

# Authority

## Who's got it? (Why fight it?)

Cameron McFaddan

Underwriter and State Agency Manager



# John Cougar Mellencamp

- Born October 7, 1951 in Seymour, Indiana, John Mellencamp fell in love with music at an early age and was gigging in local bars and fronting a soul band by the time he was 14. His professional music career began in earnest in 1976 when MCA Records released his first album, *The Chestnut Street Incident*. His manager dubbed him Johnny Cougar out of his belief that nobody would buy a record by anybody named Mellencamp. John protested but was overruled and eventually, of course, reclaimed his birth name as his public name.
- After releasing a few albums, he broke out in 1979 with his first hit, "I Need A Lover" In 1982 his fifth album *American Fool* was the year's best-selling album on the strength of two huge hits, "Hurts So Good," and the number 1 single "Jack & Diane," The albums that followed in the 80's, *Uh-Huh*, *Scarecrow*, *Lonesome Jubilee*, and *Big Daddy*, were released under the name John Cougar Mellencamp. Hit singles during this period included "Crumblin Down," "The Authority Song," "Small Town," "Rain On The Scarecrow," "Lonely Ol Night," "R.O.C.K. In The U.S.A.," "Paper In Fire," "Check It Out," "Cherry Bomb," "Pop Singer," and "Jackie Brown."
- Mellencamp took the music on the road with a band that many considered the best in the business, playing approximately 1,000 shows around the globe during the decade. In 1985, John's concern for the plight of the American farmer, which had been voiced in the *Scarecrow* album, brought him together with Willie Nelson and Neil Young in launching Farm Aid. It became an annual event and has helped make people aware of the issues farmers face and how they affect on the entire nation.
- By the early 1990's "Cougar" was finally gone from John's name and a string of successful albums as John Mellencamp--*Whenever We Wanted*, *Human Wheels* and *Dance Naked* (including the number 2 single "Wild Night")--were released. received by critics.

(Mellencamp.com)



# Agenda

- John Mellencamp
- Why do we care?
- Entity types
  - Corporations
  - Partnerships
  - Trusts
  - LLCs
- POA
- Odds and ends

**I FIGHT AUTHORITY  
AND AUTHORITY  
ALWAYS WINS**

JOHN MELLENCAMP



## Why do we care?

Central to our business:

1. Escrow instructions.
2. Conveyances.
3. Security instruments.
4. \$\$\$\$\$!



# Common Entities

- Corporations
- General Partnerships
- Limited Partnerships
- Trusts
- Limited Liability Companies



# Corporations

- Filed with Secretary of State (RCW 23)
  - Articles of Incorporation
  - Bylaws
  - Corporate Resolution
    - Transaction
    - Signing officer(s)
- Underwriting standard
  - Properly designated officer signs





# Corporate Signature

Mellencamp Music Inc., a  
Washington Corporation

By: \_\_\_\_\_  
John Mellencamp, President

John Mellencamp  
Mellencamp Music Inc.



# Partnerships

General Partnership (RCW 25.05)

De facto – informal operation/ no written agreement

De jure – written agreement  
- agreement controls



Underwriting standard – Properly designated officer or everyone signs.



## Partnership signature lines

Cougar Music, a General Partnership

By: \_\_\_\_\_  
John Cougar, Partner

\_\_\_\_\_  
John Cougar, Partner

By: \_\_\_\_\_  
Priscilla Esterline, Partner

\_\_\_\_\_  
Priscilla Esterline, Partner

# Limited Partnerships

## Formation

- Secretary of State filing.
- General Partners execute and bind LP in filing.
- Partnership Agreement dictates powers of partners.
- If silent, Limited Partners must approve.

## Beware

- Limited Partnership Agreement should establish powers of partners. Often don't.
- Consents are sometimes required from partners on large or outside normal business transactions.

Underwriting standard – Clear and fully executed agreements dictate. If not - Everyone signs!



## Trusts (RCW 11)

- Title to be held in the name of the trustee.
- A deed which lists only the name of the trust can be challenged.
- Trustee Authority
  - Trust document
    - Certification of Trust? (RCW 11.98.075)
  - Judicial order
  - Beware of limitations of authority
    - Ordinary course?
    - Real property?
  - Delegation of authority?



# Trust Vesting and Signature

John Cougar Mellencamp and  
Victoria Granucci as Trustees of the  
John and Victoria Mellencamp  
Trust UTA April 1, 1982

John and Victoria Mellencamp  
Trust UTA April 1, 1982

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John Cougar Mellencamp, Trustee

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Victoria Granucci, Trustee



# Limited Liability Companies

- Validly created and authorized to do business in the state. (RCW 25.15)
  - Registration with SOS.
    - Lawful entity to transfer property.
  - Licensed to do business.
- Authority documentation
  - Articles of Organization
  - Operating Agreement
  - Resolution
- Management
  - Single member LLC
  - Manager vs Member managed
- Underwriting standard
  - OA and Resolution control, otherwise - All member sign.



# LLC Signatures – Manager Managed

Mellencamp Music LLC, a  
Washington limited liability  
company

By: \_\_\_\_\_  
John Mellencamp, Manager

John Cougar Mellencamp  
Mellencamp Music LLC, Manager



# LLC Signatures – Layered Entities

Mellencamp Music LLC, a Washington limited liability company

By: Heartland Music LLC, an Indiana limited liability company

By: Cougar Music, a General Partnership

By: \_\_\_\_\_

John Cougar, Partner

By: \_\_\_\_\_

Priscilla Esterline, Partner



(Mellencamp.com)



## Power of Attorney (RCW 11.125)

- General
- Specific
- Durable
- Military (10 U.S.C. Sec. 1044b)
- Self dealing by the attorney-in-fact
- Fiduciary authority – transferrable?
- When are they stale?



## Odds And Ends

- Government Entities
- Religious Institutions
- LLLPs and PCs
- Series LLC



# Questions?

# Thank you!!!

