

THE PIONEERS

The indie middlemen



ROSS JOHNSON

In the late 1980s, a new breed of Hollywood agent emerged — as adept with indie film financing as hammering out contracts for actors and directors. In 2005, with studios focusing on an ever-narrow range of pictures, these fund-finders and purchasers are indispensable

One are the good old days of the 1970s when a film producer could pick up the phone, call Paramount Pictures and, depending on the clout of the caller, get then-production chief Robert Evans on the line and procure a cheque for a screenwriter. A couple of months later, one call and — voila! — another cheque to make a down payment on a star. And then one last cheque to pay for a movie's production cost.

So the kid usually stayed in the picture, and there were no middlemen to gum up the process. There was studio money and there was a producer. Wham. Bam. Cue Steve McQ. Ali. And the Love Theme from *Love Story*, baby.

But that was then and this is now. And in 2005 the producers that a Hollywood studio now wants to deal with who don't have a pipeline to their own money, begin and end with the names Brian Grazer, Jerry Bruckheimer and Scott Rudin.

Therefore, it is time to pay homage to the expeditors: the middlemen in the independent film finance world who connect today's producers to the cold cash that makes all the big dreams happen.

The money men

If you want to know where the money is coming from to fuel today's independent producer, you have to go to Sundance, Berlin, Cannes, Toronto and the American Film Market in Santa Monica. Then you've got to stick a homing device on the strike teams overseen by John Ptak of the Creative Artists Agency (CAA) and Cassian Elwes of the William Morris Agency (WMA), not to mention the aggressively competitive teams at International Creative Management (ICM), United Talent Agency (UTA) and Endeavor.

CAA and WMA are two of the leading talent agencies that control the stars, directors, and — to a lesser extent — the writers who actually make the stuff that allow the studios to fill their theatrical and video distribution slates. (See 'The New Guy', right for the ICM side of the equation.)

If you're at Sundance, the team to watch is led by John Sloss, the New York lawyer who parlayed a representation of writer-director John Sayles back in the early 1990s into what is now Cinetic Media. While primarily known for representing the sales of films such as the 2004 micro-budgeted indie hit *Napoleon Dynamite* to US and foreign distributors, Cinetic has evolved into a match-making specialist that links projects and film-makers with financiers and end-users.

The agents and Sloss serve as a sophisticated conduit between private equity players, German tax shelter and UK sale-and-leaseback deal-makers, entertainment lending executives, such as Comerica Bank's Morgan Rector and JP Morgan's John Miller, international distributors and investment groups, foreign sales pros such as Patrick Wachsberger, the off-balance sheet finance boys at the US studios, and

the men and women on the other side of the equation — the producers supplying the content. As John Sloss told *Screen International's* European Film Finance Summit at Berlin earlier this year: "We can be whatever piece of the puzzle you want us to be."

Of course, there's a price for all this help. Ptak and the other senior leaders of the CAA independent team, Emanuel Nunez, Rick Hess and the recently arrived Bart Walker, have developed four streams of revenue into the agency. They will charge an investor like Sidney Kimmel, the clothing billionaire turned film producer, a monthly consulting fee for their advice; they will charge a consulting fee for arranging multi-party financing for any picture they're involved with; they will charge 5% of any US distribution deal they set up for an independent production; and they will charge their talent clients the usual 10% booking fee for getting them work in these independent productions.

The same holds true at WMA and ICM, though WMA's Elwes says he prefers to stay away from monthly retainer fees from private individuals. "That way, we can work with all of them," says Elwes. (He is, however, particularly tight with Bob Yari.)

Just don't call these agents and lawyers bridge builders between the money and the talent. "Bridges get walked over and left behind," says Ptak. "And, sometimes, they get blown up."

According to the packaging agent side of the story, the goal of the indie film middlemen is to be ingrained in a film deal to such an extent that the agent becomes the de facto executive producer. Therefore, fewer and fewer indie producers can exist who fall into the Saul Zaentz category.

Zaentz, who has won three Academy Awards for best picture (*One Flew Over The Cuckoo's Nest*, *Amadeus*, *The English Patient*) says: "I don't need to pay a middleman. They just do what I'm supposed to do as a producer."

Crashing the party

The idea that a talent agency or an entertainment lawyer could insert themselves into the financing of independent films sprung up in the late 1980s. At the time, Ptak was working with motion picture heads Mike Simpson and John Burnham at WMA, Peter Rawley was at ICM working for CEO Jeff Berg, and two young expatriate lawyers, Nigel Sinclair and his protegee, Craig Emanuel, were looking to leverage their foreign connections to get into the financing side of the game in Los Angeles.

Traditionally, Hollywood had not been kind to outside investors who tried to take on the studios on their home turf. The rule of thumb for agents and producers was to grab the investors' money and put it into bombs that the studios had rejected as hopeless but came with a fading star willing to take the money and run for eight weeks of work. Case in point: shopping centre builder Mel Simon, who came out to Los



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John Sloss

Angeles in the late 1970s and lost \$50m of his own fortune within four years on films like *Chu Chu And The Philly Flash*. Then there was Penta Pictures, an Italian group that spent tens of millions of dollars on dreck such as *Man Trouble*, a 1992 picture that Jack Nicholson starred in (and charged retail) reportedly because his old *Five Easy Pieces* friends Bob Rafelson and Carole Eastman, the director and writer, respectively, needed a pay day.

"These investors were treated like prisoners of war," says media psychologist Stuart Fischhoff. "The Hollywood insiders broke them down, and then gave them a whole new set of values."

According to Ptak and Elwes, few agents and lawyers back then saw that maybe it wasn't such a great idea to ruin outsiders before they got their bearings, and that it was financially better in the long run to protect the newcomer, who could survive in the game years longer if they were steered away from the next *Battlefield Earth*.

A business is born

Nigel Sinclair, who went on to form Intermedia with sales agent Guy East, is considered the godfather of the indie lawyer trade. The Scottish-born Sinclair was a former international tax and business lawyer who once worked in the Middle East in the oil and gas business before going into movies.

One of the seminal deals Sinclair and his partner Emanuel helped engineer was director Peter Weir's 1990 romantic comedy, *Green Card*. Weir, who wrote the script on spec, his agent Ptak and the lawyers arranged independent financing for the film as an Australian-French co-production, and struck a straight distribution agreement with Disney, which would have gladly picked up the whole budget after the success of the Weir-directed *Dead Poets Society* for the studio.

Green Card did more than \$100m at the worldwide box office, and Weir's piece of the profits was much greater than if he had set up the job as a straight studio gig. A business was born.

Ptak would go on to make multi-party finance deals for then-WMA client Kevin Costner on *Dances With Wolves*, which would win the best picture Oscar for 1990, this after Costner departed for CAA. Ptak would soon follow. Working with the Scott brothers, Ridley and Tony, Ptak would arrange the financing for *1492: Conquest Of*



Left to right: Creative Artists Agency's Kevin Iwashina, John Ptak, Roeg Sutherland, Emanuel Nunez and Rick Hess



Rena Ronson and Cassian Elwes of WMA Independent

SPOTLIGHT

The new guy

ROSS JOHNSON talks to Hal Sadoff, ICM's new head of independent and international, about the growing demand for indie finance in Hollywood

There was a time when no talent agency was more identified with the international film business than ICM, thanks to its chairman and CEO, Jeff Berg. In the 1980s, Berg pioneered the practice of partnering with European and Pacific Rim talent agents to ensure US representation of their clients. Berg and ICM would come to represent film-makers such as Roman Polanski, Luc Besson, Jean-Jacques Annaud, Bernardo Bertolucci and Peter Jackson.

But a succession of executives followed Peter Rawley, Berg's first head of international, out the door, including Ken Kamins and Bart Walker, who recently left for CAA. (Walker was never the actual head of international but his New York base of independent clients kept him firmly entrenched in that world.)

Last December, Berg hired film financier and *Hotel Rwanda* executive

producer Hal Sadoff to run the independent and international wings at the agency. Two agents, Shaun Redick and Oriane Gay, report to him.

Unlike his counterparts at other agencies, Sadoff is the one international head who comes from the financial world, not the agency or production business. As a merchant banker and co-founder of the Cobalt Media Group, he's helped finance over 200 films in his career, including *Open Range* and *House Of Sand And Fog*.



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Hal Sadoff

"The studios are focusing on tentpole movies and are financing a smaller number of films," Sadoff says.

"More than ever, they are looking for outside financing to round out their distribution slates. Because of my experience in the international finance world, I'm going to bring a little different skill set to this job."

Paradise, which went on to prove that indie big-ticket producers could misfire as well as their studio counterparts.

Over at WMA, agents working for the likes of Quentin Tarantino, John Travolta, Bruce Willis, Harvey Keitel, Uma Thurman, and Ving Rhames changed the indie film model when they packaged the 1994 *Pulp Fiction*, which won the Palme d'Or at Cannes, an Oscar for the screenplay, and scored \$213.9m worldwide.

The cast had taken deferrals in lieu of their usual fees in order to bring the picture in at \$8.5m. Travolta and Willis, who had been in the process of turning off their fans with mindless turkeys, made millions on the backend. And, more importantly, they revitalised their A-list business. Soon, all sorts of stars saw the wisdom of making "the Sundance film". And the studios and their new found "indie" labels loved them, because when they were sold in TV packages to Europe, they were not sold as festival darlings, but A-list product.

film-makers and create a tremendous amount of excitement around a film.

In the past few years the attention of the press at Park City has shifted to Paris Hilton and sponsored goody bags. But Sundance is still, at its core, where films and film-makers are discovered, and no-one plays the market better than the WMA team and the Sloss crew at Cinetic.

Everything at Sundance is boiled down to the first 72 hours of the festival. That is when the most anticipated films in search of a distributor are flashed before studio acquisition executives, who are invariably forced to see the films with a real audience who hiss and whisper every time an acquisition executive gets up to go to the bathroom.

In this hothouse atmosphere, Elwes and Sloss become the equivalent of walking gods, as they traipse up and down Main Street to the shouts of young film-makers and sundry hustlers in hot pursuit. And when the acquisition gang at a Fox Searchlight or Warner Independent Pictures decides that they need to make some noise with a big buy, the heat on a seller like Elwes or Sloss can reach the stage where crews from CNN are chasing them through the snow.

Talking to *Screen* from his New York offices, Sloss says he is at the stage where he is offered 500 projects a year to put together.

With a core team of six executives, he can manage to take on about 20-25 projects a year. Many of these hand-picked pet projects are the kind that might easily die in the script stage if it

wasn't for careful packaging.

More significantly, Sloss and his agent peers have all allied themselves with a new breed of savvy private investors. Unlike their clueless predecessors, who were easy meat for the studio sharks, this new breed — typified by the likes of Mark Cuban, Jim Stern and Bob Yari — do their homework before sinking their new-found fortunes in the movie business. "They have all gone to school in the past seven years and seen where the bodies are buried," says Sloss.

"The process of putting together multi-entity financing deals is evolving," he adds. "As the financing modes become more established and the studios are more willing to share in the revenue streams, we're going to see more and more educated equity players in the independent film business."

To the ears of those versed in the rough-and-tumble, unfiltered world of Bob Evans, this is not exactly a David Mamet riff. But to an indie film-maker in search of financing or a money man in search of the next cool indie wave, Sloss is the next best thing to a poet. ■



Yari: new breed



Sinclair: Intermedia

The wheeler-dealers

After Morgan Mason, who took over the indie wing at WMA in 1991, left in 1995, Elwes was brought in by then-agency movie head Arnold Rifkin to run what would become WMA Independent.

Elwes is the stepson of producer Elliott Kastner, one of the pioneers of the indie finance business. Kastner made over 60 pictures, including *The Missouri Breaks*, *Harper*, *Where Eagles Dare* and a slew of others shot in Europe that were some of the first English-language productions to take advantage of European tax breaks. Elwes himself produced 26 films before he became an agent.

The film that put WMA Independent on the map was *The Apostle*, starring and directed by WMA client Robert Duvall. The 1997 film was financed with \$5m of Duvall's own money, and was not placed with a US distributor, the late October Films, until the film was completed and a frantic bidding war broke out at the Toronto film festival. It went on to gross \$20m in the US.

Since then, Elwes and WMA Independent partner Rena Ronson have become the go-to wheeler-dealers on the West Coast for the \$5m-and-under film that is auctioned to the studio labels only when it is completed.

Though they cover all the independents in Hollywood (they helped service the here-today, gone-tomorrow Elie Samaha/Franchise slate in the late 1990s, along with CAA), what makes the WMA team tick is its ability to hook up with a hot young