

# "Desperately Seeking Proper Representation"

## -PERSONAL MANAGERS AND TALENT AGENTS: A LEGAL AND BUSINESS PERSPECTIVE



○ Diane Krausz is a New York based attorney and former CPA who represents many members of the entertainment industry, both "talent" and "management."

www.DianeFKrausz.com

The ultimate goal for talent in building a successful career is to assemble representatives who understand their own roles and are committed to this success. One of the first steps is to understand the distinction between a "personal manager" and a "talent agent." Many articles and opinions exist about what type of representation team is best for a career. For our purposes, "talent" is broadly defined to include a musician, comedian, actor, writer, personality, performer or a combination thereof, while "representation" may encompass any number of services being rendered: legal, accounting, financial, business managing, publicizing, grooming and health, personal assisting, dog training, child caring, and development/production executives.

Here, I will limit the discussion to what "talent agent and personal manager" most frequently mean, and what defines the difference between the two (in both reality and at law) in New York and California. This is not to say that, in many cases, both job titles include services that overlap when it comes to executing those duties mentioned above.

1. A Talent Agent is a company or individual that is both licensed by a state (usually NYS or CA) and franchised by one or more of the unions (i.e., Actor's Equity, SAG or Writers' Guild of America, East or West) to represent talent in soliciting and procuring employment. A talent agent or agency is expected to be aware of any and all employment opportunities that are available and to communicate such opportunities to the client in a timely fashion. Some of the larger agencies also "package" television and film properties, as well as theater projects, using different talent as elements. The commission/fee that an agency is allowed to charge a client is, in most cases, limited to ten percent (10%) of the gross revenue earned by the talent. The larger and better-established talent agencies have offices both in New York and California, as well as in other American and European cities, and their various departments represent prominent talent offering different specialties. Therefore, it is not unusual for an actor or a writer to be represented by a "team" of agents at an agency, with one of them serving as the main agent. Agencies often represent a large number of similar talent, and have recently begun to enter into various strategic ventures with related, newer businesses in the entertainment field, including film financing, new media consulting and advertising/branding

2. A Personal Manager, in general, has a role more personal and intimate with the client than exists between a client and an agent. Personal managers handle fewer clients and are responsible for their client's entire career path as well as for coordinating other members of the talent's "team" in the enhancement and promotion of the talent's career. Personal Managers are not regulated either by State law or union regulations, and therefore have no legal or union or franchise restrictions imposed upon their commission structure. Even so, most actors' managers charge between 10 and 15%, while a music group's manager's commission might go as high as 20 to 25%. It must be noted, however, that although the California labor code strictly forbids a personal manager to solicit employment for a client, this rule has long been used as an often unfair "escape" clause for a talent to deprive a hardworking manager of a well-deserved commission. To that end, a case is pending before California's highest court to determine whether all commissions paid and due to the manager must be vulnerable if such solicitation is used by a disgruntled client to void a personal manager's contract. (see *Marathon Entertainment v. Blasi*, Cal S145428) In New York, a personal manager is considered an unlicensed employment agency and may only solicit employment if it is "incidental" to the manager's other services (New York State Arts and Cultural Affairs Law Art. 37.01(3))

Most importantly, a personal manager is permitted to enter into partnerships with a client, including ventures to produce or participate as a producer on a client's television series or film. Recent examples include "The Sopranos" (David Chase, creator; Brad Grey, manager/executive producer) and "The Walker," a film directed by Paul Schrader (Parseghian/Planco, Manager/Executive Producers). In every instance, it is vital that the client and manager evaluate that the manager's inclusion in the production team is, in the long-term, in the best interest of the client, as well worthy of a special bonus or compensation for extraordinary efforts by the manager.

One final point is that personal managers can be extremely helpful to both fledgling and well-established talent, as well as to the so-called "hyphenate" or diverse talent (such as, comedian-director-writer-actor Ben Stiller). However, most well-known actors for the past 20 years have relied on agents, managers and attorneys as their incomes and complexity of various deals have increased.

## 3 Days, 50 Speakers: The Business Behind the Show!



27th Annual 3-Day Intensive Program  
FRIDAY-SUNDAY, MAY 2-4, 2008 · NEW YORK CITY

Broadway's most experienced players offer practical and actionable information to aspiring producers and investors.

Reserve early. Pay less.

### 3-Day Program Topics Include:

- Case Studies of Broadway and Off-Broadway Productions
- Legal Aspects of Commercial Producing
- For-Profit/Not-for-Profit Relationships
- Marketing the Commercial Theatre
- Budget Outline and Analysis
- Producing for the Road
- Developing Investors

Plus:

- Question & Answer Sessions and Networking Opportunities



Space is limited - REGISTER NOW!  
Fee: \$335 until March 14!  
After March 14, registration is \$435.

Register Online Today at  
[CommercialTheaterInstitute.com](http://CommercialTheaterInstitute.com)  
or Call 212-586-1109  
and use code 2008C



CTI is a project of The Broadway League and Theatre Development Fund.