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[What Does a Finder Agreement Encompass in Motion Picture Deals?](#)

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Dollars are what an entertainment project desperately needs to get off the ground. To find the dollars, producers or production companies often resort to people who know how to raise part of the money needed. Finder Agreement is the contract between such producers or production companies with those who know, at least theoretically, who to approach and how to raise much needed funds. Nonetheless, Finder Agreements are not simple straightforward documents and much like any other contracts require in depth sophisticated drafting skills.

SOME SALIENT POINTS IN DRAFTING FINDER AGREEMENTS

1. Finder's Promise: Best Efforts, Reasonable Efforts or Neither

In seeking to oblige the Finder to obtain the financing needed, the contract might use "best efforts" or "Reasonable efforts". Despite the strength of "best efforts" in obliging the Finder to really do whatever is required to obtain the financing, those terms are elusive and ambiguous.

Instead of using such terms, parties to forestall unnecessary litigation, should instead ask for some defining terms or thresholds to be accomplished. Such threshold could have a time limitation and a dollar amount spent to accomplish the goals, among other defined terms, conditions or qualifiers. Parties should always keep in mind the purpose of their contract is to amicably accomplish their objectives and not litigate over what a particular term or qualifier means.



2. Manner of Compensation in Finder's Agreements

Often, Finder is compensated in cash by a percentage of the amount the Finder obtains PLUS a small portion of the net profit of the motion picture, as a profit participant. The amount of the Finder's fee often varies from 2%-5% of the money the Finder brings in depending on how large the money is relative to the project as a whole.

a) How Much To Pay the Finder When the Acquired Money is Relatively Large

Nonetheless, if the amount is much larger, parties might agree on a sliding scale. The sliding scale could be 5% of the first million, 4% of the second million, 3% of the third million, until 1% is reached. Then, from then on, for every million is 1%. The objective is to retain the financing in the hands of producers or production company to make the movie.

b) How to Generally Pay the Finder

In addition, the contract could be arranged for the money to be paid to Finder either concomitant with the actual receipt of the money or on the money actually USED by the producers. One important term is to ensure Finder is not paid until the producers actually have the money.

Further, it is important to agree with the other party that the Financier directly pays the Finder or Finder receives the money through an escrow account, ONLY WHEN producer has the RIGHT to use the funds.

SALIENT CAVEAT

This article neither supplants the analysis and craftsmanship nor sophistication and complexities involved in drafting a Finder's Fee Agreement. In fact, every contract, to a great extent, is unique given the financial strength, needs and circumstances of the parties involved.

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