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Key man provision requirement may help artists keep contractual freedom



JPAYE

Imagine finally succeeding and being signed to a record label only to find out that the recruiter decides to part ways with that same record label. This could mean the end of a career before it even had time to begin or a small pothole on the road to success.

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DISSECTING A MUSIC CONTRACT: WILL 'COMMERCIALY ACCEPTABLE' SONGS TRAP THE ARTIST?



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Jermaine Dupri is one noteworthy example of this exact thing happening. He's made hit records for Mariah Carey, Usher, TLC, Xscape, Anthony Hamilton, Janet Jackson, Kris Kross, Da Brat and a number of others. But in his early days, he was once the president of Virgin and Island Def Jam Records. According to [Essence](#), Dupri's departure was due to

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Virgin and Island Def Jam Records. According to [Essence](#), Dupri's departure was due to Island Def Jam not being "aggressive enough."

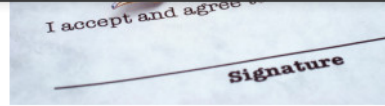
Disappearing music from Jhnta Austin, Ninth Ward and Dondria pretty much confirms that. All artists were buzzworthy but suddenly nowhere to be found, and the snail-dragging pace of releasing albums could be to blame. There were also accusations about jealousy from L.A. Reid, according to Jermaine Dupri, but considering the interview was in 2009, they may have hashed those issues out by now. Both are still wildly successful — [\\$18 million mansion](#) for Reid; So So Def records and reality show "The Rap Game" among a few things Jermaine Dupri has his hands on.

Recommended Reading: "[Contracts for kids: The legal side of reality music TV contracts](#)"

But could these fallen artists have succeeded in the industry if they'd included a "key man provision" in the contract? Possibly. The idea of a key man provision is to protect the artist so that if the "key man" who recruited him or her leaves, this person is not forced to stay



her leaves, this person is not forced to stay involuntarily. While it's possible that the record label may still want to work with this artist, it's also quite possible that the artist doesn't think the record label's plan meshes well with the original plan.



Does your entertainment contract need a key man clause? (Photo credit: istock)

The key man provision in a record label contract functions in two distinct ways:

1. Key member clause: Members of the band

On April 9, 1970, Paul McCartney, a lead member of "The Beatles" issued a press release announcing his departure from the group. In the [press release](#), McCartney stated:

Q: Did you miss the Beatles ?

A: No.

Q: Are you planning a new album or single with the Beatles?

A: No.

John Lennon. George Harrison and Ringo Starr may have been able to continue on as the

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John Lennon, George Harrison and Ringo Starr may have been able to continue on as the Beatles after Paul McCartney's departure, but would fans still view the group as the same Beatles? [What gives a musical group its identity?](#) Is it the members of the group or the musical sound of the band?

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A key member clause allows a record label to cancel the recording contract if a member of a group/band who is considered integral to the overall, identity, sound or style of the group leaves. A key man clause could have allowed the Beatles' label to drop the group after McCartney quit the band.

2. Key man clause: Record label representative

Frequently, artists will sign with a record label because of a specific label head, A&R executive or producer. A key man clause provides that if the key man is no longer with the label, the contract automatically terminates or the artist has the option of terminating the contract. The late Whitney Houston's recording contract with Arista records contained a key man clause that would free Houston from "[Arista should Clive \[Davis\] ever quit or be fired.](#)"

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The key man clause can be a self-serving technique for the label representative as negotiating tool. Clive Davis leveraged his key man clause with Houston to negotiate a new deal for himself at Arista Records. Both [Whitney Houston](#) and [Carlos Santana](#) used their key man clauses to negotiate more favorable contracts for themselves when Clive Davis departed Arista.

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Have more questions about record label contracts and key man provisions? Contact [J. Paye & Associates](#) today.

Shamontiel L. Vaughn contributed to this blog. Find out more about her at [Shamontiel.com](#).

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