EMI Settles Spitzer's Payola Allegations

The record firm is the fourth to clear Spitzer's 'pay for play' charges.

By Charles Duhigg, Times Staff Writer
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EMI Music North America on Thursday became the fourth major record company to settle with New York Atty. Gen. Eliot Spitzer over "pay for play" allegations.

EMI, a division of London-based EMI Group, agreed to discontinue certain promotion practices and to pay a $3.75-million fine — the smallest of all the companies to settle. The company acknowledged that some employees pursued inappropriate practices but did not admit or deny Spitzer's allegations.

Settlement documents released Thursday by Spitzer were more detailed than those made public in his previous pay-for-play investigations. They included the names of radio programmers who allegedly had solicited bribes and the titles of two top EMI label executives.

Spitzer had previously settled with the three other major music companies — Universal Music Group, Sony BMG Music Entertainment and Warner Music Group — for a total of $27 million.

In the documents, Spitzer alleged that EMI employees had "illegally provided radio stations with financial benefits to obtain airplay and boost the chart position of its songs," including tunes by the Rolling Stones, Coldplay and Norah Jones.

New York and federal laws make it illegal to trade anything of value for airplay of specific songs, unless the transaction is disclosed to listeners.

According to the documents, the top executive at Capitol Records and the president of S-Curve Records were forwarded an e-mail in 2002 confirming that an EMI promotion executive had traded a performance by the band Baha Men for airplay of songs on WBLI-FM, a Long Island radio station.

The identities of those executives — Capitol President Andy Slater and former S-Curve President Steve Greenberg — were confirmed by a source close to Spitzer's investigation.

Slater, who still heads Capitol, did not return calls seeking comment. Sources close to the investigation said Slater was never interviewed by Spitzer's investigators.

Greenberg, who has left EMI, said in an interview that he had no recollection of the e-mail and that S-Curve's promotional activities were completely handled by Capitol's staff. EMI record labels include Capitol, S-Curve and Virgin Records.

An EMI representative said that the company did not plan to fire any employees in the wake of the settlement and that many of those implicated in the documents had already left EMI.

Spitzer’s settlement documents also named radio employees and stations that allegedly demanded pay for play. The documents identified stations owned by Clear Channel Communications Inc., the nation’s largest station owner, and CBS Radio, fueling speculation that Spitzer might be trying to push those companies to settle as well.

Spitzer filed a suit against radio company Entercom Communications Corp. in March.
Spitzer and the Federal Communications Commission have ongoing investigations of Entercom, CBS Radio, Clear Channel and Citadel Broadcasting Corp. The companies' representatives declined to comment.

Spitzer's documents portray a culture at EMI in which pay for play included expensive trips and $30 video games. Some employees' attempts to mask alleged wrongdoing were more successful than others, the documents reveal.

"Grand Theft Auto Vice City. Can you hook me up?" read one e-mail from a radio programmer to a Virgin Records promotion executive, referring to a popular video game.

In another instance, an independent promoter discussed with a Virgin executive how best to hide a $400 cash payment that EMI had made to KSRH-FM in Northern California for airplay of songs by the band Gomez.

"What do you need the $400 invoice to say?" the promoter asked in an e-mail. "How 'bout $400 website promotion?" the Virgin executive replied, adding in another e-mail: "I meant as long as they have a website, in case somebody checked."

Other documents make it clear that pay for play did not always come that cheap. One e-mail lists $76,000 spent over 15 weeks with various stations and independent promoters. Another e-mail said that, to promote the song "Never" by Amanda Perez, $220,000 was allocated to the independent promoters that Spitzer alleged fulfilled pay-for-play scams.

Spitzer also alleged that pay-for-play fees funneled to stations through independent promoters could range from $300 to $1,000 a song per station.

The reforms agreed to by EMI still allow rewards to programmers. EMI may give station employees gifts worth $150 a year, meals and entertainment worth $150 a year and 20 trips per station per year. But no quid pro quos will be allowed.