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## Artist Orgs To Aid In Royalty Search

AG Wants Help To Find Colleagues

BY BILL HOLLAND

Now it's up to artist groups to ensure that musicians and songwriters collect some \$25 million in royalty payments that major labels have kept tucked away.

New York state attorney general Eliot Spitzer handed that task to the groups this week after announcing a \$50 million settlement with major U.S. record labels, which had been hoarding royalties owed to thousands of artists. The settlement figure includes about \$25 million already paid to artists during a two-year investigation by Spitzer's office.

"Our greatest success lies not with pushing legislation but with investigations. And therefore our greatest value-added and the best use of our time was making this case," Spitzer says in an exclusive interview with Billboard. He calls the settlement "a good first step" but adds that "more money is out there."

Indeed, artists will not collect interest on the overdue royalties. Such interest could have added millions of dollars to the settlement. Spitzer spokesman Gary Connor says no interest is due because "royalties are negotiated contractually" and not held through a fiduciary relationship.

In separate statements, officials at the five major record companies pointed out that unclaimed royalties comprise a small part—about 1%—of royalties paid to artists annually.

One label statement blamed the situation on the "difficult task of finding people who have moved without providing forwarding addresses, have changed their names due to marriage or divorce or have passed away and have estates that do not keep contact information up to date."

The industry disperses about \$9 billion in royalties to artists each year, according to the Recording Industry Assn. of America.

But veteran artists' attorney Bob Donnelly charges that record companies rely on artists forgoing some royalties because they cannot afford audits or lawsuits.

### DIFFICULT TASK

The New York attorney general's office has jurisdiction over these companies because they do business in the state. Spitzer's office refrained from penalizing the companies. In fact, Spitzer praised the labels and the Harry Fox Agency for their cooperation. "I don't want to characterize this as an adversarial relationship," he says. However, he later acknowledges, "clearly there's a sense that they should have been doing more."

Spitzer calls the two-year investigation "difficult," in large part because the five major companies have acquired hundreds of smaller companies over the years. Each of these had their own contracts, accounting methods and business practices.

Spitzer says Donnelly suggested invoking New York's abandoned property statutes to mandate state stewardship of any royalties unclaimed after five years. Donnelly came up with the idea while obtaining past-due royalties for such acts as Foreigner and Bootsy Collins. He was unable to mount a class-action suit against the labels because "they'd pay off an artist and we'd have no plaintiffs," he says.

Sen. Patrick Leahy, D-Vt., ranking minority member of the Judiciary Committee, commended Spitzer. "It's unfortunate that it took an investigation by the New York attorney general's office to reach this point, but I am pleased that these artists will receive their due, however belatedly."

#### LIST OF THOUSANDS

Investigators discovered labels owed payments to many well-known, seemingly easily located artists. David Bowie, Sean "P. Diddy" Combs, Gloria Estefan, Vince Gill, Dave Matthews, Liza Minnelli and Dolly Parton are among those who have money coming to them. Even Frank Sinatra's estate is due back royalties. The unpaid funds ended up in the industry's so-called suspense accounts.

A source close to the investigations suggests managers for big-name artists may not have requested any audits of the labels during the period of the probe. Thousands of heritage artists are also on the list.

One of the biggest beneficiaries is the estate of R&B crooner Tommy Edwards. His MGM Records hit "It's All in the Game" spent 19 weeks on The Billboard Hot 100 in 1958, settling at No. 1 for six weeks.

Universal Music Group, which now owns the MGM catalog, will pay Edwards' estate about \$229,000. Officials from the major artist unions, advocacy groups and performing rights societies attended the May 3 settlement announcement.

Among those, the American Federation of Television and Radio Artists, Recording Artists' Coalition and American Federation of Musicians support a related California bill authored by Democratic senator Kevin Murray.

S.B. 1034 would create a fiduciary responsibility between labels and artists. It has passed the California Senate and is pending in the Assembly.

"AFTRA looks forward to working diligently with the record labels and other artists groups to implement this settlement and to continue to pursue more comprehensive reform in the recording industry," AFTRA national executive director Greg Hessinger says.

"We'll be working toward finding these artists or their heirs and lobbying for laws that will hold the labels accountable as fiduciaries," RAC counsel Jay Rosenthal says. Murray believes the settlement underscores labels' new attitude toward resolving decades of

royalty issues. "They want to get this out of the way," he says, "so that artists and the companies can work on the problem of piracy."

Under the terms of the settlement, the companies agreed to list names of artists and writers who are owed royalty payments on company Web sites; post advertisements in leading music industry publications explaining unclaimed-royalty procedure; work with music industry groups to locate artists who are owed royalty payments; and share artists' contact information with other record companies.

In addition, each company agreed to require regular meetings among the heads of its royalty, accounting and legal departments to review the status of royalty accounts and improve royalty payment procedures.

Participating companies, as identified by Spitzer's office, include Sony Music Entertainment, Sony/ATV Music Publishing, Warner Music Group, UMG Recordings, Universal Music, EMI Music Publishing, EMI Music North America, BMG Songs, Careers-BMG Music Publishing, BMG Music and the Harry Fox Agency.