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GETTING SIGNED

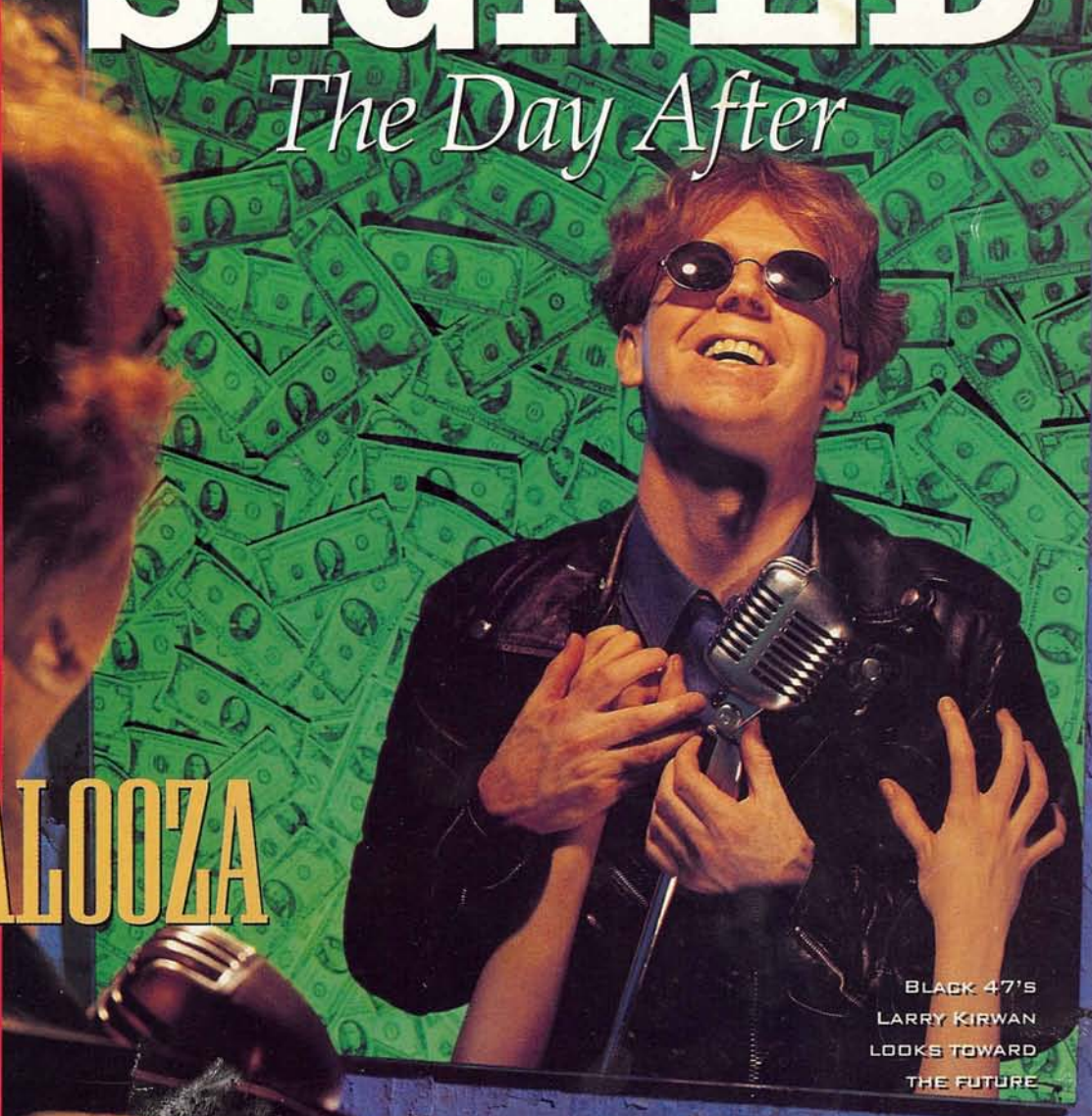
The Day After

PRIMUS



PLAYER'S
PLAYERS
HEADLINE

LOLLAPALOOZA



BLACK 47'S
LARRY KIRWAN
LOOKS TOWARD
THE FUTURE



LEAVING NORMAL:

The day after the day



PHOTOGRAPHY BY ANDREW BRUSSO

A photograph of a man with light-colored hair, wearing a dark suit and a blue shirt, singing into a vintage-style microphone. He is on a stage with a background of shimmering, gold-colored tinsel curtains. A woman's hands are visible, adjusting his dark jacket. The scene is lit with warm, golden light, creating a celebratory atmosphere.

you get signed

FOR A BAND at the top of the local ladder, it's the best of times and the worst of times. It's when the answer from a major label is *yes* at last. It's when the band can finally hope to get their music out of the boondocks and into the car radios of America. It's when success is only one of the many lurid temptations suddenly at the doorstep, among them praise, money, a new haircut and group sex.

by Bruce Pollock

Thirteen years ago, it was when Willie Nile was courted by Clive Davis at Arista and eventually got to tour with the Who. Four years ago, it was when Edie Brickell & New Bohemians hit number one with their first shot. Six months ago, it was when Larry Kirwan's Black 47 rode the cult buzz to a much-hyped debut release.

But, like every honeymoon, the glorious moment of having made it soon gives way to the reality of having to make it work. For many rookie bands, this is the time when local critics, other bands in town and three-quarters of their original fans all complain that they've sold out. It's when the label that just bought their body decides to tamper with their soul, and the marketing department decides some other band deserves the push that month. When management suddenly neglects to return phone calls. When they find that the top rung of one ladder leads to the bottom of the next.

It's when, despite touring with the Who, Willie Nile found himself without enough airplay or record sales to prevent being dropped. It's when, despite initial rave reviews and an article in *Time*, the BoDeans, after five albums on Slash, are still waiting for a hit single. It's the fact that, despite a hit single, when Edie Brickell & New Bohemians broke up shortly after their second Gefen LP bombed, "nobody knew, nobody cared."

For too many bands, signing a deal isn't the end of the beginning, but the beginning of the end. Like the Neighborhoods who, after 14 years, finally put out a record on Atlantic, only to break up a year later.

Willie Nile knows how seductive that honeymoon period can be. Before Robert Palmer wrote him up glowingly in the *New York Times* in the summer of '79, he was just another shipwrecked folksinger playing Kenny's Castaways in Greenwich Village and changing his name every other night to get gigs uptown.

"The article came out in July, and the next time I played, the place was packed," Nile recalls. "When I got offstage people would be handing me their cards. There were three or four labels a night in there. Clive Davis came down. I was getting offers to go to England to record. You could feel the electricity. It was a blast." On the advice of his lawyer, Nile eventually opted for Arista Records.

In Milwaukee during the mid-'80s, an A&R woman from Capitol Records, in town to hear another band, was more impressed with the opening act, the BoDeans. Slash/Warner emerged the winner in the ensuing battle to sign them. When Kurt Neumann and Sammy Llanas flew first class to L.A. to make the deal, it was the first time either of them had been in a plane.

"I think it's much harder after you get signed," says Kurt, five albums later. "Before that, you're a local celeb, you're sleeping until four in the afternoon every day, you're making all this club cash, all these women are around. All of a sudden you sign a record contract and you start playing for 10 people in all these different towns. It slaps you with a bit of reality. Back home, people start to dislike you; area musicians bum out when one band does better than another. A lot of the older musicians who have been playing around for a lot of years feel you have to do that first, because that's paying your dues. Sam and I laugh about it all the time. We had it made and then we got a record deal."

Kenny Withrow, a guitarist in Edie Brickell & New Bohemians, would agree.

"The worst part was definitely right after we got signed," he says. "We had a lot of producers who fell through, so it turned out to be about 10 months of waiting to record, getting discouraged month after

month. We had five going-away gigs in Dallas. It's so funny, that mentality—you're signed and leaving. You're going off and they'll never see you again. You don't realize that life goes on after you've been signed."

During their early years, the Neighborhoods, Boston's toast of the local circuit, stubbornly waited for the deal they felt they deserved. As time went on, however, they began to feel like Janis Ian at a basketball game.

"We had a manager back then who looked upon us as the Beatles," singer David Minehan admits. "That was lovely and flattering and such, but if you hold out for a little too much, the labels just move on to the next thing."

In 1991, Atlantic picked them up. The guys had barely finished dousing each other's heads with champagne when the label began suggesting changes in their sound, presentation and strategy. To test the

"When you're on a major label and you see the starmaking machinery that's available, you start questioning yourself. Insecurities creep in, and you almost start to give these guys the benefit of the doubt. We stuck to our guns, but once the A&R guy was disillusioned, the rest of the record company just fell by the wayside."



waters, they re-released the band's latest indie album. When it didn't fly, they were dropped without recording a new one. The Neighborhoods broke up within the year.

"If someone's going to put \$150,000 down to sign you, I just don't understand why they would mess with the chemistry of the band to the point that you break up," Minehan laments. "We handed them a demo tape of almost two more albums' worth of material—15 songs—which fell on deaf ears. It had already been decided that they were going to let us go, mainly because we weren't playing ball with the A&R guy; he had a vision of us and we didn't accept his vision. I have to admit, when you're on a major label, and you see the starmaking machinery that is available—I won't say it always gets committed to you—you start to wonder, 'Is this a compromise I can live with a little while, at least to get us to the next rung on the ladder?' And you start questioning yourself. Insecurities creep in, and you almost start to give these guys the benefit of the doubt. We stuck to our guns, but once the A&R guy was disillusioned, the rest of the record company just fell by the wayside."

That New Bohemians *didn't* rebel against their record label and their producer's vision of them led to their eventual downfall, barely two years after their debut single, "What I Am," became a hit.

"Making the album was one of the hardest things I ever had to go through," Withrow remembers. "We came from an improv background, so playing in the studio was very foreign to us. On top of that, we recorded in Wales. It was just us and the producer, slugging it out. They tell you not to bring any equipment over, that you can rent whatever you need. Of course, it didn't work that way. I went through just about every amp you could name, trying to get a good sound, and it still wasn't happening. I didn't realize how much my equipment had to do with my sound until I didn't have it. We had to switch to a studio drummer and that was another thing to deal with,

er. We were interviewing managers. We went through a string of them, and they were almost always close friends or dating somebody in the band. We should have had people helping us get singles out. 'What I Am' got milked for everything it was worth. It was out too long, so people became, in my opinion, sick of us. We made four videos for our first album. Somebody could have been there to make the decision not to do them. But the record company said, 'Sure, make that video.' They're always willing to let you spend as much money as you want. We were ill-advised, and we wound up not making any money. The weirdest thing, to tell you the truth, was that nobody tried to talk us out of breaking up."

On the day they were signed to Elektra in the late '70s, the Simms Brothers received one particularly salient piece of advice from then chairman Joe Smith. "He said, 'I'm behind you guys all the way,'" drummer Bud Tunick recalls. "Anything you want, just go downstairs and get my people motivated." That was the hard part, getting those people downstairs motivated." Especially once the album was released and the head of marketing decided the priority that month would be the Shoes and not the Simms Brothers. Even an offer from Peter Frampton for the opening slot on his national tour failed to motivate Smith's staff.

"We were told we would get tour support," says Tunick, "and then right before we went on the road with Frampton, they backed out and we ended up having to take out a \$25,000 loan to get our act on the road. After we were dropped from the label, the band had to work for a whole year just to pay off the loan we took out in lieu of tour support."

The Neighborhoods very nearly missed a chance to tour with David Bowie and Tin Machine. "We got it because of our relationship with Bowie over the years," Minehan notes, "and still Atlantic balked at paying a few hundred dollars for gas, tolls and trailer rental." Atlantic eventually came through with the money, but not much else.

"We never saw getting signed as the be-all and the end-all," says Minehan. "But one of our reasons for signing was the theory that being signed gets you out of the minors and into the majors, and that even if it doesn't work out, suddenly you can rub elbows and make connections and be adopted elsewhere more readily. But as the Neighborhoods went through this process with Atlantic, we learned that other labels

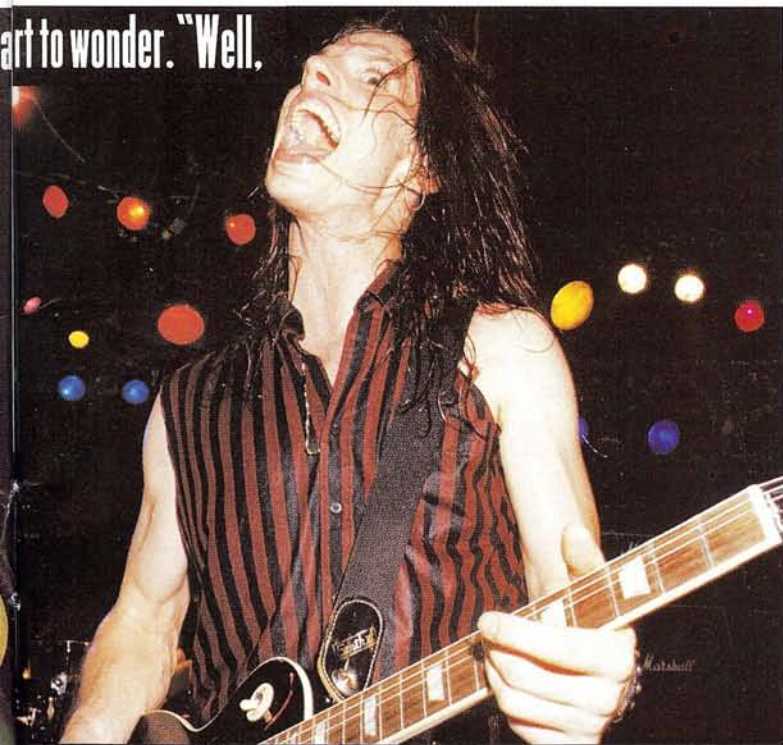
also watch new signings and base their judgment on how good or bad you did with your previous label."

Indeed, even after he released a critically praised first album and toured the country in front of the Who, it took Willie Nile almost a decade after he was dropped by Arista to latch on with another label.

"I'm not sure what I expected," Nile says now. "I was just open to the experience. I was 27 at the time. I always felt I was a poet first. I didn't, and don't, really have a huge ego. I come from a large family, eight brothers and sisters, so I always knew I was one of many, even with being able to make a record like this. I got a good bit of dough to sign, because there was a lot of attention on me at the time. It was a nice advance—but it only lasts so long. My real regret," he laughs, "is that I didn't play professional baseball."

And yet, armed with the war stories of those who've come before, players and bands arrive at this particular rainbow every day, each dead certain that he or she will be among the few to do it right. Like Larry Kirwan, leader of the latest New York City sensation, Black 47, who paid his dues of innocence back in the mid-'80s with Major Thinkers on Epic.

"If you want to be a success," says Kirwan, "there are certain



art to wonder. "Well,

Can live with to get to the next rung on the ladder?" DAVID MINEHAN, THE NEIGHBORHOODS

because the old drummer and I were really tight, and a lot of our parts went really well together. Once we got this new drummer, a lot of my parts didn't make as much sense. The percussionist felt even worse than I did. We had keyboards on the album because of the producer, and that ended up taking a lot of the percussion rhythms, so our sound went out the window and the record started sounding a whole lot more generic. A lot of fans felt the band wasn't portrayed accurately on the album, which was true. Also, there was resentment towards Edie, because the name was changed to Edie Brickell & New Bohemians. She took a lot of flak that the record company was just trying to get her away from us."

Despite such ignoble beginnings, the hit single very nearly gave the band a new lease on life. "Having a single going up the charts is an incredible bonding agent within a band," Withrow allows. "We all started getting along a lot better once we started touring. To me, the band part is no problem. Making the music is no problem. It's being a businessman and being part of a corporation that's the problem. All during the time 'What I Am' was happening, we didn't have a manag-

THE 10 MOST INDEFENSIBLE RECORDING CO

A man labors and fumes for a whole year to write a symphony in G minor. He puts enormous diligence into it, and much talent, and maybe no little downright genius. It draws his blood and wrings his soul. He dies in it that he may live again. Nevertheless, its final value, in the open market of the world, is a great deal less than that of a fur overcoat, or a handful of authentic hair from the whiskers of Henry Wadsworth Longfellow.

—H.L. Mencken

SOMEWHERE in the intervening years between cutting your first demo and being told by your tax attorney that you've got to sign on to that Rock 'n' Roll Legends Tour of Midwestern state fairs being headlined by Otis Day & the Nights, you will be asked to sign a recording contract. Congratulations! It is certainly a reason for rejoicing, and you should take your parents out to dinner to celebrate. Just don't let them rent out your old room.

Although we wouldn't suggest that every record contract is patently unfair, the following list is compiled from boilerplate provisions and features of standard record contracts.

1. TERM AND LENGTH This is the whole ballgame. Most contracts seek to tie an artist up for between seven and 10 albums—which, in the vast majority of cases, means committing your entire career at a point when you haven't got much bargaining power. While it's true that if you become successful you may be able to renegotiate, that's far from guaranteed. If you become huge you can hold them up, but most renegotiations require the artist to give something to get something. Like a contract extension. Or publishing. Or your first-born.

Perhaps even more daunting for a young, cash-strapped performer than the term of the contract is its physical length: Most recording agreements are 40–50 pages long, and Sony's is around 70 pages (by comparison, a standard book contract is three or four pages). How many of the elements that will be important to you if you become successful can you possibly negotiate in the beginning? Chances are you won't have the money to pay a lawyer to hash things out on a provision-by-provision basis, and you'll be more focused on the things that have to do with your life at the moment—like the size of the advance or whether tour support is a recoupable expense. If you are a success, those things will be irrelevant—so it's all pretty counterproductive.

2. VIDEOS Fifty percent of the cost of making videos is generally charged to an artist's record royalties. Yet the label usually retains ownership. And if they are packaged for sale, the royalty you receive will be lower than what you get on CDs and audio tapes.

3. MERCHANDISING This is frequently the only place where starting and mid-level artists make any money (they're usually unrecouped on recording advances and can't play big enough venues to earn real

money on the road). Labels now have merchandising arms and ask for this as a matter of course. If they get it, your merchandising income will probably be cross-collateralized against your advances and other costs—which means you won't see any merchandising income until the record company recoups the cost of making your album. Since it's on the table as a matter of course, a lot of artists wind up giving the label at least something.

4. SAMPLING This is relatively new. In the wake of recent lawsuits, record companies now insist that the artist be responsible for clearing all samples used. That means *you* have to negotiate and pay for their use out of your own royalty—which can cut your royalties in half. And guess who's liable if you miss one?

5. AUDIO-VISUAL RIGHTS You can't make motion pictures or sing in a film unless the record company owns it. What this really means is that if you get a chance to be in a film, the motion-picture company will have to negotiate with the record company. A few years ago, MCA was forced to recall an *E.T.* album featuring narration by Michael Jackson when they couldn't arrange clearance with Epic—so it really doesn't matter who you are.

6. DIGITAL DELIVERY Chances are that by the end of the decade there will be some form of digital delivery of recordings via cable to the home. No one is sure if consumers will want to buy albums this way, but if they do, this clause ensures that the artist will be paid substantially less for the sale—usually 50 to 75 percent of the standard royalty. It's modeled on the new technology clauses that labels used in the past to introduce CDs and cassettes. The company line is that the risk and expense involved in bowing new technologies needs to be shared. Of course, they can be a little slow sharing the rewards—as when the success of CDs substantially improved the profit picture for labels but artists had to fight to lose their new technology clauses. Ya gotta admit—these guys are staying up late at night to think of this stuff.

7. PACKAGING DEDUCTIONS The label deducts the cost of the packaging of your album from the list price—sometimes as much as 25 percent. So your royalty will be figured on 75 percent of list price rather than 100 percent. Does anybody believe it costs \$4 to make those brittle clam-shells and five-inch booklets? Anybody at all? Oops! I'm being unfair—forgot the shrinkwrap and that obnoxious little strip of silver adhesive!

8. LEAVING MEMBER PROVISIONS You won't believe this one. Let's say you actually hang in there and negotiate a good deal for your band with decent money and decent points. And then a member of the group quits. The record company frequently has an option to sign the leaving member as a solo under much less attractive terms, usually without an advance.

TRACT PROVISIONS

But wait—it gets worse. Let's say the band breaks up and you're successful as a solo artist. Chances are the label will have the right to recoup whatever they're owed by your old group out of your royalties as a solo artist. Nice, huh?

9. PROMOTION If a record company is supposed to do anything, it's promote your record. Only now they charge you back for promotion expenses—frequently 50 percent of all independent promotion charges and sometimes more. If the label goes after three or four singles from your album, you can wind up with quite a recoupment bill—like \$100,000. By the way, it's hard to document these expenses—and subsequently even harder to challenge them. Which brings us to the La Brea Tar Pit of record contracts:

10. ACCOUNTING CLAUSES “When I first came into the business the accounting clause was one paragraph,” says entertainment attorney Michael Sukin. “It's now several pages.”

First, there are the reserves against returns. That means the record company gets to withhold a chunk of your royalties for a set period of time in case your records stop selling and they have to take them back from retailers. The standard reserve period is two years—although RCA Records has traditionally asked for a 10 percent perpetual reserve. Attorney Don Engels says he has seen labels try and get provisions that allow them to withhold royalties on old albums if an artist is late with a new one—indeed, that was at the core of a suit between CBS Records and the group Boston.

(By the way, record companies also ask for, and get, a “free goods” allowance of 10–15 percent—i.e., they claim that 10–15 percent of all records manufactured are given away as promotional items and therefore excluded from artist royalties [but not publishers' royalties]. Let's say you have a free goods deduction of 15 percent, a 25 percent packaging charge and a 10 percent perpetual reserve. Your slice of the pie is getting mighty small—and you're sure to get a reduced royalty rate on foreign sales.)

If you want to audit the record company—and most attorneys say you should—there are many restrictions. First, there's a set period of time in which you can challenge an accounting statement. Second, you are not allowed to hire an accountant currently auditing your label for another artist. Since the handful of entertainment accountants who really know what they're doing are always involved in a current audit, you will have to wait in line—sometimes for a very long time. The upshot is that many artists accept a settlement from their label rather than conducting a full audit.

Finally, you can only verify the numbers the record company gives you: Most contracts preclude you from looking at manufacturing records from the labels' pressing plants—which is simply outrageous. By comparison, what tour manager would ever just accept a promoter's ticket count?

BY FRED GOODMAN

ground rules. One is understanding the corporate structure and trying to make it work for you. A lot of people are so exhausted by the time they get a record deal, they go, ‘Here I am! Do with me what you will.’ You can be sure that's the end of them. You can't stop at that point. You've got to figure out what it is you want to do, what strategy you're going to take to get there, and you've got to present the company with that strategy before you sign.”

The Black 47 strategy was to take their brand of Irish rock into the blue-collar pubs of America, England and Ireland. With 600 or so gigs to their credit, they channeled their profits into an independent album that eventually converted Ric Ocasek to their cause.

“People think that because you have a record company, things happen better,” Kirwan comments. “Maybe there's more of a budget and everything, but this country, and rock 'n' roll in general, was made by little people who had a belief in something and made it on their own.”

For a year and a half, Black 47 fielded offers from record companies, eventually narrowing the possibilities down to three. “At that point,” says Kirwan, “Pete Ganbarg at SBK came to me and said, ‘Listen, our company really loves what you're doing. You're obviously doing the right thing, you're getting lots of good publicity, you're selling lots of your own CD. So what we'll do is, we'll help you to expand that base.’ And that's what I had been waiting to hear. Those were the words that made me sign with SBK.”

Randy Smith of the Regulators, from Santa Barbara, has a particularly pragmatic attitude toward the transition his 10-year-old band has gone through since signing with Left Bank, a subsidiary of PolyGram, in 1991.

“You think it's going to be real easy,” he muses. “This guy loves our band, we'll get signed real quick, we'll get an album out, we're touring, we're playing the Coliseum. That's not the way it is at all. Not a chance. That's when you roll up your sleeves and say, ‘Man, we got in this mud pit, now all we've got to do is get across to the other side.’”

Slogging across to the other side is, as Smith explains, more than a matter of grooves or payola or the right hair. It's a process that starts before the ink is dry on the contract, and may extend as much as a year after the band makes its initial deal.

“You have to keep the label interested during the period of negotiations,” says Smith. “If a band goes into hibernation because they got signed, it can damage them. That's when the label starts forgetting about you. You've got to continue doing the same thing as before you got signed. You still have to get out there and keep pumping. This is when your manager should start working the label. Let them know where you're playing; invite them to the gig. This is when you start looking for a producer. It took us a year to start on the record after we got signed. Once we started on it, they never gave us a release date. They said, take your time. We did a lot of practicing. We did demo work with an eight-track to figure out which songs we wanted to go on the record, because sometimes your favorite song just doesn't come alive in the recording. The label wanted to know if we'd co-write some songs with other people. Some groups say, ‘No. We write what we want to write.’ They try to put their fist down when they don't have that much authority yet. We tried to work with the label, never bending over too far, just trying to do our part to keep the interest up. We didn't gig as much during the songwriting and the demoing period, but we still set up gigs once in a while, just to keep people interested, keep our chops up, keep the label coming. You've got to constantly communicate with the label.”

If getting signed is like being thrown into a swamp, trying to get radio airplay for your debut disc is like finding out the swamp is 99 percent quicksand, and it stretches across the entire continent. And, just like on "Beat the Clock," your record has about 45 seconds to sink or swim.

Evaluating the progress of the Regulators' six-month-old album, Smith expresses a down-to-earth perspective that takes into account the realities of today's record industry.

"Radio stations get lots of tapes every day," he surmises. "It takes time for the label to get the radio stations interested. When I first heard Guns N' Roses, I heard 'Mr. Brownstone.' Then I didn't hear it for weeks. I thought, 'What happened to the band? That was a great song.' Then I heard 'Welcome to the Jungle.' Then, all of a sudden, they started playing these other singles, and the band started catching on. And *then* they went back to 'Mr. Brownstone.' It's going to happen the same way with us. They're test-marketing us across the nation, seeing which songs are going to be hits, rather than taking a guess. That's going to take longer than sticking out a single and blowing the wad. One single we picked is now one of the most requested songs in Kansas City. Now when we go back to Kansas City, we'll do good. Basically, what you do is build a following in every city just like you'd do at home," Smith says. "That's the way you should look at it. You gotta stay as if you're a local band trying to get signed. A lot of bands might change. I think you should always stay the way you are. Never become too cool for your friends and fans, because you can never have too many fans."

And though you may indeed give up your day job, Smith advises, don't spend your advance money too soon. "A lot of people grab the money and buy a car," he says. "A lot of bands, as soon as they get signed, buy brand-new equipment. Then they find that they didn't make any money and they have to sell off their gear."

Black 47's Larry Kirwan recognizes that he's still in the throes of his own honeymoon period.

"From what I've seen, all the departments at SBK are on top of things," he says. "Here's an example: I gave them a list of the 12 songs I wanted on the album. The next day, they called me up and said, 'Listen, we really want to balance the group the way you balance it on stage, and we noticed you didn't include as many political songs as you would have in your set.' I looked at the list and said, 'Yeah, you're right.' Now that's a good record company! Another record company might have said, 'This is great, he forgot all the political songs.'"

Yet his sunglasses are far from rose-colored. "Don't read the music magazines," he suggests. "You're obviously going to read your reviews, but don't take a good one as being that great or a bad one as being the end of the world. It's just one person's opinion. Always think of your audience. Your audience is more important than your record company in the long run."

Kirwan also preaches frugality. "Most bands bump up when they get a record deal. They buy a lot of new equipment and hire roadies. The record company puts the money behind them and they go on a tour—and the record company charges up all this money to them. They tour for three or four months, the record hasn't been selling;



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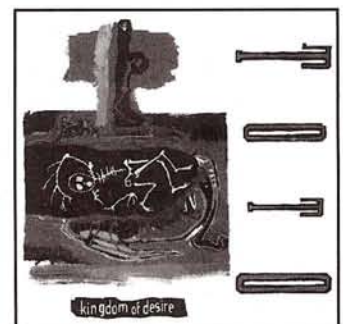
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they come back after having toured the country, and the record company doesn't want to put any more money into them, but they've gotten used to the record company subsidizing them. Remember, everything that's charged to you, you've got to pay back in the long run. The crux of the matter is being aware of things like that."

The crux of the matter, suggests Kurt Neumann of the BoDeans, is being able to survive long enough to make radio play inevitable. "We chose the route of R.E.M. and U2," he says. "If you make enough

records and play enough, and word of mouth gets you in a popular enough position, then radio has to play you."

The crux of the matter, according to Willie Nile, is purely the luck of the draw. "In this world there's a lot of right time, right place," he says. "Arista tried very hard for me. They were supportive. I got to make the record I wanted to make, the way I wanted to make it. You never know how well things will do in the marketplace. Maybe things could have been different, but you can't live your life holding your breath."

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The crux of the matter, Kenny Withrow adds, is band chemistry. "I played in this band called Billy Goat for the past year and they finally have an album out. They were totally regional, on the road three years hard-core, losing money. For them, all the touring and all of them being together came to a head just around the time they got signed. At that point, they totally exploded and broke up. I've seen it happen again and again. Success destroys almost every band."

You can tell that to Bud Tunick, who recently took his seat behind the drums again when the Simms Brothers reunited to play Toad's Place in New Haven for the fourth time in the 12 years since they called it quits. The club flew their keyboard player in from California and paid the band a nice piece of change. The guys rehearsed one night and did it. "We sounded good," Tunick observes ruefully. "The singers were tremendous. Every time we play we sound good. It just reaffirms to us that we were a good band."

After completing the last of their farewell gigs at the Rat in Boston, David Minehan feels much the same way about the Neighborhoods.

"A lot of my identity is wrapped up in being David Minehan of the Neighborhoods," he confesses. "But we, as people, need to get a little distanced from the Neighborhoods, because the Neighborhoods became this really respected entity that everyone talked highly of, but somehow, what was it about the band that didn't allow them to break big and wide?"

"Nevertheless, I feel lucky to turn my back on this project of 14 years, feeling like, hey, it was a good band and the songs were good and our fans knew it and they let us know it right back. I'll never forget this past month. A lot of bands don't have a choice in these matters. They don't get to do a farewell tour. They have to break up due to apathy from the market. We were able to go out in top form, doing blockbuster business. Above all, I'm finishing off with the Neighborhoods in a very positive way, and now it's time to move on in a very positive way."

To move on, but not to give up or give in; to dig deep, to return to the source that brought you to music in the first place—this, perhaps, is the real crux of the matter. After all, the path to artistic maturity, and to commercial success, is seldom paved with gold. "Sometimes," Minehan observes, "these are the cathartic measures that really make you hit, finally." 