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## Hypothetical – Conflicts of Interest for Entertainment Lawyers

1. You are a junior partner in the Entertainment Group of a mid-sized law firm. You have been friends with musician, Lionel Lead, since high school when you used to jam together in your parents' garage. While you took the conservative route and went to law school, Lionel is still pursuing his dream of becoming a rock star. You've handled a few minor matters for Lionel over the years, but on Monday he calls you with great news. His band, the Strugglers, is about to be signed to a major label and he wants you to review the contracts. Being an artist, he has left things to the last minute and needs to get the paperwork signed by the end of the week. While you're on the phone, he e-mails you the documents so you can get started right away.

Question: What ethics issues are raised by this scenario?

2. The next day, the five band members come to your office for a meeting. In the course of the meeting you learn the following:
  - a. The Strugglers have no formal entity.
  - b. Although Lionel is the lead singer, most of the band's songs are written by two other band members: Lexie Lyric (Words) and Carter Compo (Music). Lexie and Carter also have side-line writing country and western songs for other artists and commercial jingles.
  - c. The Struggler's bass guitarist, Sam Silverspoon, is the heir to a large fortune and has been bankrolling the band's expenses for the past five years. He is also the most mature and reliable member of the band, so he has been acting as an informal manager: booking all their gigs, handling transportation, dealing with the finances, etc. He has never received a commission for his work, but he does feel he should be reimbursed off the top for his outlay. He plans to continue as the manager but wants the arrangement to be formalized.

- d. The drummer, Bernie Beats, moonlights with other bands on the side. He wants to make sure he can continue doing this and not have to share the money. The other band members are concerned about his commitment and want to make sure his first priority is to the Strugglers (*e.g.* he won't miss gigs or recording sessions because of scheduling conflicts).

The band members want you to (a) incorporate the band; (b) prepare a shareholders' agreement and other contracts setting out the band members' respective interests; and (c) negotiate with the record label on behalf of the Strugglers.

Questions: Can you accept the various representations?

What ethics issues are presented?

3. A few years later, Lionel is approached by a successful band called Famous Fortunes to replace their lead singer, Crazy Carl, who joined a religious cult that believes rock music promotes devil worship. Lionel retains you to negotiate his separation from the Strugglers and his new deal with Famous Fortunes. Pursuant to your firm's new policy, you include the following language in a new engagement letter with Lionel:

Given the scope of this Firm's entertainment law practice, it is possible that some of our present or future clients will have matters adverse to You either during or after our representation of You. You agree that You have no objection to the Firm's representation of parties with interests adverse to You and waive any actual or potential conflicts of interest.

A year later you move to a new firm, taking with you several clients including Lionel. One day, Lionel calls you in a panic saying he has been sued by Crazy Carl for copyright infringement (for performing songs allegedly authored by Carl), violations of Carl's right of publicity (for allegedly imitating Carl's unique persona and voice), and intentional infliction of emotional distress (for forcing Carl to be associated with the type of devil worship music he has repudiated). Then he drops the bombshell: Your old firm is representing Carl in the lawsuit. Lionel asks you "Can they do that to me?"

Questions: Does your former firm have a conflict?

Does it matter whether that an associate who used to work closely with you on Lionel's matters remains at the firm?

Assuming a conflict exists, is the advance waiver sufficient to waive the conflict?