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Avoiding Film Industry Fraudsters: Key Tips For Investors

By **Alex Wyman and Tyler Downing** (April 7, 2022, 5:47 PM EDT)

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Investor fraud is an old trade. Long before Bernie Madoff's infamous theft in 2008, there was Charles Ponzi's 1920s scam that gave title to the eponymous scheme. But much like the economy itself, would-be fraudsters have evolved and adapted, taking advantage of new industries and the opportunities presented by investors' inherent unfamiliarity with nascent or rapidly changing fields.

This is as true in Hollywood as it is on Wall Street. And with the film industry undergoing rapid expansion triggered by the emergence of streaming empires in desperate need of content, Hollywood has fast become a prime target for fraudsters seeking to take advantage of investors eager to buy into the industry's growth.

Indeed, in recent years the film industry has seen a number of criminal investment schemes perpetrated by Hollywood insiders — or claimed insiders. These cases illustrate the types of scams that investors in the film industry are susceptible to and should be wary of going forward, and underscore the importance for investors and their representatives to conduct thorough due diligence — particularly when investing in an unfamiliar industry.

U.S. v. William Sadleir

On Jan. 20, former Hollywood film producer William Sadleir pleaded guilty in the U.S. District Court for the Southern District of New York to defrauding BlackRock Inc. of over $30 million that the fund had invested in Sadleir's film production and distribution company, Aviron Pictures.

To carry out his scheme, Sadlier claimed that approximately $27 million that the fund had loaned Aviron to finance and distribute its films had been invested by Aviron in prepaid media credits with a well-known media agency that would be used to promote future Aviron films.

In reality, Sadleir had simply transferred the funds to a bank account he controlled that was held by a sham company he created with a very similar name to the legitimate media agency. Sadleir then used the funds for his own personal benefit, including by purchasing a $14 million Beverly Hills home.

In an effort to conceal his fraud, Sadleir crafted a fake identity that he used to email with representatives of the fund claiming to be an employee of the sham media company, and purporting to provide evidence that Aviron held a $27 million balance in prepaid media credits.

Sadleir also forged the signature of one of the fund's managers to release liens on $3 million worth of certain Aviron assets that were securing the loans — and then sold those assets before defaulting on the loans. He is scheduled to be sentenced on May 10.

Sadleir also recently pleaded guilty in a separate criminal case in the U.S. District Court for the Central District of California, U.S. v. William Sadleir, in which he was charged with submitting three fraudulent loan applications under the Paycheck Protection Program, and thereby obtaining over $1.7 million in fraudulent loan proceeds for various Aviron-related entities. He is scheduled to be sentenced in that case on July 13.

U.S. v. Adam Joiner

In November 2021, Adam Joiner was sentenced in the U.S. District Court for the Central District of California to more than eight years in prison, and ordered to pay $14 million in restitution for his own investor fraud scheme involving film financing and distribution. Through his company Dark Planet Pictures LLC, Joiner sold foreign investment firms on financing a movie titled "Legends," which would be based on American folk icons such as Paul Bunyan and John Henry.

Netflix Inc., Joiner told the firms, was already on board, and had agreed to distribute the picture. And as proof, Joiner supplied fake distribution agreements with the company featuring the forged signature of a real company executive.

Even after securing the initial investments, Joiner continued to concoct new lies. He provided "updates" informing the investment firms that he was in contract negotiations with Oscar-winning director Guillermo del Toro to direct the film, and later that he had terminated the distribution agreement with Netflix and entered into a new distribution deal with another major studio — another lie that he supported with forged documents.

Ultimately, none of the funds raised were spent on attempting to create "Legends." Rather, Joiner used the victims' investments for his own benefit, purchasing a $5 million home in Manhattan Beach, California, and potentially using another $4 million to develop an unrelated film.

U.S. v. Benjamin McConley

In September 2021, Benjamin Forrest McConley was sentenced in the U.S. District Court for the Southern District of Florida to 13 years for his role in a scheme in which he, along with his alleged co-conspirators, held themselves out as movie producers and financiers, and falsely offered financing to film and other entertainment producers and investors through a matching program. Jason Van Eman, accused of acting as McConley's partner in the fraudulent scheme, is awaiting trial.

To induce potential investors, McConley promised the targeted victims that he would match any contributions the victim made toward financing the film, and that McConley and his partners would then use the combined funds to secure any additional necessary financing for the project. McConley enlisted the help of a bank employee named Benjamin Rafael, who assured victims that the funds had been placed in a secure account and had indeed been matched by McConley, using the bank's letterhead and email as well as forged documents.

Rafael pleaded guilty to involvement in this scheme, and in another case involving fraudulently obtained Paycheck Protection Program loans, in U.S. v. Benjamin Rafael in the U.S. District Court for the Southern District of Florida. He was sentenced to 42 months in prison. Even after Rafael was fired from the bank in 2015, McConley and his co-conspirators continued to hold Rafael out as a bank employee.

In reality, rather than matching the victims' funds in a secure bank account, McConley and his partners would move the victims' contributions into personal and corporate accounts, and then use the victims' money to pay for personal luxuries, settlements with past victims, and reputation management services to scrub the internet of references to any previous victims' lawsuits.

When victims demanded the return of their money, McConley would refuse, citing bank compliance issues, ultimately leaving the projects jeopardized and short on necessary cash. As McConley was leaving many of his victims without funds, he was collecting his own executive producer credits, helping to bolster his claims of being an industry insider and lure in even more victims.

U.S. v. James Williams

In 2018, James Williams, Steven Brown and Gerald Seppala were sentenced in the U.S. District Court for the Southern District of New York for their roles in an advance fee scheme in which the three defrauded investors out of $12 million that had been intended for use in film financing.

Williams and Brown held themselves out as experts in marketing feature-length films and documentaries and, along with Seppala, solicited investments in certain films and documentaries, many with big-name stars. In soliciting these investments, the defendants lied about how the money would be used, and falsely claimed that they had other investments in the projects, including that Williams himself had invested heavily in many of the projects.

These lies were supported with fraudulent screenshots and bank statements purporting to show the existence of past investments. Instead of using the funds to make the promised films, the defendants used investors' money to pay back other investors and for their own benefit, such as by buying cars and houses.

U.S. v. Carissa Carpenter

In November 2018, Carissa Carpenter was sentenced in the U.S. District Court for the Eastern District of California to more than six years in prison for her role in perpetrating a 17-year-long scheme in which she defrauded investors out of more than $5 million by presenting false plans to build a Hollywood power-player-backed movie studio in Northern and Central California.

Carpenter bounced her scheme from city to city, telling investors and local governments that she would be building the studio in locations ranging from Dixon to Fairfield. Carpenter solicited some investors for direct investment in her companies with promises of profit-sharing once the project was completed, and she asked others for bridge loans to fund the project until other financing was completed.

Using preliminary work by respected construction and design firms, lies about backing from influential producers and directors, and misrepresentations about the investment of hundreds of millions of dollars of her own to give the project an air of legitimacy, Carpenter managed to raise millions from investors, entice companies to provide services free of charge and secure commitments from local governments.

Carpenter then used the money from investors to support her own lavish lifestyle, pay back other investors and pay commissions to others who had recruited new investors. And when investors or local governments asked why the project had not commenced, Carpenter concocted stories about other financing falling through unexpectedly, or health problems faced by Carpenter or family.

It is no coincidence that these frauds have occurred during an era of massive growth and change in the film industry and that several of the schemes capitalized on the names of successful streaming companies. The evolution of streaming platforms has led to increased investment in the creation and licensing of content, and this trend shows no sign of stopping. According to a report by Ampere Analysis, it is estimated that more than $230 billion will be spent on content in 2022 — almost double the amount spent in 2012.

Due Diligence for Film Investors

As the film industry has grown and continues to grow, more and more investors are likely to be attracted to it as a home for their investment capital. And the continued transition from traditional film production and distribution to streaming platforms presents ample opportunity for fraud, as investors are, as a matter of course, less experienced in the types of investments they are pursuing in nascent or evolving industries.

This being the case, investors should be careful to exercise caution and due diligence in vetting investments in film financing, in order to avoid being caught in schemes like those described above. A thorough diligence process, particularly in industries unfamiliar to the investor, is crucial.

As evidenced by the above schemes, and the ease in which would be fraudsters can manufacture doctored documents, investors and their representatives should make efforts to look to materials beyond those provided by the target of the investment when conducting their diligence. Similarly, engaging with advisers with experience in the industry can help ensure any red flags are noticed and investigated, and that potential investments are in line with industry expectations.

Such red flags may be similar to those in fraud across industries, such as: aggressive salesmen with exaggerated or false credentials and connections, particularly as it relates to big Hollywood names; offers that sound too good to be true, or that attempt to play heavily on the allure of Hollywood with promises of glitz and glamour for the investor; promises of unrealistic or guaranteed returns; and claims that an investment is risk-free or that a project is a guaranteed success.

Protecting Investments in Film Projects

Two additional mechanisms to protect a potential film financing investor — slate financing and completion bonds — can further be used to generally mitigate risks and help the investor avoid being caught up in fraudulent schemes.

Slate Financing

Large investors such as hedge funds or private equity can utilize slate financing — i.e., investment in a portfolio of films, rather than any single production — to mitigate risks.

Because such investments involve putting money into multiple projects by what is typically an established studio, investments are diversified, and the risk of falling victim to fraud is minimized. For investors wanting exposure to film financing, investment in a fund that engages in slate financing may be a promising alternative to directly investing in individual projects.

Completion Bonds

Alternatively, for investments in a single film, completion bonds offer some protection for investors by helping to ensure both that the project is legitimate, and also that it will be completed on schedule and within budget. In essence, a completion bond is a contract between the producer and the completion guarantor in which the producer pays a fee to the guarantor in exchange for their issue of a guarantee that the film will be completed on time, on script and on budget.

Before agreeing to this guarantee, the guarantor does its own diligence into the project, closely examining the script, the budget and the schedule. Because of the security they offer, such bonds are a long-standing tradition in the entertainment business, and are frequently used for independently financed film projects. This being the case, investors should strongly consider demanding that a completion bond be obtained before agreeing to finance a film.

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Disclosure: Alex Wyman was involved in the prosecution of William Sadleir while serving as an assistant U.S. attorney.