



Casinos Today: Contracts and Solutions

by Kell Houston

The entertainment business is changing for tribal casinos. Since the beginning of Indian gaming in the 90s, hundreds of artists whose careers had either gone by the wayside or had been limited to fairs, festivals and the occasional private parties, got new life. Along with this came a new price point – “casino price” and a very long learning curve about what this new part of the entertainment industry was all about and how it worked.

The entertainment business has always been pretty one-sided in favor of the artist. Artists’ agencies have a lot of language in all of their standard contracts and riders that protects their own business interests as well as the artist’s interests. These have always been very one sided. Over the last few years, tribal casinos have begun addressing these one-sided contracts and riders, with their own addendums and process. This is

causing a huge paperwork log jam. In some cases, it’s become a standoff, with neither side willing to compromise. As you can imagine, this is delaying marketing, advertising, announcing the show and the entire process of deposits, advancing and contract processing. The current process goes as follows:

- 1) The casino authorizes an offer for a specific artist, for a specific date and a specific amount of money. This is the beginning of the initial offer process.
- 2) The offer is received by the artist agent and is processed into their system, which includes the responsible agent and the manager.
- 3) The acceptance of the offer can take time and also include some back and forth negotiation regarding the date and the money.

**STRATEGY WITHOUT TACTICS IS THE SLOWEST ROUTE TO VICTORY.
TACTICS WITHOUT STRATEGY IS THE NOISE BEFORE DEFEAT.**

– SUN TZU

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4) Once this is settled and agreed upon, the agency issues a contract and rider for the artist, which includes the date, price and terms. Along with this will come the promotional materials or links to those materials and also the artist outside PR company and VIP ticketing company (fan club add on experience) will start their own process with you for your date.

Issues

Who signs first? The industry standard has been that the artist agency issues the contract and rider to be signed by the buyer first. Times are changing though, and more and more tribal casinos want the artist to sign first. Not only that, tribal casinos are submitting their own addendums with several non-negotiable terms. Keep in mind that this is all going counter to how the agencies have been doing business. So, it is basically re-inventing the wheel.

The issue of reviewing the contracts, making changes and submitting back to the artist's agency, for the artist signature, just starts a whole back and forth process that can be very unproductive. Who's changes prevail in a dispute? Each party will claim that their changes prevail.

Tribal Casino Addendums

Entertainment law is a whole different animal to deal with. What sometimes happens is tribal attorneys may not be experienced in entertainment law, which can make the process challenging. The attorneys for the big national agencies, like CAA, WME, UTA, APA, etc., are red lining every change the casinos make to the contracts. Then it can go back and forth, and often with no final resolution. Agencies now accept such terminology as: "No deposit will be issued without a fully executed contract," and "No advertising, marketing or ticket sales can commence without a fully executed contract." This is putting pressure on agencies to get things handled.

Solutions

Put together a simplified casino addendum with non-negotiable, but realistic terms. The two biggest issues are force majeure (is a weather cancellation a force majeure?), and sovereignty. A lot of times this just comes down to how these issues are spelled out. This addendum should be submitted with your offer to the artist, so you can quickly get to a yes or no answer. There is no point going forward with an artist that is not willing to come to some common terms. Specify what can and cannot be provided, for example no alcohol, no bus stock, meal comps instead of actual catering, hotel rooms may be off site, etc. Put real expiration dates in your offer and be clear that the dates are real. Standardize your offer sheet to include

all ticket scaling, announce and on sale dates, radio stations you want involved and TV you may look to use. Keep in mind the goal is to have a successful concert/event. Getting the paperwork in place is mandatory. Simplifying the process will keep everything on track.

The bottom line in tribal gaming is this is the gaming business not the concert entertainment business. Casinos use entertainment to drive and brand their casino business. A successful entertainment program sets your property apart from your competition. Casinos need to standardize and simplify their legal needs and requests, and the artist's agencies and management need to do the same. The purpose is to have successful concerts and events, not prolonged discourse and legalese. ♣

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