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THIRD SIDE MUSIC CO-FOUNDERS ON SYNCH'S REBOUND, SPOTIFY'S 'VICIOUS PLAY' & BEING 'GENUINELY INDEPENDENT'

Twenty years on from the company's founding, Patrick Curley and Jeff Waye discuss how they've kept the business thriving amid a rapidly changing industry.

By **Kristin Robinson**



Patrick Curley and Jeff Wayne of Third Side Music

SUSAN MOSS PHOTOGRAPHY

In 2005, the music industry was in the midst of a major transition. Sales of CDs were plummeting, labels were conducting layoffs, the iPod Nano was new to the shelves and streaming services were still years away.

Enter Third Side Music: an independent publisher and synch house co-founded by attorney **Patrick Curley** and indie record executive **Jeff Wayne**. Wayne, who was then working at Ninja Tune Records, found that even though the record business was faltering, “the one thing that kept working was publishing,” he recalls now. “I would open our mail and get a quarter-million dollar synch check. The publishing side seemed so much steadier.”

The idea was simple: create a “proactive, services-forward publishing company, modeled after our favorite indie labels,” says Waye, who now acts as TSM’s COO. Deals would be focused on revenue streams that were proven to work, like synchronization licensing for film/TV and advertisements, and were fairer than many of their competitors. For many years, Third Side deals just offered administrative deals, but it came with a high-touch approach. “We talk internally about a staff-to-copyright ratio,” says Waye. “I don’t want to sign anyone and that’s the last they hear from us. Plenty of companies can beat us throwing money at artists, but we caution that you can take a big check, [but] you get lost in massive corporate machinery.”

Twenty years in, the industry is a remarkably different place. Institutional money has been buying up catalogs, COVID-19 and Hollywood strikes have sent shockwaves through the synch business, streaming has dominated, vinyl has had a resurgence — and Third Side Music is still going strong. Today, its roster includes a who’s who of the indie world including BADBADNOTGOOD, Blonde Redhead, Sofi Tukker, Courtney Barnett, Goth Babe, Gregory Alan Isakov, Kurt Vile, Hermanos Guitierrez, Searows, Pharoah Sanders, Sky Ferreira, Unknown Mortal Orchestra and Waxahatchee. And despite ongoing challenges in the film market, Curley assures that their synch game is still going strong (“This is one of our best years ever,” he says).

“At the end of the day, there’s a lot of institutional money, legacy majors, hedge funds investing in music copyrights and publishing, but we are still genuinely independent,” Curley, president and CEO, adds. “It’s literally me and Waye who started this with our own money. We’re a standalone company, and really proud of how it’s grown.”

One of the first things I thought about when I heard about your 20th anniversary is where the music business was in 2005. It was not

necessarily a great place to be. Can you paint a picture of the founding of this company and why you wanted to start it at that moment?

Jeff Wayer: The music industry has always been [challenging], so you're just navigating various levels of it. I had been running Ninja Tune Records, setting up all the North American operations. Curley was our attorney and had a small publishing business called Plateau. Record sales had completely fallen off a cliff. Spotify didn't exist yet. The first whispers of digital were you can buy a song for \$1 on Apple and illegally download everything else. But the one thing that kept working was publishing — I would open our mail and get a quarter-million-dollar check. The publishing side seemed so steady. I had looked at publishers for years as being quite passive to all the work we were doing on labels. [I thought], "I'm sending you all this mechanical revenue, but what are you doing?" So I thought there was real space to create a proactive, services-forward publishing company, modeled after our favorite indie labels.

Patrick Curley: It was also early in the synch game. A lot of bigger publishers weren't really servicing synch as they do now in the late '90s, early 2000s. Many artists looked at synch licensing as being a sellout in the '90s. We came from the electronic music world, where that wasn't as much a consideration. When we started, we already had a great list of synch clients. The prior business I had that merged into TSM was basically a synch agency. When I started that, it was literally an original idea: represent bands and catalogs to get them synch licenses. It's pretty basic: do B2B marketing for music aimed at [music supervisors] and production companies. The beauty is there's no warehousing, no physical manufacturing, no hard expenses — just staff, contacts and some travel. We took the record side, which was very capital-intensive, and flipped it into something light to operate.

Your roster feels very cool and taste-driven. I imagine early on, given what you've said about the perception of synch being like "selling out," that some bands were skeptical about signing to a synch-heavy publisher. Did you encounter that?

Curley: Every single artist has to consent to every synch we do. We found that even skeptical ones would still do some film and TV or documentaries, even if they do not want to do ads. We always had conversations with managers and artists about their comfort level.

Waye: The landscape changed so much. You can die on the hill of not doing synch all you wanted, but when record sales dried up in the 2000s and it got harder to make a living, things started to change... When we first started, you'd pitch seasonally to three networks and some advertising. Then, as everything went digital, suddenly we're pitching to 100 things a week from Amazon, Apple, HBO, and what was getting made got significantly cooler too. There were so many iconic TV series that you wouldn't say no to — of course, you'd want to do *Mad Men* or something that was part of the cultural narrative. I think people's opinions changed then. One example was that Feist had a career, but landing in that early Apple ad launched her into the mainstream. That instance changed a lot of artists' opinions about what synch could do for your career. At the end of the day, I don't think it's our job to be arbitrators of taste. We facilitate the opportunity, and artists can say yes to whatever degree they want. If they want to make money, we can make it. If they don't, they can say no.

How many employees and offices do you have?

Waye: Around 35 employees. We have a back office in Montreal — an incredible cosmopolitan city, but being north of the border lets us run a worldwide business while keeping costs lean. If I was employing 35 people in

L.A., the costs would be prohibitive. We have front-end staff and synch staff, some people in Mexico City on royalties for Latin American collections, and staff in New York. So, basically, New York, L.A., and Montreal are our three main offices.

Post-Hollywood strikes and COVID-19, what have the changes been in the synch market?

Curley: For us, I think it's been a really good year for synch so far, but even with COVID, we never actually lost everything — growth in synch just got quashed. We had three or four years of middling, modest synch growth while our other revenue streams grew dramatically, but this year we've got really good numbers, so I'm hoping we're getting the rebound.

Are you doing all admin deals?

Curley: Typically admin deals. We've been working mainly off admin deals for many years — exclusive rights for a certain period and territory. Recently, there have been opportunities for partial catalog purchases. We want to continue being in partnership with people. What we're trying to do is help people develop income streams of their catalogs. If it's a legacy catalog, often they've been with companies that haven't been paying attention, haven't fixed registrations, or haven't been pitching effectively.

Waye: I always looked at admin deals as dating somebody. Do you want to get into a 20-year deal until you've spent a couple cycles making sure everything works? We're now on fourth, fifth contract cycles with some artists. I'd rather people work with us because they want to, not because they're locked in a contract.

With so many reversions happening, is that a boon for companies like Third Side?

Waye: We've been in discussions about partial purchases with some artists because there's not really financing available for artists of moderate size. We're positioning ourselves to offer partial catalog purchases. We've found that if you're an artist who is not walking in with a catalog worth \$25 to 50 million, buyers are not even talking to you. Our approach is we want to finance reasonable-sized deals on an as-needed basis. But I only want to do things that are mutually beneficial. I refuse to treat music like real estate.

Spotify announced that they are bundling their premium accounts in the U.S., which ultimately means that publishers and songwriters are being paid hundreds of millions less this year than what they thought they would be. Have you felt a significant impact?

Curley: For sure we felt impact. It's hard to know to what extent, but it's a vicious play by Spotify, especially when you see founders cashing out billions in stock options. I 100% support the NMPA's approach to revoke this. It's completely unacceptable what Spotify is doing to songwriters.

Since then, Spotify has made direct deals with two majors to improve their remuneration on the publishing side post-bundling. Do these direct deals pit major publishers against indies?

Curley: I'm very concerned about indies' place. I don't want to comment on third-party deals, but the situation needs to be resolved. Spotify needs to back off on bundling.

Is it a good time to be an indie publisher?

Waye: I think it's better. I like that we're on the inside but can operate on the outside. While everyone else talks about music like real estate at board tables, we can talk about music as music and make good money for musicians we respect. There's so much opportunity for wider ranges of catalog that never existed before. If you told me 10 years ago you could get amazing Ghanaian music and Apple Music would do an episode specifically about 1985 Ghana — that stuff didn't exist. That's what attracted me to this business. And I'm super thankful organizations exist to fight the big battles so we can keep our heads down and do good creative work with artists we represent.

Curley: I think we started at a good time because now it would be really difficult to start without significant financing. We were able to learn on the job for the first few years. We started with \$150,000 in 2005 and have grown every year since. Music publishing was a sleepy backwater back then. Now there's massive money trying to acquire catalogs. Publishing revenues are growing substantially.

Where do you hope TSM is in 20 years?

Curley: We'd like to keep the institution going beyond Waye and me because we're in our 50s. We think it's a unique cultural institution. There are few independent publishers left, so we are going to have to think about how we do that. How do we secure the foundation to pass this on to the next generation?

Waye: I have no other transferable life skills, so I'm just gonna ride this out [laughs]. If I can have a heart attack on the dance floor of a Sofi Tukker concert 30 years from now at age 85, that's totally fine. That's the death I want. All I've ever wanted was enough money to buy records and work in music.



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