

ERIC CARR'S KISS CONTRACT

Paul Caravello signed his contract with the KISS partnership on July 24, 1980, cementing his rise from humble beginnings — and an apprenticeship of a decade and a half — to the drummer for the self-proclaimed Hottest Band in the World. While his five-year contract paid him \$100,000 gross per year (in 2023, equivalent to \$368,000), there was a price to be paid for the fame he'd enjoy as a member of the group. He would not be sharing in the spoils and was not entering into the business partnership but was an "employee for hire." Also, not stated in the employment agreement — since it would have been covered under a separate management contract — was Bill Aucoin becoming his manager. Bill charged Eric a 9% rate, and he also paid commissions to Glickman/Marks. One might think of those payments akin to union dues since Eric reaped the benefits of Bill's work for the business. However, as an employee, with no rights or voice, there's a question as whether it was worth 9% to Eric...

That said, Eric's employment provided a windfall, particularly having only earned around \$10,000 per year from his music career during the previous three years. There were several last-minute changes to the agreement, and it was notable that his salary was backdated to June 30, his first full day of rehearsals. He also received what was essentially a signing bonus of \$5,000, plus an additional \$5,000 for personal clothing. In the draft agreement there had simply been provision for a \$10,000 bonus, but no backdating or cost of outfitting was defined. The bonus would be repayable should his tenure not last past Dec. 31, 1980. In the draft version, the bonus was refundable — if Eric was terminated during a six-month period following execution of the agreement. Differing from the draft was the clear definition

MEMORANDUM

DATE: July 24, 1980
 TO: HOWARD MARKS
 FROM: William Aucoin
 RE: EMPLOYMENT AGREEMENT BETWEEN KISS AND ERIC CARR

Attached please find the signed employment agreement between KISS and ERIC CARR, along with an exhibit of the proposed agreement between ERIC CARR ("Writer"), and KISS ("Publisher") for future use.

AUCOIN
MANAGEMENT INC.

/st

AGREEMENT made July 24, 1980 between KISS, a partnership, c/o Glickman-Marks Management Corp., 655 Madison Avenue, New York, N.Y. 10022 ("KISS") and Paul Caravello, professionally known as ERIC CARR, 90-45 Eldert Lane, Woodhaven, Queens, New York 11421 ("CARR").

WHEREAS, CARR is a superb and experienced musician and drummer who has been respected in his field and active as a musician for fifteen (15) years; is thirty (30) years of age and that his earnings from performances only in music during the last three (3) years has been approximately Ten Thousand (\$10,000) Dollars.

WHEREAS, KISS, owns among other things, all interest in and to the Kiss musical group, which group enjoys international fame and a history of very substantial earnings, and

WHEREAS, each member of said musical group has assiduously hidden from the public their actual physiognomy and appear instead with unique and readily identifiable costumes and make-up, each performing as a unique character, all being owned by KISS, and

WHEREAS, CARR is being employed as an additional performer of the musical group and has been given a costume, stage make-up and facial character of a stylized Fox, invented and designed by KISS, and

WHEREAS, KISS wishes to employ CARR and CARR wishes to accept such employment subject to the terms and conditions hereinafter set forth,

NOW, THEREFORE, in consideration of the premises, the parties hereby agree as follows:

1. All the facts and statements of the preamble are incorporated herein by reference and the parties acknowledge the facts aforesaid as conditions precedent to this agreement.
2. **EMPLOYMENT.** KISS hereby employs CARR as a drummer for the musical group known as "Kiss". CARR agrees to render such services as KISS may require and agrees to render his services exclusively for KISS in accordance with the instructions and directions of KISS. CARR acknowledges that this employment will require CARR, among other things, to accompany

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that it was the company's financial responsibility for the costs associated with the character's make-up and costume, which otherwise could have become financially crippling.

The contract's term was for one year, with an additional four yearly extension options stipulated, with the contract automatically renewed unless Eric was terminated. If his employment reached the third and fourth years of the contract, his salary would be adjusted according to local CPI. His salary could not be arbitrarily reduced during the term. Comparing Vinnie Vincent's unsigned 1982 agreement, it seems likely that the salary had been raised to \$104,000 (defined for Vinnie until March 1983 as \$2,000 per week) in the third year.

While he was an employee, it was important to treat him according to his stature as a member of the group — KISS had an image to project, so lumping him in with the road crew would not have had good optics. KISS agreed to pay all first-class travel and touring expenses, though the draft version didn't explicitly specify "first class." His three weeks per year minimum vacations would be taken according to KISS's schedule. Interestingly, considering the narrative surrounding the creation of his stage name and persona, KISS would own and claim invention of the "Fox" makeup guise: "The make-up, the likeness, the costume and the character created hereunder together with all other names and likenesses, make-up and character of any other members of KISS together with the name KISS are and shall remain the sole property of KISS."

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AGREEMENT made July 22, 1980 between KISS, a partnership, c/o Glickman-Marks Management Corp., 655 Madison Avenue, New York, N.Y. 10022 ("KISS") and Paul Caravello, professionally known as ERIC CARR, c/o ("CARR")

WHEREAS, CARR acknowledges that he has been an itinerant musician for fifteen (15) years; is thirty (30) years of age and that his earnings for his services in music over the last three (3) years have averaged in and about Ten Thousand (\$10,000) Dollars per year, and

WHEREAS, KISS, owns among other things, all interest in and to the Kiss musical group, which group enjoys international fame and a history of very substantial earnings, and

WHEREAS, each member of said musical group has assiduously hidden from the public their actual physiognomy and appear instead with unique and readily identifiable costumes and make-up, each performing as a unique character, all being owned by KISS, and

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AGREEMENT made this 22 day of July, 1980 between PAUL CARAVELLO, professionally known as ERIC CARR, ("Writer") and KISS, a partnership, c/o Glickman/Marks Management Corporation, 655 Madison Avenue, New York, New York 10022 ("Publisher")

WITNESSETH:

1. The Writer hereby sells, assigns, transfers and set over unto Publisher, its successors and assigns, a certain original musical composition, written and/or composed by Writer, tentatively entitled _____ (the "Composition") including all musical and non-musical rights therein, the title, words and music thereof, (and all literary characters contained therein), the worldwide copyright thereof and the right to secure copyright therein in Publisher's name or the name of Publisher's designee.
2. It is understood and agreed that the Composition shall be the sole property of Publisher, everywhere and forever, with all copyrights therein for the term of such copyrights and all extensions thereof, throughout the universe and Publisher shall have the sole and exclusive right to publish, sell, exploit, use and dispose of the Composition and all rights therein, now or hereafter known and to retain any and all benefits, revenue, money, and income accruing therefrom subject only to the payment of royalties hereinafter set forth. Publisher shall have all exclusive rights in and to the Composition, including but not limited to: the right to reproduce copies of the Composition; the right to authorize the reproduction of the Composition in the form of phonorecords; the right to prepare or cause the preparation of derivative works and dramatic or dramatico-musical works based on the Composition; the right to distribute copies of the Composition to the public by sale, rental, lease, loan or otherwise; the right to publicly perform and to cause or authorize the public performance of the Composition; the right to display and to cause or authorize the display of the Composition to the public by all means now known or to become known in the future; any and all other rights in and to the Composition, which are now known or to become known in the future. In addition, Publisher shall have the sole right to secure registrations to copyright in the Composition, in the name of Publisher, pursuant to the Copyright Law of the United States and all other applicable laws, treaties and conventions throughout the world.
3. Publisher shall have the right to use the name, photograph and likeness of Writer and biographical material concerning Writer, for advertising, purposes of trade and

EXHIBIT A

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The contract's termination section included a somewhat ironic morality clause, Eric agreed that he would conduct himself in a manner according to a band whose fans are generally minors. The draft didn't have a remedy clause, with the signed version adding a "cure to reasonable satisfaction" term and requirement for written notice of failure — otherwise Eric would have been walking on eggshells worrying that anything could be misconstrued. KISS was given the right to terminate the agreement should he miss 14 performances/engagements in a year. The draft lacked "written notice" requirement for termination clause, and the engagements metric was removed. Eric agreed that he would never appear in public using makeup/costume without written permission or appear without makeup using his KISS identity . The termination of the contract, due to non-renewal, required 30-day notice prior to its term date (June 30). In the draft KISS only needed a 7-day notice.

Eric signed away many of his musical rights with KISS taking ownership of all musical creations by Eric during the term. KISS was under no obligation to accept or record any contribution by Eric. Conversely, a non-obligation clause was added to the final contract, stating that Eric was also under no affirmative obligation to "compose music or lyrics" for the group during his tenure. Any song composed under the contract would be transferred to KISS, "the Composition shall be the sole property of Publisher, everywhere and forever, with all copyrights therein for the term of such copyrights and all extensions thereof, throughout the universe and Publisher shall have the sole and exclusive right to publish, sell, exploit, use and dispose of the Composition and all rights therein, now or

7. The parties agree that CARR will appear as a stylized character of a Fox. The cost of the make-up, costume and character has been and will be borne by KISS. The make-up, the likeness, the costume and the character created hereunder together with all other names and likenesses, make-up and character of any other members of KISS together with the name KISS are and shall remain the sole property of KISS together with all representations thereof including, inter alia, photographs motion picture and television usage and material publicly disseminated or sold, free from any claim direct or indirect by CARR or his heirs or assigns. CARR agrees that he will never appear in public with costume and make-up of a Fox or any colorably similar character for purposes of permitting any representations to be made without the permission of KISS in writing first obtained and that he will never permit any representations to be made of his actual physiognomy nor will he appear before any public group during the term hereof without said make-up and costume; it being the intention of the parties that the actual physiognomy of CARR be concealed from the public during the term of this agreement. The aforesaid shall be of the essence hereof.

8. TERM. The term of this agreement is one year. In addition, KISS has four (4) separate one (1) year options to extend the term of this agreement for four (4) successive one (1) year periods upon the same terms and conditions as specified herein. These options will be deemed automatically exercised unless KISS notifies CARR to the contrary in writing, either personally delivered or by certified or registered mail, return receipt requested, said notice to be sent not later than thirty (30) days before the end of the then current year of the term. The initial term of this agreement commenced June 30, 1980.

9. OWNERSHIP OF MUSICAL COMPOSITIONS. KISS shall be deemed to be the absolute and unqualified owner of all songs written or co-written by CARR during the term of this agreement, it being understood that CARR shall have no right, title or interest in or to such songs, and that KISS shall have the right to obtain copyright renewals and other protection therefor. In furtherance of this grant, CARR agrees to execute and deliver to KISS the songwriters agreement in the form annexed as Exhibit A, for each musical composition written in whole or in part by CARR during the term of this agreement, and such other instruments and documents as KISS shall deem necessary or advisable to evidence, establish, maintain or defend its rights in or to such material. In this connection, CARR irrevocably appoints KISS as his true and lawful attorney-in-fact to execute, verify, acknowledge and deliver any and all instruments or documents which CARR shall fail or refuse to execute, verify, acknowledge or deliver. CARR represents and warrants that all

original with him, except as to matters within the public domain, and shall not infringe upon or violate the right of privacy of, or constitute libel or slander against, or violate any common law or any other rights of any person, firm or corporation. CARR shall hold KISS, its licensees and assigns and their officers, agents and employees harmless from any and all liabilities, actions, suits, or other claims arising out of the use by KISS of the material written or supplied by CARR hereunder, and from reasonable attorneys' fees and costs in defending against the same, including but not limited to actions for copyright infringements, plagiarism, literary piracy, unfair competition, violation of rights of privacy, misappropriation of rights, slander or libel. CARR represents that he has not previously permitted and will not hereafter permit any person, firm or corporation to make any use whatsoever of the material written or supplied by him hereunder. KISS may make changes in, deletions from, or additions to the material written or supplied by CARR hereunder which KISS in its sole discretion may consider necessary or desirable. KISS is under no obligation to use in any way all of part of the material written or supplied by CARR hereunder. Nothing herein contained shall indicate that CARR has any affirmative obligation to compose music or lyrics.

10. RESTRICTIVE COVENANT. CARR acknowledges, warrants and represents that the breach of the aforesaid warranty will cause substantial damages to KISS which damages cannot readily be calculated in terms of money. During this agreement or upon expiration or termination of this agreement for any reason whatsoever including the breach hereof by KISS, CARR cannot and will not represent publicly in any fashion whatsoever:

- (a) that he was formerly a member of the performing group Kiss,
- (b) that he was formerly an employee of KISS,
- (c) wear the make-up and costume connected with his employment hereunder nor will he represent the character Fox created for him hereunder or any colorably similar names and characters.
- (d) Will not perform the compositions played by the musical group, while he was a member thereof, using the order or arrangement colorably similar to those used by the musical group while CARR was a member thereof.

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hereafter known and to retain any and all benefits, revenue, money, and income accruing therefrom subject only to the payment of royalties hereinafter set forth." His royalty was 7 cents per copy, 5% of retail for print, and 50% new for mechanical/sync/TV in North America.

There was nothing particularly unusual in the protections KISS took in the contract's restrictive stipulations, but a section (10.d) restricting him from performing any compositions from his tenure similar in arrangement or order, was added to the final contract. It's not clear whether section 7 and the business's ownership of "all other names and likenesses" could be interpreted to include the stage name "Eric Carr." It would seem odd were the intent to prevent him from using that name should he be terminated from the group, though it is certainly understandable that the business would not want to be used to promote his endeavors should he leave.

The 1980 contract defined who Eric Carr could be during his tenure with the group and its limitations may have become burdensome. The songwriting and publishing stipulations clearly didn't serve to inspire the drummer to contribute to KISS, and one can note that Eric's rejected composition, "Don't Leave Me Lonely," was published by KISS when it appeared on Bryan Adams' platinum certified 1983 *Cuts Like a Knife* album. He had no say in decisions the business made, and only had so much leeway to influence those decisions with his input — as *The Elder* saga would later illustrate, he was expected to fulfil his role regardless of what he thought of the direction.

The price for fame was high, but it would not be fair to characterize the contract as a deal made with the Devil. It would have been bittersweet, but the bright lights and tantalizing possibilities would have more than offset any reservations — at the time. Once signed, the whirlwind truly commenced, and it would not let up until the end of the year. If Paul Caravello had any doubts, there wasn't much time to dwell on them in 1980 as kisteria enveloped and transformed his life. Eric signed new contracts in 1985 & 1990, each modifying certain terms of the original to match the realities of the band's existence at the time.

