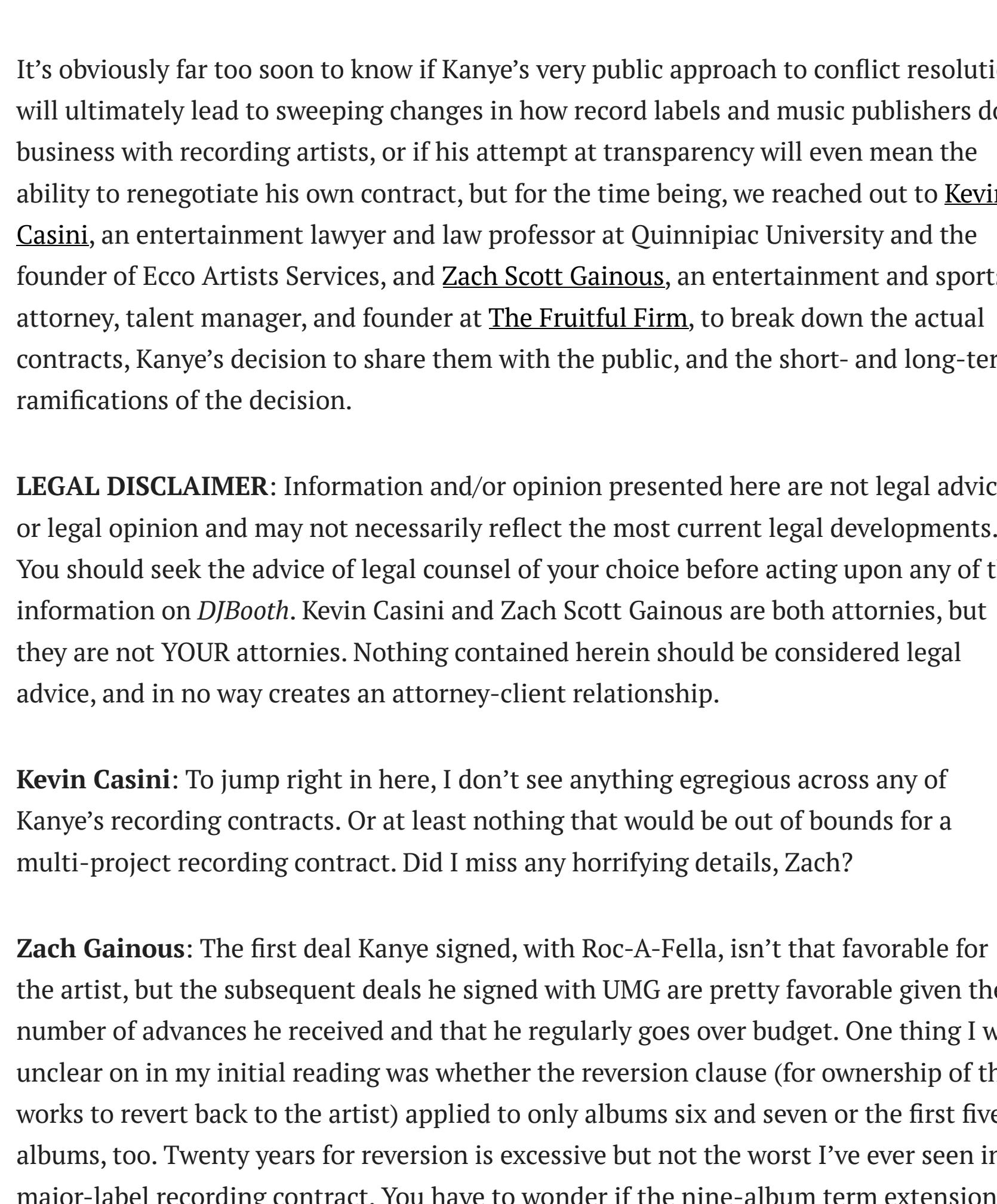


2 Entertainment Lawyers Break Down Kanye West's Recording Contracts

September 18, 2020

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This past Wednesday, September 16, Kanye West, in an attempt to "change the music industry for good," shared his recording contracts with Roc-A-Fella, Def Jam Recordings, and Universal Music Group with the entire world on his Twitter.

It's obviously far too soon to know if Kanye's very public approach to conflict resolution will ultimately lead to sweeping changes in how record labels and music publishers do business with recording artists, or if his attempt at transparency will even mean the ability to renegotiate his own contract, but for the time being, we reached out to Kevin Casini, an entertainment lawyer and law professor at Quinnipiac University and the founder of Ecco Artists Services, and Zach Scott Gainous, an entertainment and sports attorney, talent manager, and founder at The Fruitful Firm, to break down the actual contracts, Kanye's decision to share them with the public, and the short- and long-term ramifications of the decision.

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Kevin Casini: To jump right in here, I don't see anything egregious across any of Kanye's recording contracts. Or at least nothing that would be out of bounds for a multi-project recording contract. Did I miss any horrifying details, Zach?

Zach Gainous: The first deal Kanye signed, with Roc-A-Fella, isn't that favorable for the artist, but the subsequent deals he signed with UMG are pretty favorable given the number of advances he received and that he regularly goes over budget. One thing I was unclear on in my initial reading was whether the reversion clause (for ownership of the works to revert back to the artist) applied to only albums six and seven or the first five albums, too. Twenty years for reversion is excessive but not the worst I've ever seen in a major-label recording contract. You have to wonder if the nine-album term extension Kanye signed was a great idea. That's a long time, regardless.

KC: It also looks like he's consistently over budget, and by a lot. The label eventually shifted recording costs to Kanye in exchange for a bigger piece of the pie. He's getting pretty big (recoupable) advances, so it will take Kanye longer to recoup based on sales and streams. But a 20 year reversion period? You'd think at this point he'd be able to negotiate a better duration instead of just asking for more money. I have to wonder if the costs of each project are what gave the labels pause.

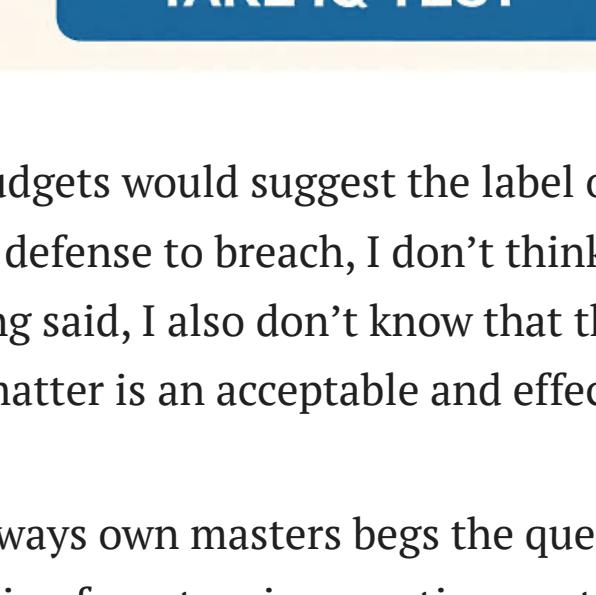
KC: Yes, I'd imagine he could renegotiate that 20 years down at this point, at least on an album-by-album basis. It seems like he's gone over budget on every project to some degree, including the film. I have to think the excessive length of the 20-year reversion clause is likely because of the size of Kanye's advances and recording budgets plus the fact that he's pretty regularly going over budget. The other reversion terms themselves, though, aren't unreasonable at all. If an album's advances and costs are recouped, it reverts, and if not, he can pay back the remaining amount of the advance and costs, and then it reverts.

KC: It's important also to note Kanye is running a sub-label, with A&R, etc., and has to deliver new artists to the parent label. Is he exploiting these artists the same way he claims he's being exploited? It looks to me like the deal he made with Roc-A-Fella was egregious: no reversion under any circumstance. Does he undermine his credibility by having deals under the G.O.O.D. Music banner where he owns masters?

ZG: It's likely the terms of the sub-label deals wouldn't be much different than the subsequent deals with UMG, though in some cases, it's possible they may be even worse, I suppose. The Roc-A-Fella deal is heavy with favorable terms for Roc-A-Fella. I would have never advised a client to sign Kanye's initial agreement with Roc-A-Fella, especially with no reversions permitted ever.

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ZG: Assuming it's from his attorney, as an attorney, if I were in their shoes, I'd be pretty frustrated with my client. Kanye's waived any attorney-client privilege to, at least, that conversation, and you know it'll come up at least in a deposition if litigation were to occur. Nevermind that you've shown UMG what your and your attorney's ultimate strategy and goals are, giving UMG more leverage than they would have otherwise had in any attempt at renegotiation. I'd have to seriously consider dropping the client at this point.

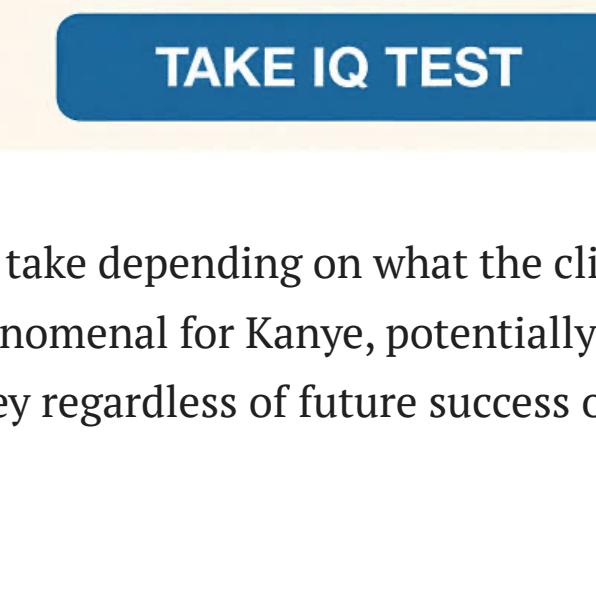
KC: If Kanye's waived that privilege (which only the client can do), that entire text string can come up in deposition, discovery, and could lead to emails as well. That would undermine their legal strategy for sure.

ZG: Exactly. This entire situation opens up a whole can of worms and could cause future issues for Kanye if they do end up litigating in the future.

KC: Let's break down that text, because I think it's our biggest clue as to what the actual demand is here. Again, we don't know for sure to whom he is talking, but I suspect it's a lawyer and likely his lawyer. It certainly reads like one of us wrote it.

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ZG: For my clients, I always try to get as short as possible re-recording restrictions or reversion clauses, or ideally both. On the one hand, the ability to re-record for another label or the artist's purposes/benefit can diminish the label's return on the prior master. Still, it also can lessen the value of both the preceding master and the newly re-recorded master for the artist. I'm always curious to know from my clients, outside of the control, and the potential financial benefits (which can also be minimal), what's the purpose or goal in re-recording or having the ability to re-record? I want my clients to have the right to both get back their masters and re-record in as short amount of time as possible. Still, they also need to evaluate and figure out what's more important: ownership of the original master or the ability to re-record.

KC: There are certainly many different ways to establish a new kind of relationship with UMG. Joint ventures are becoming more common, as are licensing deals like Taylor Swift's with Universal and Republic. I think Kanye and UMG can come to some type of new arrangement that would still be highly beneficial to everyone, provided Kanye is interested in doing so. So far, it seems like he's saying he wants nothing to do with the label going forward.

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ZG: Agreed. It's a give and take depending on what the client ultimately wants. In this case, the advances are phenomenal for Kanye, potentially in some cases "never have to work again" levels of money regardless of future success or failure, at least if he doesn't overspend.

DEF JAM, EDITORS PICKS, KANYE WEST, LEGAL DEPT., OPINION, ROC-A-FELLA

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