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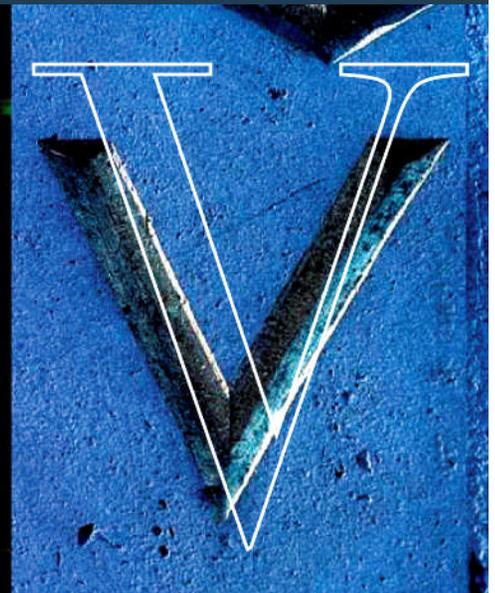
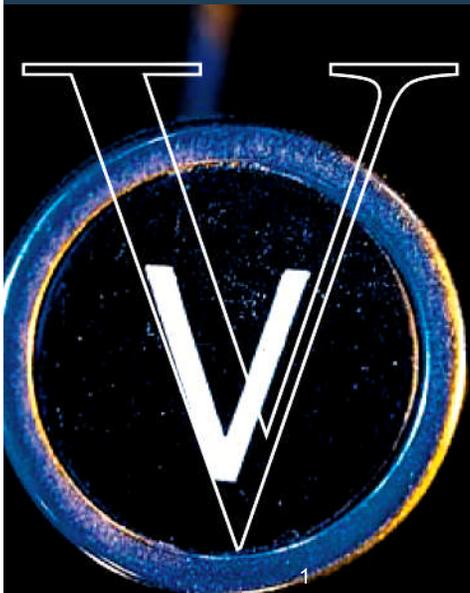
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Tony Elliott

Anthony Curtis Elliott, CPA
Royalty Auditor

getting your fair share: how to prevent royalty underpayments

OCTOBER 26, 2011



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the problem

According to an Invotex Group study 88% of licenses have underreported royalties



last week's stories



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- **Hendrix Estate Says Universal Bilked It Out Of Royalties**
- **9th Circ. Urged To Preserve \$319M 'Millionaire' Verdict**
- **Ricky Nelson's Estate Sues Capitol Over Royalties**
- **TV Icon David Cassidy Says Studio Bilked Him Of Royalties**
- **Goth Band's Royalties Suit Against Record Label Survives**

By Abigail Rubenstein

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Law360, New York (October 14, 2011, 3:08 PM ET) -- A Florida federal judge on Wednesday refused to nix goth group The Cruzshadows' lawsuit accusing record label Dancing Ferret Discs Inc. of failing to pay royalties that were due under a series of expired licensing agreements.

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Media & Entertainment



Actual Findings from Selected Licensee Royalty Inspections

Licensee	Licensee's Reported Contract Sales	Actual Findings	Unreported Sales	Net Sales Definition Exceptions	Unauthorized Sales Deductions	Unapproved Licensed Product	Unpaid Contract Guarantees or Advances	Licensee Required To Pay Auditor's Fees?
1	\$ 1,264,823.36	\$ 325,509.77	✓	✓	✓	✓		✓
2	\$ 2,337,762.80	\$ 745,877.98			✓	✓		✓
3	Profit Sharing Deal	\$1,274,834.36	✓		✓			✓
4	\$ 10,500,093.22	\$ 150,662.97		✓	✓			✓
5	\$ 13,298,004.78	\$ 474,025.90		✓	✓			✓
6	\$ 5,213,888.52	\$ 71,414.94	✓	✓	✓			✓
7	\$ 173,770,173.67	\$2,276,552.63	✓		✓		✓	✓
8	\$ 9,387,134.02	\$ 142,270.64	✓	✓	✓		✓	✓
9	\$ 1,210,96.54	\$ 295,587.77	✓		✓	✓		✓
10	CDN\$ 3,098,106.01	CDN\$145,889.46			✓		✓	✓
11	\$23,847,791.56	-0-						
12	\$ 98,269,424.66	\$ 765,919.75	✓	✓				✓

Note: The above chart summarizes actual findings from selected licensee royalty inspections. In addition to the above findings, routine licensee royalty inspections disclose the following: Sales After Sell-Off Period, Unauthorized Sublicensing Deals, Distribution Channel Violations, Unauthorized Advertising Charge-backs, and other contract violations. "Royalty Audits = Cash Recoveries"™

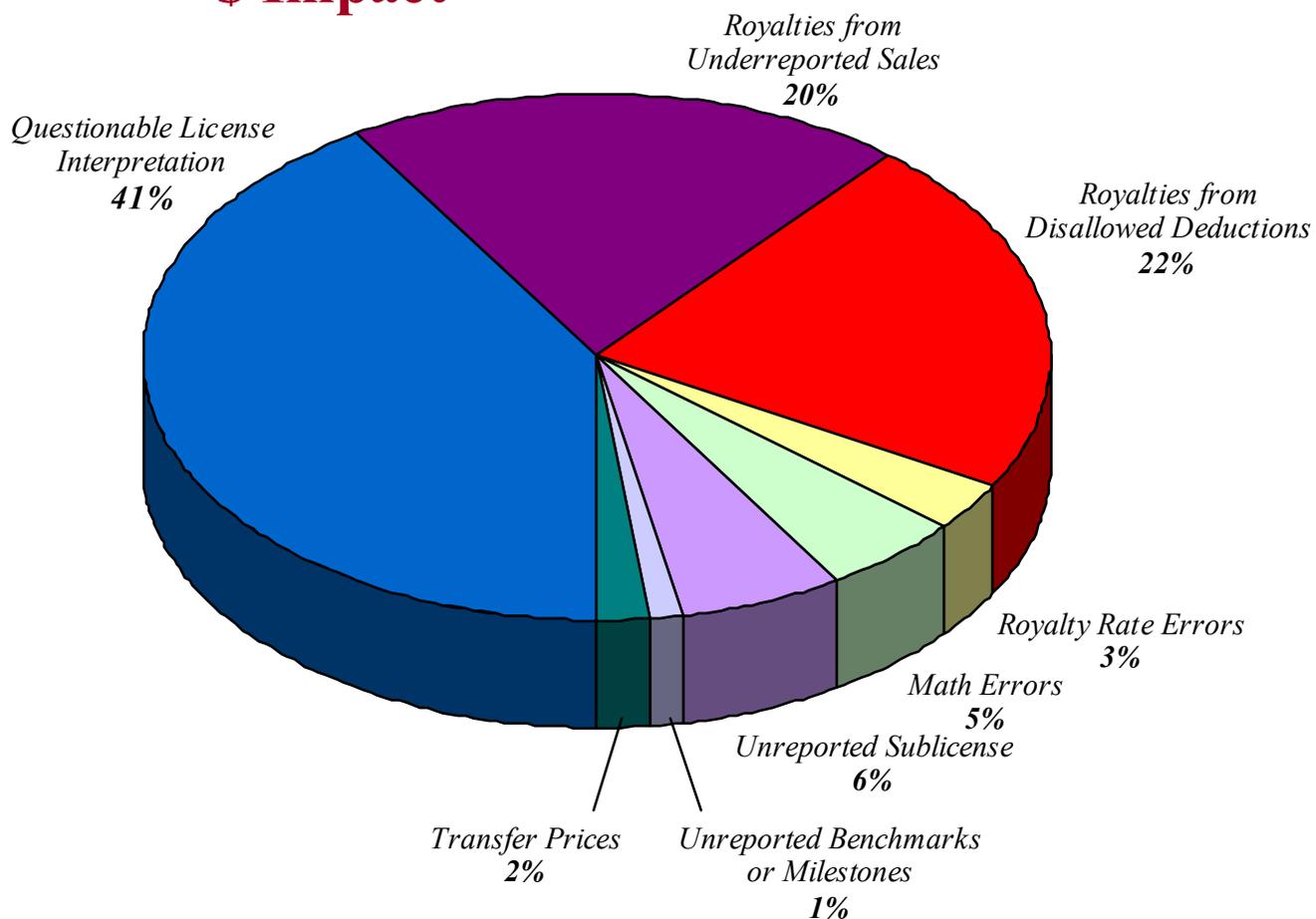
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Invotex Cumulative Findings thru 2010

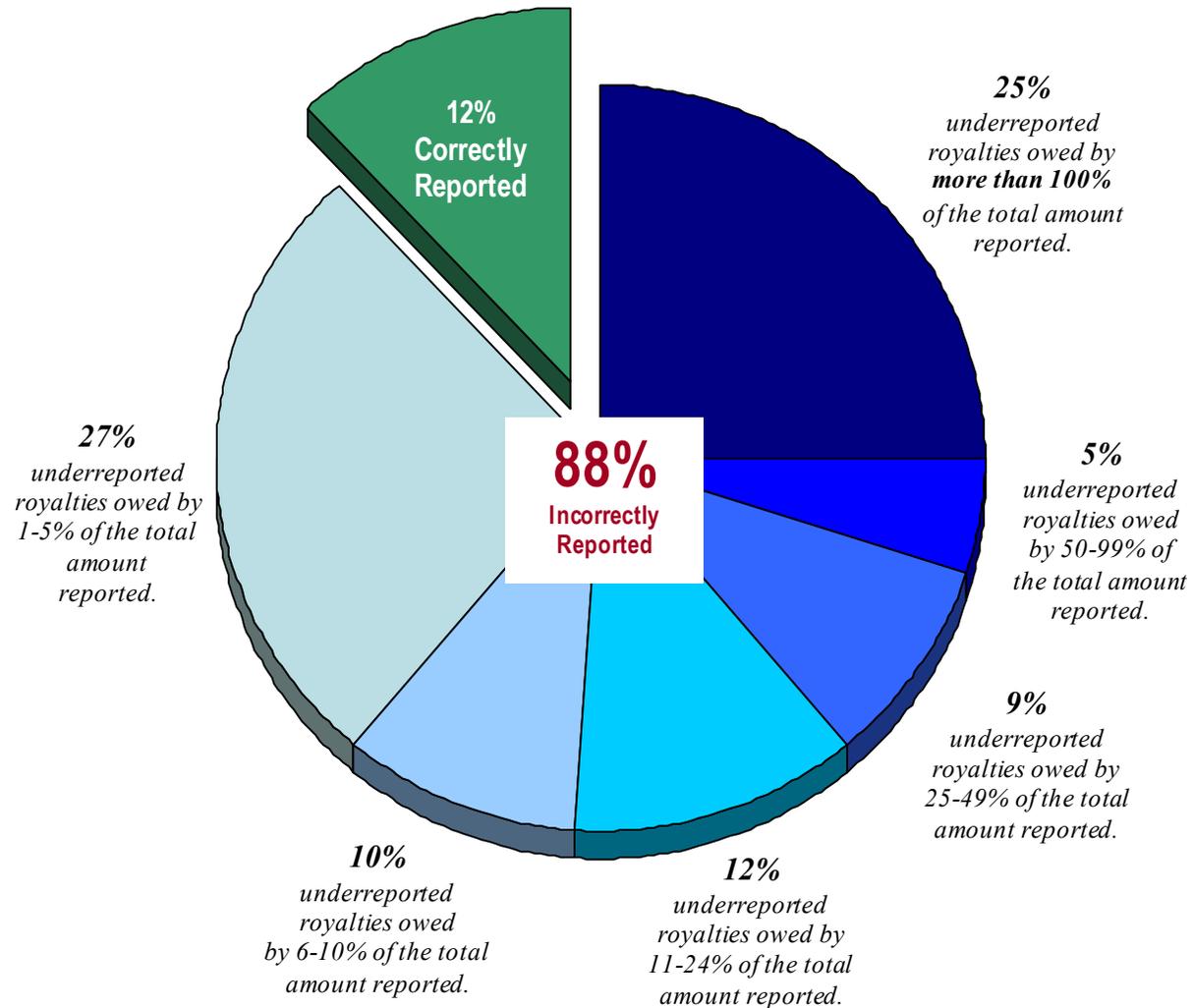
Audit Deficiencies / Underreported Revenue \$ Impact of the 88%

\$ Impact



Invotex Cumulative Findings thru 2010

Underreported Royalties as a Percent of Reported Royalties
88% Underreported vs. 12% Reported Accurately



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what to do to protect yourselves

- proper Contract Language
- review Your Royalties Statements
- conduct Audits



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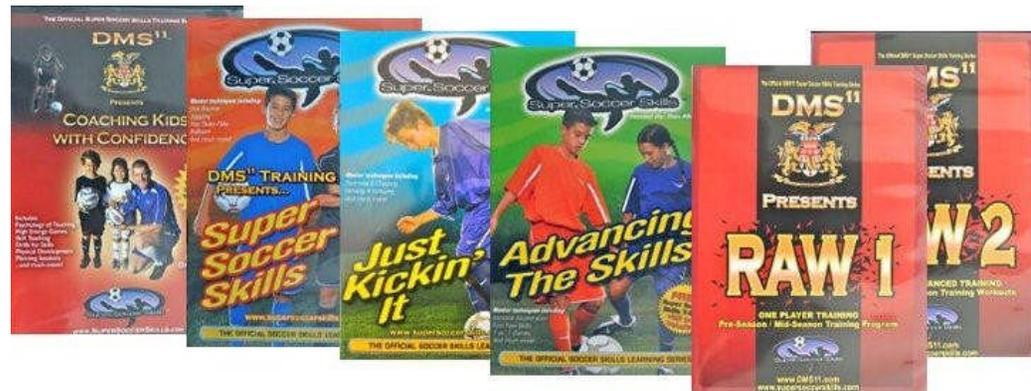
net sales

- Gross vs. net (deductions)
- FOB sales
- What constitutes a “sale”
- Foreign sales
- Units or price
- Promotional units/Premiums



combination products

- Apportionment



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reporting requirements

- Periodic
- Template
- Delivery format
- Interest penalties



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contract audit provisions

- Full access to records
- On site audits
- Ability to audit for completeness
- Confidentiality
- Electronic data format
- Who pays
- Audit post termination
- Copy facilities
- Knowledgeable employees



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sub licenses & affiliate sales

- Affiliate sales
- Sub licenses
- Distributors
- Joint marketing agreements
- Joint ventures
- Cooperation agreements



other common mistakes

- Missed sales new SKUs
- Missed sales new territories
- Refurbished products
- Sub license fees not based on sales
- Math errors
- Royalty rate errors



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questions

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