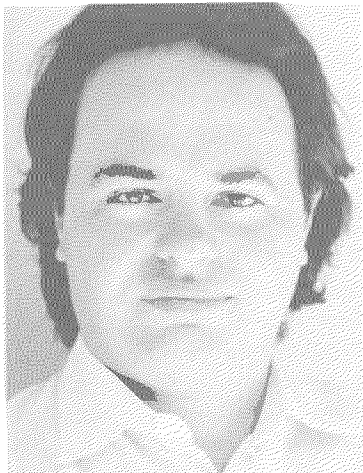


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**AFM
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It Takes Courage Strength & The Power & Conviction Of One Voice To Right A Wrong

Richard Rionda Del Castro

We currently live in a world almost decimated by the greed of a relative few who use their wealth as a mechanism to enforce hierarchy in our society. In view of that, the words of The Declaration of Independence 'all men are created equal' in the building of the great nation that is America may at times seem irrelevant. A few months ago a story came across the desk of The Business of Film that caught our attention. An 'independent' had won substantial damages - approximately \$7million - fighting a case where the 'financier' for all intents and purposes had the resources to fund a film. -For the thirty years that this publication has published, these stories have circulated, but never before have the details been in print. Because the film industry is 'sexy' it attracts and encounters a wide variety of individuals who want to be part of our world by funding films, the blood and life of the business, and we welcome them. Some are genuine in their intent; others are not. Over the years it is something we have all discussed over drinks on the Carlton Terrace in Cannes or at the Hotel Du Cap and in the 'corridors of our power' - Hollywood. We all know of a 'producer' who has lost hundreds of thousands of dollars because when push came to shove, there was no money from 'the financier,' no matter how 'due' the due diligence had been conducted.

This is the story of a fisherman who cast a line and got caught in his own net of deception. The details of the story are a matter of public record in the States of California and New York. The individual who made a phone call threatening the company with being blacklisted can't be named, however this story in print serves to encourage us all that we live in a world where increasingly 'the culture of capitalism' will be challenged, and where there will be 'one voice' that challenges the 'perceived status quo' of those who use 'deceit' and then attempt to intimidate others with their 'positions in society' when they are in the wrong.

*The Business of Film is In Conversation with **Richard Rionda Del Castro, Chairman of LA based Hannibal Pictures.***

The Business Of Film: Richard, we have all heard stories of financiers who come into the business claiming to have funding for films. They monopolize the time and resources of the range of personnel involved in the film process and in the end their overture, are revealed to be mere fabrication. This was experienced by you and your company. Now, for the benefit of the film community worldwide, please tell us how you succeeded getting just compensation when so many others in the past have failed.

Richard Rionda Del Castro: In 2005 Hannibal controlled a project in which a very big name actor had a strong interest in the leading role. While we were finalizing the acting contract, the

actor gave us a short window to go into production because of other film commitments. We began presales and had procured a commitment letter from our regular production lender. During the same period, our lawyer at the time introduced us to his new client who was now in the business and representing to have \$250million in cash to invest into film production. They were starting with a slate of 5 pictures and were looking for high profile pictures to finance and co-produce. They took an ad in Variety at AFM in 2005 announcing their intentions, and in January 2006 they signed an agreement with my company, in which they agreed and committed to finance 100% of the film. At that time, they were fully aware that if we agreed to their financing terms, we would be solely

relying on them to completely finance the film, and they repeatedly assured us that would not be an issue. This person was Sonja Tremont Morgan, a New York socialite. The production company was Sonja Productions. Her company took an advertisement in the trades, and she used her husband's name John Adams Morgan, the great-great grandson of J.P. Morgan, and a direct descendant of U.S. President John Adams, who was the Vice President in charge of Financing for the company. Sonja Morgan and her director were representing to everyone they had the cash sitting at a bank in Beverly Hills ready to fund as soon as they had chosen their projects. (Continued on next page)

We placed our trust in them, our lawyer trusted them, and so did the bankers and agents. We performed due diligence and asked for references from the bankers and lawyers. Sonja Productions had recently financed another film just before us, a decision they had made in a few weeks and had funded two and a half million dollars in cash, so we had proof that they were serious and legitimate, as did our attorney considering he had handled the legal of the first investment they made. They liked our project and repeatedly told us this was exactly what they were looking for. Everything was in order on our side - the chain of title, director, location, crew, bond, insurance were in place and the acting service agreements with the actor was ready to be executed. Everything was ready. At this point the investor and co-producer, Sonja Morgan, was expected to put the money in place with the actor's agency, which she had agreed to do. The day before she was to transfer the money, she told us in front of her CEO and our lawyer, that it would not be a problem, that she would instruct her bank to move the money. The following day she returned to New York and basically didn't call us back. She left us dry!! We called her repeatedly asking for the money to be put in escrow, and when we finally spoke with her, her response was that "Deals fall apart in Hollywood all the time" and laughed. She went back to New York, was in breach, and in the end laughed at us. So we initiated legal action and filed a lawsuit, which is a painstaking process, emotionally and financially. We sued her for breach of contract and fraud. The fraud was based on the fact that we found out she never had the money she said she had to finance our film, much less anyone else's.

Our case has been making its way through the Federal Court system for the last three and a half years. The trial in front of an eight person jury that should have lasted four days turned into 9 days. We are represented by the law firm of Hamrick & Evans, LLP by Ray Hamrick and Marty Barab. They have provided us with tremendous support over this long ordeal, and they performed. On the ninth day, the Jury

voted unanimously in our favor. They awarded Patricia, myself and Hannibal Pictures a seven-figure award and also awarded us \$250,000.00 in punitive damages against Sonja Morgan personally. Sonja Morgan was found personally liable for breach of contract and fraud. The judgment was signed on September 1, 2009. Now we have the law on our side and we fully intend to collect every dime the jury awarded us.

TBOF: What is puzzling is - what is the motive for carrying the charade on for so long if the money wasn't there. We are all familiar with the individual who comes into our business and within a couple of months is discovered to not have the money and disappears and another comes along. But this person seems to have taken it right to the eleventh hour.

RRDC: People come into this business and other businesses who are the wife, son, daughter, or cousin of a high net worth individual. People like this want to be in the limelight, so they make up fabricated stories, and in actuality commit fraud by signing binding documents guaranteeing financing while in reality they cannot deliver what they are guaranteeing. The fact is, when you sign such a document in the State of California and you don't have the capacity at time of signing to deliver what you are committing to, it is considered fraud. This is the law. In the case of Sonja Morgan, for whatever her reasons, she completely disregarded that fact. I would hope that any potential individuals who would have the same idea as Sonia Morgan will see that it can't be easily done, without there being grave consequences.

TBOF: Congratulations on your tenacity. Over the years we have constantly heard these stories, but no one has really talked about them and no one to my knowledge has taken it all the way as you have done. It is an expensive process no matter how long it takes, whether it's three months or three years, and this has cost you an incredible amount of money.

Patricia Rionda Del Castro: It is interesting, at the end when you come out the other side, people will say to you "how could you not know?" You simply don't. It's not that producers like us are inexperienced and don't perform the due diligence. When you have someone with this highly regarded reputation and they are using their husband's name and financial background and reassuring you they are actually going to provide financing film, and you know that they have recently financed a movie, you have no reason not to believe them. If you were to count the number of people every day in this business who say they have financing for a film, they are a dime a dozen. In our case, we were relying on her and her husband's financial background. She was the wife of John Adams Morgan, who is obviously a well-regarded expert in the banking business. She was also representing that he was a part of her production company and also served as a board member. Obviously his credentials could not be questioned.

RRDC: The point is that people come into the film business and get away with doing this all the time. We now know of other producers Sonja misled that were in our same situation, and they too wasted time, energy and lost credibility not to mention hundreds of thousands of dollars. In the end when she had to back up her commitments she had no intention of the means to finance any films and simply walked away.

TBOF: Having done this ten times, my question is does she own the assets? Is there any chance of her claiming that she has no assets?

RRDC: Mrs. Morgan testified under oath in court regarding her assets, and we have been advised that if she starts to move her assets or tries to hide them, she will be facing larger problems. We encountered a similar situation this summer with someone
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representing they were an investor who served on the Board of one of the top U.S. banks. This person supposedly had the backing of high net worth individuals from the baseball and music industries and was ready to invest. There were demands made of course: the person would receive a fee and credit, and his girl friend would have to be in the film. What is disturbing is the fact that they were represented by a very reputable talent agency. Together we all went through the negotiation process and in the end nothing ever materialized. Why do producers like us who are seeking money for films entertain meetings with these people? Because they are represented by top agencies in town. Yet in more cases than not these so-called investors don't have the financing they are representing.

TBOF: That seems pretty shocking. Don't the agents have a responsibility to check out a client they are representing?

RRDC: There are always 10 or 15 people like this in town scamming the entire industry, wasting everybody's time. You believe based on credible introductions. So you begin the process of the deal, you are close to finalizing the terms, negotiating the final points, you have agreed to the extra fee, you agree that his girlfriend who is obviously not an actress will be in the film. You then ask him for the proof of funds, and they can't produce anything, not even a single penny.

TBOF: I had no idea it happens with such frequency.

PRDC: How do you make someone prove they have the money without seeing a bank statement, which doesn't happen? Even when you ask for a letter from the bank, or to put the money in escrow, then they are offended. So it's a Catch 22: they are offended because you ask and they are offended because they know they don't have the money.

RRDC: In our experience, we have encountered two types of these kinds of people. One is the hot shot Financier, who comes to town like Sonja Morgan,

and others coming from all over the world, like London and the Far East, who tell you they have a big group with money, and they are making big deals in Hollywood, and they have nothing. Then the other group is the so-called producer or third parties that represent they have talent or control of projects, and they have nothing either. Every week we see so many announcements regarding financing deals and so few ever materialize. It's a waste of time, energy and resources. Frankly until the money is in the production bank account, there is no real way to know for sure if it is legitimate. In our case, we had our lawyer confirm Sonja Morgan was legitimate, we called her bank in Beverly Hills, and they assured us we were in good hands as they were handling her banking business.

PRDC: We could not have come through this ordeal if it was not for Richard and the experience he has, but it took an enormous amount of time, and almost destroyed the credibility we spent years building. As an independent, the opportunities to work with high profile actors are few and far between until you can prove yourself. When you can't deliver, the stigma is always there and it is a long process to regain that trust. In our case, our reputation was damaged with the buyers, the agents. Hollywood is a small town, and you are only as good as your last film.

RRDC: I had to go with my hat in hand and explain to the parties involved and apologize, and show the paper trail of what had happened. I jumped on a plane and went to the State where the actor lives and personally apologized. This is what I needed to do, and thankfully he understood, and through his lawyer we were told that if the opportunity and right project comes along they would certainly consider working with us. Mind you, throughout these three years we have continued working while going through this process. It has not been easy.

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PRDC: On top of everything, Sonja went even further in trying to stop the litigation by using her connections. She had a high profile financier in the industry call us to make us aware of how very powerful they were, and that if we didn't stop the litigation, they would make sure no one in Hollywood would work with us. It took us a long time to rebound, and you really don't know if that had any effect at all.

TBOF: The Business of Film has experienced this, and I don't know about you but when anyone says something like that to me, I come out fighting stronger than before. That kind of attitude and thinking simply gets my back up.

RRDC: What you just said is how I reacted. We received a phone call from a very well known financier in our industry. A representative of the company called and said: "My boss is a friend of Sonja Morgan, and it would be in your best interest to drop your lawsuit, or you will never work in this town again." I told him: "You know, I am working an hour a week on the case, and after what you have just told me, I am making it my mission to work two hours a day, so tell her I will follow this to the end." We immediately sent them a legal notice to cease and desist. In reality we should have also attached them to the lawsuit. After all, it was a phone call that lasted perhaps less than 15 minutes and it was my word against theirs. This demonstrates the perceived power these people think they wield. Instead of doing the right thing, they try to strangle you, try to make you give up your rights, and try to intimidate you.

TBOF: At this precise moment we are in the deepest worldwide economic crisis of several decades. That is what interested The Business of Film in covering your story for the AFM issue. (Continued on next page)

We unfortunately live in a capitalistic culture that has existed unregulated and has basically 'popped its own cork.' The privileged few at the top of the economy over the last decades are directly and indirectly responsible for this pervasion of greed for the greenback. We live in a world that has a three-cornered global economy, we are globally interdependent on each other, and it's time for change. The world needs examples of individuals such as yourselves with the courage of your convictions, because it's time for all of us as individuals, no matter who we are in any situation, to stand up and fight back against the self-indulgence and the self-indulgent within our society. That is why the time is right to print this story rather than just talk about it as we have in the past.

RRDC: What I also want to share with the industry is that my wife and I learned many many lessons throughout this whole ordeal, not the least being that if an independent producer like us finds themselves duped by a so-called financier, and they decided to take action, I highly recommend that you also perform your due diligence on law firms and make sure that you have the right lawyers representing you. We had smart aggressive lawyers, Ray Hamrick and Marty Barab, lawyers who know how to litigate, and have experience with independent film production who know the business inside out, from production and distribution to litigation. Marty Barab has produced films and distributed them, has been a production lawyer for countless movies, and has litigated many cases, so he knows this business inside and out. I believe Ray Hamrick and Marty Barab are very knowl-

edgeable lawyers that understand not only film litigation, but are also very qualified in the process of film production, and have hands-on knowledge regarding film financing, production, distribution, and banking. They know the business from A to Z and from Z to A. They take that expertise and plug it into a litigation case and go from day one to collection. That is very unique.

Recently one of the trades had a special edition about the best lawyers in town, but it only concerned lawyers on one end of the spectrum who deal with the film business on a whole different strata. None of these lawyers are in the world of the independents. Those lawyers are in the world of the studios. Our attorneys stood by and backed us up every step of this long hard road and continue to do so. So if you find yourself in circumstances similar to ours, take some advice and go directly to the law firm of Hamrick & Evans LLP.



Kevin Spacey in Casino Jack (Bagman) - Available from Hannibal Pictures