

Daily Journal

www.dailyjournal.com

TUESDAY, JANUARY 3, 2017

COVER STORY

Celebrities do more deals outside their industries

By **Melanie Brisbon**
Daily Journal Staff Writer

In a significant year for dealmaking in the entertainment industry, actors, musicians, sports figures and other entertainers increasingly did deals outside of their traditional industries, many taking equity interests in companies. Legal observers say the trend is likely to continue in 2017 amid the growing use of social media.

“The social media platforms allow entertainers and influencers to directly reach their fans in a real time and immersive way,” said Alan J. Epstein, chair of the media and entertainment group at Venable LLP. “The ability to link celebrity with commerce has become highly valued in the marketplace due to the high level of free publicity which follows from these type of associations.”

Eighty-five percent of U.S. consumers are on social media and more than half of them check their social networks daily, according to a recent Deloitte Touche Tohmatsu Ltd. survey.

The evolving ways in which people consume and watch content is another reason celebrities are doing different types of deals, legal observers have found. Nearly half of Americans subscribe to streaming media services, the Deloitte survey reports. Roughly 70 percent of U.S. consumers binge-watch shows on those services, averaging five episodes per sitting, the survey indicated.

“As the definition of media expands beyond the traditional film and television distribution methods, there is an impact on talent as they are no longer limited to reaching their audience through the efforts of traditional distribution,” said Nina Shaw, a founding partner at Del Shaw Moonves Tanaka Finkelstein & Lezcano ALC. “The result can be talent that tends to have a much more direct relationship to their audience. I think really astute talent and really



Juliane Backmann / Special to the Daily Journal

Alan J. Epstein, chair of the media and entertainment group at Venable LLP in Los Angeles, says the way consumers digest media is motivating more celebrities to look into business ventures outside their wheelhouses.

astute representatives are expanding that universe in such a way that talent isn't limited to dealmaking in the traditional way.”

Darrell D. Miller, chair of the entertainment law department at Fox Rothschild LLP and managing partner of the firm's Los Angeles office, said that doing deals outside of the traditional business lines is a necessity for building a sustainable career in the entertainment industry.

“There's just fewer jobs in film and television that pay fees or sustainable revenue streams as well as they did in the past,” Miller said. “It's no longer good enough just to be a movie star or television star or music star and not follow your fans in the other platforms.”

Goop Inc., a lifestyle brand founded by Academy Award-winning actress Gwyneth Paltrow, launched a clothing line this year. The company also announced it raised \$10 million in funding and will move headquarters to Los Angeles from New York.

Basketball player LeBron James was one of the first investors in Pasadena-based Blaze Pizza LLC, named one of the fastest-growing restaurant

chains in the nation by Technomic Inc.'s annual Top 500 Chain Restaurant Report with sales up 205 percent last year. James owns nearly a dozen franchises in Miami and Chicago.

“Heads Up,” a mobile game launched by talk show host Ellen DeGeneres and Warner Bros. Entertainment Inc., had more than 25 million downloads this year.

Celebrities gaining equity interests in companies is a trend that is likely to continue, Miller said.

“I think you're going to see more strategic alliances and more partnerships that extend beyond the court or film screen or television screen,” Miller said. “These are things that could help the celebrity long after the show is canceled or their films are released.”

But legal issues can arise when celebrities are in the dealmaking process.

“One of the most significant legal challenges is to negotiate ‘sweat equity’ arrangements that are appropriate for the particular situation,” Epstein said. “There are numerous legal and business issues that need to be considered in order to achieve the

desired objective, including the tax treatment arising from the issuance and or vesting of the equity, the impact of a ‘change of control’ on the equity incentive, the operation of the distribution waterfall affecting how proceeds are distributed to the owners and the operation of the governance provisions.”

The scope, term and territory of licenses, royalty issues and approval rights are also issues attorneys work through, along with insurance and indemnity provisions designed to protect the celebrity from possible litigation. Another issue is balance.

“When doing these deals where talent is also engaging in some business opportunities outside of its traditional line of work, you have to balance the obligations of the talent to the producer and talent's outside business partners,” said Matthew C. Thompson, co-leader of the media and entertainment group at Sidley Austin LLP. “When an actor is working on a movie, you have to balance the request for exclusivity with the ongoing obligations of talent to the other business.”

Not all business ventures went well for celebrities this year. A Spanish court sentenced Lionel Messi, a professional soccer player, to 21 months in prison for tax fraud over earnings from his image rights.

Robert Darwell, a partner at Shepard, Mullin, Richter & Hampton LLP, said that talent's business ventures could potentially have an impact on the studios that hire them.

“If you're producing a tentpole movie, studios are very sensitive to what outside activities the actors are involved in,” Darwell said. “If you're going to cast somebody in a franchise, you are concerned with their ongoing popularity in the years to come. If someone is having difficulties in their business ventures, that could be a problem for the studio.”

Attorneys interviewed did not comment specifically on their clients' deals.