

The duty of agents is to *represent writers and act in their best interest*. Unfortunately, because of the conflicts of interest allowed in the current agreement between WGA and the Association of Talent Agencies, agencies are often doing anything but that. Writers have been sharing their experiences with conflicted representation, showing how it harms us both creatively and economically.

*The statements below have been submitted confidentially to the Guild by members and published with their permission.*

"My agency has a full package on a show I created. They did nothing to package the show and never asked me or informed me they were taking a package. Per the deal they make a percentage paid out of the budget which comes out to about \$50k/ episode. They also have 10 points of backend -- something they never mentioned to me while negotiating to give away my points to other producers and cast. If I were to ever leave my show (or get fired) I would make \$5k/ episode for creating the show but my agents would continue to make \$50k/ episode for as long as the series runs. That's right: If I leave my show for any reason my agents continue to make their full fee in perpetuity. A deal I do NOT have. I find this to be incredibly unethical and grossly unfair. And I'm pretty sure every writer whose agent took a package on their show has the exact same deal."

"Three years ago I was staffed as a Story Editor on a network show packaged by my Big 4 agency. I had secured the interview and job all on my own without my agent's help. When the studio's first offer came in at minimum, my agent told me to take it. My manager was furious and called my agent to tell him that it was a first offer and only a starting point for negotiations. After that my agent negotiated a very modest bump. That was when I realized that staffing on a show packaged by your own agency doesn't save you 10%; it costs you everything you should be getting in a hard fought negotiation. Just one simple bump in a promotion timetable can far outweigh what you save on commissions. And when you compare what those negotiated bumps add up to compounded over time, there is no comparison."

"Call this a Tale of Two Writers: On my first show, I started with another writer and we rose up the ranks together as staff writers for two seasons, finally making it to the Story Editor level for season 3, but the show was cancelled. My friend got a job on another show the next staffing season through a ton of their own hard work, but the show was packaged by their agency. The job offer was to go back to staff writer level for yet ANOTHER season, and my friend's agent let them take that deal. Meanwhile, I struggled to find work for two staffing seasons, but when I finally did, it was on a show my agency did not package. My agent argued that my experience level merited a double bump—and I got it. I'm now at the same level as my friend, even though they worked two whole seasons that I did not. It just goes to show: I'm better off at my smaller agency that doesn't package, because my agent's interest is directly tied to mine."

"I was on my way to a meeting with a network executive to pitch a show – a 'mere formality,' the exec said, as he was a friend who had told me over dinner a few weeks earlier to 'just come in and tell it to my people and we'll have you writing in a week.' During my drive, I get a call from my agent who says, 'Turn around. I canceled the meeting.'

'Why?' I ask.

'They won't make a packaging deal with us.'

"My agent tried to talk me out of taking a job as a writer on a show that is now on lists of all-time greatest TV shows, because it wasn't packaged by them."

"Back in the mid-90s I was a client at a Big Four agency. They rushed me into a packaged show at Warner Bros., knowing that I was going to get an offer from Disney to do a much better, but non-

packaged show, within a day. But when I got the offer from Disney, my agent told me, "It's too late, you've committed." And they wouldn't help me get out of the package. It hurt me severely, both emotionally and professionally. Not worth the savings of the 10% at all."

"A few years ago, at the start of staffing season, I presented my agent with a long list of shows I would consider staffing or running, ranked according to preference. I expressly requested he not put me up for a specific show (a guaranteed resume-killer) except as a last resort. Days later my agent brought the "exciting news" that this least-preferred show wanted me as a showrunner. Not a single other show had been put forward as an option. Why? The show in question—packaged by my agency—was on the bubble and in need of a network-approved showrunner to get a pickup. To save their package fee (which included a substantial back end) my agency ignored my wishes—and my long-term career interests—and slotted me where it would benefit them."

"My agency packaged a feature that I wrote entirely on spec. When it came time to go out to buyers, I was excited to go out to multiple buyers at once, as we had a very strong package and there was sure to be a bidding war. But instead, my agency — without asking my permission or even informing me beforehand — sent my script to exactly ONE buyer, which it had a close relationship with, and negotiated its own packaging deal before anything. Then when it came time to do my deal, I was stuck... the project had already been announced, so it was either take what I could get or blow up the movie. My agents took \*my\* leverage and turned it into \*their\* leverage."

"I had a half-hour comedy go out to cast, and a major A-list actor, repped by another agency, wanted to sign on. I was excited to sit down with him, but the meeting was repeatedly delayed. My manager asked the actor's agent what was going on. The agent said, "Not gonna lie to you, we're doing everything we can to kill his interest in the project. We'd rather he do something in-house. No reason we should split packaging fees if we don't have to." And it worked—the agent got his actor client to back away from the project."

"I created an idea for a series and partnered with a production company to successfully sell it to a network. The production company's agency pushed aggressively for a packaging fee despite the fact that the agency didn't represent me, the writer/creator. My lawyer tried to get them to back off the fee during negotiations, but it didn't work. The agency then threatened to kill the project unless the network installed a showrunner that the agency represented. In the end, the network decided to walk away from the deal because they didn't want to get in the middle of an agency package fight. I—the writer and creator whose idea it was that got sold in the first place—was ultimately wounded because agents who did not represent me were fighting over packaging."

"After a month of shopping for an overall deal, meeting with half a dozen companies, my partner and I signed a contract with a studio that our agent told us had made the highest offer. That weekend the head of a competing studio—one where we actually had a series on the air—called to ask how negotiations were going. When we told him we had already signed our next overall deal, he was furious! He offered a significantly better deal on the spot, then asked, "Is this about the package?" It was the first time we'd ever heard the term. His studio had refused to pay a package on our overall deal, so the agent had sold us into a multi-year deal to the second-highest bidder. The agent left the country for a month to avoid us. We changed agencies. The new and old agencies now split the package on the series we created out in the overall deal."

"A TV packaging story: I secured for myself, 100% independent of agents, a blind TV deal with a major studio. Upon getting the first round of deal terms sent to me, I noticed that one of 'our' conditions was that it was packaged by my agency. Now keep in mind that not only did I secure this deal using my relationships, but there was also no agreed upon project yet, let alone a script. There were no talent attachments, nothing additive by way of agency and this deal term was never

discussed with me. This provision that my agency was demanding held up the deal and, ultimately, required back and forth negotiations between the studio (for which my personal relationship was at stake) and my agency.

A film packaging story: I wrote a film on spec, sold it, attached a producer through a personal relationship, hired a director, and found financing along with my producer. The producer and I spent four or five years putting this project together from the ground up. Then, just before green light, my agency and the agency of an actor on the project started fighting over the package fee. They wound up splitting it. When it's time to make the film and there's pressure on the budget, my producing fee and that of the other producers takes a haircut... but nobody's touching the agencies' cut of the budget, nor their cut of the eventual sale of the film. On top of this, I and every other piece of talent is still commissioned. They made more than I did, and yet their job was done before we got near 'action' on day 1 of photography."

"Right out of film school, a studio made an offer on a show I pitched to them. Selling the show was a huge deal for me and the studio was excited to work together, but wouldn't give my agency a packaging fee. My agent told me the studio's refusal to pay the packaging fee reflected badly on their faith in me and in the project. I didn't know any better at the time, and would have been powerless to fight him even if I did, so we turned down their offer and went back out to pitch other buyers. My agency put an already-sold project from a brand new writer at risk for no reason other than their own bottom line."

"A friend of mine who works at one of the big agencies told me this story. A partner at the agency said, when discussing an offer for one of their clients on a packaged show, "That offer is paltry. He'll never take it...wait, is it one of ours? Let's try to close, we've already got our money."

"I am a writer with an overall deal. My agency has a full package on a show I created (and did no packaging.) They make between \$750k and \$1.1mm a year depending on number of episodes produced. My producing fee when added up with scripts written for the show is less than my overall guarantee. This is almost always the case, unless a writer "earns out" of their deal. My agents have insisted on commissioning the difference in addition to their huge packaging fee. Meaning any money I get in my overall deal that is more than my episodic producing fees, they also commission. This includes a bonus I got for producing my show. When I argued this point, they told me that's how everyone does it and "we're not breaking precedent for you." Seems unfair since they already receive a million dollars a year off the package."

"I'm a showrunner and my series is packaged by one of the big agencies. The original creators are no longer on the series; their agency packaged the show. There is not one writer, director or actor on my show who is repped by that agency. When we were staffing this season and hiring directors, the packaging agency did NOT submit ONE client. Not one. My showrunner partner had to reach out to the agency and ask them if they wanted to submit writers. It took them weeks to get back to us and by then we had staffed the show. And even after that they never submitted a director. They take money out of our budget so they don't need to get their writers jobs. They already make their money on the packaging fee. There is no incentive for them to staff. It's infuriating."