At a Movie-Money Lifeline, It's a Wrap

By ANNE THOMPSON

LOS ANGELES

LAST February, Dan Sherkow was gearing up to begin filming an independently made thriller, "Cops." The movie producer had a cast and a director in place and about $13 million in financing lined up through the usual patchwork of banks and advance guarantees from key European distributors. Then his completion bond fell through, and the entire project was in jeopardy.

Completion bonds are the insurance policies that independent movie makers must get as a prerequisite for bank loans. They guarantee that if a movie misses deadlines or goes over-budget, a bond company can take over and complete production or repay the lenders.

Mr. Sherkow had been working on a deal with the Completion Bond Company when he learned that it was about to stop issuing bonds. Now, six months later, Mr. Sherkow says he is confident that "Cops" will be made after all, but at least eight months later than planned.

He has a letter of intent from one of the two remaining American bond companies, Film Finances Inc. As an established producer ("Suspect" is among his credits), he will probably get his bond and the money to make his movie. "It's the fringe pictures that have a real problem," Mr. Sherkow said. "There are only two companies out there."

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Indeed, the impending demise of Completion Bond — which will close its doors as soon as the films it has already bonded are completed — has sent ripples of concern through the ranks of independent film makers, underscoring the importance of the bonds to the movie industry.

In its 12-year history, Completion Bond, based in Los Angeles, won a reputation as the most aggressive in the business, guaranteeing more than 1,000 movies, including some of the most expensive high-risk projects, like "1492," a Paramount release in the summer of 1992. It stopped issuing bonds in April after the Transamerica Corporation, the insurer that bought the company in 1990, decided that the responsibility and risks of the business outweighed the rewards.

Completion Bond had been buffeted by stiff competition from its big rival, Film Finances, in a battle that forced bond fees down for both. And last year, Completion Bond had to step in and spend millions to complete "Malcolm X" and "Hoffa."

The departure of Completion Bond leaves the field to the more conservative Film Finances and a small newcomer, International Film Guarantors, both of Los Angeles.

With fewer and more cautious bond companies to choose from, independent producers have found that bond fees have gone up sharply, to between 3 percent and 5 percent of a movie's budget, according to Mr. Sherkow. At their nadir, the fees had dropped to as little as 1 percent.

Some producers are also experiencing delays in getting bond commitments. Even Film Finances is not issuing some bonds because it is renegotiating with its re-insurer, Lloyd's of London, in light of its more advantageous position in the market. It is expected to issue more bonds within the month. Re-insurers are the insurers that stand behind bond issuers as the ultimate guarantors.

A bond company closes, narrowing the options for independent films.

Worst of all for the independent producers, those with the riskiest projects may find it impossible to get bonds, some in the industry say.

Film Finances, for example, has a limit on the size of the pictures it will bond, and is turning down projects. "With more projects submitted, they can pick and choose," Mr. Sherkow said. "It's ironic that this is happening at a time when independent pictures are at the pinnacle of growth, with high-profile movies like 'Howards End,' 'The Player' and 'The Crying Game' making distributors more open to them."

The bottom line is that some movies will reach the screen only if the producers can find sanctuary among the major studios. But getting studio support is a long shot for the less commercial projects.

Terry Curtis Fox, the screenwriter of "Cops," said if the remaining bond companies "say 'no,' you're dead. You can make a movie without a studio, but you can't make a movie without a studio or a completion bond."

He added: "The bonders used to be the enemy that kept a movie on track with the threat of a takeover. After C.B.C. got out of the business, they started to look like the savior of the Western world."

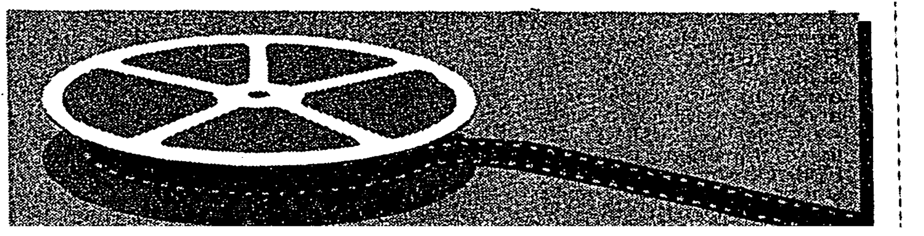
The practice of buying a completion bond to get funding for low-budget independent movies gained popularity in Europe in the early 1970's, and became widespread in the United States during the next decade.

By the late 1980's, the completion bond industry was booming in this country, with Completion Bond splitting the market with Film Finances, which was founded in 1950. Last year, Film Finances bonded $800 million in movie productions and Completion Bond was not far behind, said Lenore Nelson, a vice president at the Imperial Bank, a lender here to movie companies. Neither company would comment on revenues and earnings.

AS the global financing of independent movies became increasingly common and complex, "the completion bond became the spine of the movie deal," said Fred Milstein, a former vice president at Completion Bond.

In the good old days, it was rare for a bond company to become involved with the actual production of a movie; not enough was on the line to warrant such close attention.

It was rarer still to have a bond company take over a production — after all, producers certainly didn't want that blot on their reputations.



They Bond Movies, Don't They?

Some of the movies bonded by the Completion Bond Company, which is going out of business, and Film Finances

COMPLETION BOND COMPANY

- Dances With Wolves
- Desperately Seeking Susan
- Dirty Dancing
- Driving Miss Daisy
- 1492
- The Hand That Rocks the Cradle
- Hoffa
- Lorenzo's Oil
- Malcolm X
- 9 ½ Weeks
- The Piano
- A River Runs Through It
- Sex, Lies and Videotape
- Yentl

FILM FINANCES

- The Adventures of Baron Munchausen
- The African Queen
- The Crying Game
- Glengarry Glen Ross
- Howards End
- Much Ado About Nothing
- Passion Fish
- Platoon
- The Player
- The Rocky Horror Picture Show
- Terminator
- Thelma and Louise

Source: Company reports

The New York Times

Slowly, however, more of the riskier, higher-budget projects, like "Baron Munchausen," "1492" and this summer's "Cliffhanger," were funded by groups of foreign distributors with completion bonds, rather than being underwritten and supervised by the Hollywood studios that intended to release them in the United States. In many of those deals, the studios, by making promises of distribution, helped the independent producers get their bonds as a way to reduce the studios' risk on favored projects.

The recession made the stakes much higher in those deals. "It put tremendous pressure on producers and financiers to squeeze every ounce of creativity out of every nickel," Mr. Milstein said. "When we had a budget years ago, there was a certain amount of breathing room that would be sufficient for any problem, barring a catastrophe. A bond was only supposed to cover unforeseen events."

Because of their larger exposure, bond companies gradually became active participants in the movie-making process, signing off on schedules and budgets down to the minute details, from expensive locations to the numbers of cameras and extras. Representatives of the bond companies became a daily presence on the movie sets, and if anything went wrong, they were prepared to take over.

Film Finances had to take over the special-effects fantasy "Baron Munchausen" when the production went out of financial control in 1988, and the bond company wound up spending $15 million to finish the project.

BUT as the risks and costs increased for the bond companies, their fees went down as Completion Bond and Film Finances competed for business.

"We're between a rock and a hard place," said Bette Smith, the founder and president of Completion Bond, at the American Film Market, an industry gathering here in February. "Completion bond companies have taken on an exposure never contemplated when this insurance was conceived."

The squeeze proved fatal to Completion Bond two months later. Transamerica stopped underwriting the bonds "as part of our overall corporate restructuring," a spokeswoman for Transamerica said, "as well as due to marketplace pressures that hinder our ability to achieve a reasonable profit in this line."

With Completion Bond out of the way, conditions appear to be improving for the survivors. "Our rates have gone up," said Richard Soames, president of Film Finances, who also cited the ongoing negotiations with Lloyd's.

Higher bond rates translate, of course, into increased production costs — making producers think harder about staying independent.

In a dramatic illustration of the new bond calculus, producer-writer-director James Cameron ("Terminator 2: Judgment Day") recently renegotiated his independent deal for "True Lies," a movie starring Arnold Schwarzenegger due to be released next summer. Rather than Mr. Cameron raising the bulk of the financing from foreign banks, and paying dearly for a bond, Twentieth Century Fox will foot most of the bill. "It didn't make sense to stay independent," said Mr. Milstein.

While there would seem to be opportunities for new entrants in the completion bond field, Mr. Soames of Film Finances says would-be players will find "it's too hard to get credibility" with re-insurers.

STILL, Ms. Nelson of Imperial Bank said, "a lot of people see an opening here in the bond business."

Some of the smaller regional bond companies in Canada and Europe are expected to enter the American market. And Mr. Milstein said he thought he could get a re-insurer to back him.

"The re-insurers are wary because it's clear completion bonds can be a treacherous business," he said. "But some of them are expressing interest because they realize there is a market need and opportunity. The business can return to being healthier if the guarantors get tougher and smarter."

That means higher rates will not be going away any time soon, Mr. Milstein said, adding that the bond company representatives promise to be an even more intrusive element in the production process.

"I see guarantors being selective about the business they agree to underwrite," Mr. Milstein said. "They want producers to act responsibly. Producers will have to bear a greater proportion of the risk." ■