tout that contestants are represented and that representation may in fact otherwise improve material terms of the contestants’ agreement, but I doubt that any one particular lawyer is going to achieve substantially more favorable results for one season’s ‘Idol’ contestants than for another season’s contestants.”

But one prominent critic of the show, Schleimer & Freundlich partner Kenneth Freundlich, who appeared on cable news shows to heap scorn on “Idol” producers for taking advantage of young music artists, now says he has changed his mind.

“Any criticism I had about the show was a long time ago,” Freundlich says. “The show has matured, and having Howard aboard helps because he’s a good person and a good lawyer.”

Owen Sloane, a partner at Berger Kahn who has negotiated major recording contracts for Barry Manilow, Elton John and “Idol” Season 5 fourth-place finisher Chris Daughtry, says that the company is unlikely to mess with a winning formula and grant more favorable terms to

contestants.

And Sloane questions whether 19’s procedure for lawyer selection for “Idol” contestants is a good thing.

“Selecting someone who is cooperative with (19) and not going to rock the boat isn’t a great idea,” he says. On the other hand, Sloane believes that contestants become stars only because of the show and as such are getting a fair deal.

“(The show’s producers) are creating value, and they want to participate in the value they are creating,” Sloane says.

Siegel has participated in some of that post-“Idol” success as well. He says he continues to represent many contestants after their time on the show. Most fade into obscurity, but several, like Ruben Studdard, have found success and stuck by their “Idol” lawyer.

Siegel says he enjoys the benefits of representing obscure up-and-comers on their way to stardom.

“You have these young, relatively inexperienced individuals who are thrust with suddenness into the public eye at an incredible level,” he says, “and it is absolutely the best reward I can experience as a lawyer to watch them adapt to new status and help them deal with pressures associated with the development.” ◀