Los Angeles Times
CALENDAR
SUNDAY : PART I
August 20, 2006
calendarlive.com

THE MOVIE BIZ

Eyeing a little more green

By Jay A. Fernandez
Special to The Times

In a land of such story-driven blockbusters as 'Shrek' and 'Nemo,' animation writers are on a quest to capture the same benefits bestowed upon their live-action peers.

CHEW on one of Hollywood's great open secrets as you try to solve this little word problem: Two screenwriters get jobs on different Mike Myers movies.

Writer One provides him with lines such as: "When you're an overweight child in a society that demands perfection, your sense of right and wrong, fair and unfair, will always be tragically skewed."

Writer Two pens such lines as: "Donkey, you have the right to remain silent. What you lack is the capacity."

In the first instance, Myers speaks his dialogue in the guise of an obese, cannibalistic Scottish henchman named Fat Bastard, and the movie, "Austin Powers in Goldmember," grosses $213 million theatrically, with a healthy life on video.

In the second, the comic actor wisecracks as an obese, cantankerous Scottish ogre named Shrek in "Shrek 2," which takes in $436 million, more than twice as much as "Goldmember," becoming the third-highest-grossing movie of all time. It goes on to sell more than 20 million DVDs in North America alone.

So who earned more money, Writer One or Writer Two?

And . . . time. Put down your pen. Or mouse, as the case may be.

The answer: Writer One, who supplied Fat Bastard's telling observation.

Why? Because Fat Bastard, though certainly cartoonish, is not an animated character. Both of the writers were likely on equal footing when it came to salaries and bonuses based on box office grosses. But then the films entered a lucrative afterlife on TV, video and DVD — and the "Goldmember" writer cleaned up.

Writers of live-action features get royalties when their work is repackaged and sold. But writers of animation don't. Their "ancillary profit participation," as it's known, is paid in multiples of zero.

It's an industry standard evolved over a decades-long [See *Animation*, Page E4]

Ken Orvidas *For The Times*

MOVIES

With parity, a happier ending

[*Animation, from Page E1*] debate between the writers and their employers, and in a practical sense, it means that the writers of "Goldmember" get paid a small percentage of every sale of a video or DVD, which can add up to tens or even hundreds of thousands of dollars, while the writers of "Shrek 2" receive nothing.

This disparity has its roots in the early days of animation, when storyboard artists and animators were the primary creative forces behind projects and screenwriters, if they were used at all, came in to add polish at the end.

Even though the rise of Pixar and DreamWorks Animation moved writers to the front of the process, as they are in live-action films, the financial divide remains. And it endures in a time when studios increasingly propel profits with billion-dollar, script-driven franchises such as "Toy Story," "Shrek" and "Finding Nemo."

Three of the top seven highest-grossing films this year are animated: "Cars" ($238 million), "Ice Age: The Meltdown" ($195 million) and "Over the Hedge" ($153 million) — and they're all destined to take up residence in millions, if not tens of millions, of home collections. And underperforming releases such as "Monster House," "The Ant Bully" and "Barnyard" may generate more revenue on DVD sales than in theaters.

Not surprisingly, studio rosters are flush with animated projects. The fall promises "Open Season" (Sony), "Flushed Away" (DreamWorks) and "Happy Feet" (Warner Bros.), and next year's crop includes the likely blockbusters "Shrek the Third" (DreamWorks), "Surf's Up" (Sony), "Ratatouille" (Pixar) and "The Simpsons Movie" (Fox).

But even as the world of animation has made startling advances in technology and narrative and created astronomically successful multiplatform brands consumed by the whole family well beyond theatrical release, some of the best animation writers have abandoned the field, and other writers avoid taking animation assignments at all.

"We can't afford it anymore, as well as we get paid," says David N. Weiss, who with his writing partner, J. David Stem, helped pen scripts for "Shrek 2," "Jimmy Neutron: Boy Genius" and the two "Rugrats" features. "Our kids are going to go to college, we hope. It just makes more sense [to write live action]. It's hard enough to get the project made. If you're going to get it made you might as well collect all the benefits."

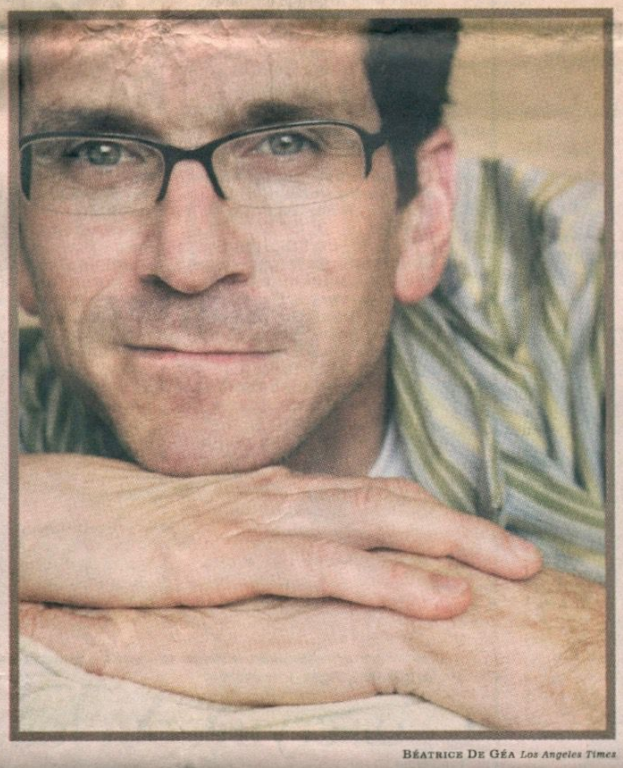
Weiss estimates that each of the four credited writers on "Shrek 2" would have collected royalties of around $125,000 in just the first week of the DVD's release in November 2004, when 11 million were sold. And once reruns of the movie started showing up on HBO and network television, and buyers snapped up an additional 10 million or so DVDs, he began to see a bigger picture of how much he was losing by not receiving residuals for subsequent airings of his work.

"I would bet that [it would have been] somewhere in the neighborhood of a couple million dollars apiece for the four writers over the life of that project," says Weiss, who is also vice president of the Writers Guild of America, West. "That's some nice money."

Though they claim not to have ditched animation, Ted Elliott and Terry Rossio, whose credits include "Aladdin" and "The Road to El Dorado," haven't written an animation screenplay since "Shrek," in 2001, for which they earned an Oscar nomination. And who can blame them? Their script for "Pirates of the Caribbean: Dead Man's Chest," which has just broken into the top 10-grossing films of all time, is likely to net them each at least an extra $1 million when the film explodes onto the video market. That money never would have materialized if they had written, say, "Shrek the Third" instead.

Several battles have been fought between the talent unions and the studios over the existence and scope of residuals since the '60s, and there is yet another collision coming over what one writer calls a moral issue.

"We can quibble about how much we share on live action," says Craig Mazin, a WGA, West board member and writer of the upcoming animated film "Opus." "But no residuals for 'Finding Nemo'? No residuals for 'Ice Age'? No residuals for 'Shrek'? There is something ultimately immoral — and I use that word carefully — about taking a work of authorship from writers and exploiting it and earning enormous profits and not sharing at all with the authors. I'm not sure how long it can last before something rather serious happens."



BÉATRICE DE GÉA *Los Angeles Times*

Screenplay trumps storyboard

IT'S tempting to oversimplify the argument: Greedy, well-paid Hollywood screenwriters want ever more money; greedy corporations don't want to share their huge profits; and poor little Muffin Man is caught in the middle.

But in reality, the tortured evolution of residuals, and animation feature writers' exclusion from that (relatively) happy club, is a long, complicated story involving Disney history, dueling unions, dodging studios, the Hollywood power structure and the very nature of how animated movies are developed.

In the old Disney model, which endured for decades, storyboard artists and animators brainstormed through their drawings, developing the story, plot, characters and much of the dialogue themselves. A writer would typically be brought in only at the end of the process to add jokes and give the dialogue polish — and it was easy to argue that an animation writer simply didn't deserve to be called an author equal to the screenwriter of a live-action film. Or to be compensated like one.

In the late '70s, frustrated Disney mainstay Don Bluth left the company to write and develop "The Secret of NIMH" (1982), which not only made advances in animation techniques but focused a lot more on the screenplay, adapted from an award-winning children's novel. Ron Clements and John Musker's screenplay for "The Little Mermaid" in 1989 was another watershed: the first Disney animated film to reverse the traditional process and work from preliminary script to storyboarding.

"Mermaid" ushered in the Jeffrey Katzenberg-John Lasseter era of animation, which placed an even greater emphasis on story, and the one-two blockbuster punch of "The Lion King" in 1994 and "Toy Story" a year later reawakened studios and writers to the medium's creative and financial potential.

Today, although the story development process in animation remains more collaborative than in live action, writers now have a much greater role than they have had historically, and they argue that this entitles them to benefit financially from the ongoing life of their creative work.

But a certain murkiness remains. "Authorship in animation isn't clear-cut or singular the way it often is in live-action features," says Penney Finkelman Cox, executive vice president of Sony Pictures Animation. A former live-action producer, Cox also worked at DreamWorks Animation for years and is married to screenwriter Jim Cox, a WGA, West member who splits his assignments between live action and animation projects such as "FernGully: The Last Rainforest."

"Animation defines writing differently," she says. "We equate writers in animation with our storyboard artists and our directors, most of whom write. They see things in pictures and words, and when they have an idea they draw it. There's an equivalent in animation be-

DAVID N. WEISS

"We can't afford [writing animation] anymore, as well as we get paid," says Weiss, whose credits with writing partner J. David Stem include "Shrek 2" and "Jimmy Neutron: Boy Genius," above. "It just makes more sense [to write live action]."

MEL MELCON *Los Angeles Times*

tween the word and the image."

Any attempt to sort out the animation writer's status is complicated because two unions represent writers in Hollywood. The Animation Guild, Local 839 of IATSE, the International Alliance of Theatrical Stage Employees, generally has jurisdiction over animated TV and film. Its 2,200 active members work in all aspects of animation — they're storyboard artists, directors and animators (though not voice actors) — but only about 8% of its members are writers only. The Animation Guild forged a testy relationship with Disney in the '40s, when it made sense for all the animation talent on a single project to be covered by one guild.

The Writers Guild, West, which has 7,500 members, generally covers live-action projects. The WGA, West's basic agreement with the studios includes residual payouts, generous health and pension plans and "credit protection," which ensures that the writers, through their union, determine writing credits if there's a dispute once a film is completed. (That's important because only writers with credit are eligible for residuals.) The Animation Guild also has a health and pension plan but no credit protection or residuals, which it spent nine months trying to acquire, unsuccessfully, in 2000.

Warner Bros. Animation, Disney, DreamWorks, Sony Pictures Animation, Fox TV Animation, Nickelodeon Animation Studios (Paramount) and Universal Cartoon Studios each have deals with the Animation Guild, which means that writers of projects produced at those studios, even WGA, West members, are invited to join Local 839 and must forgo the residuals they would receive on a WGA, West-covered film. Fox also has a unique WGA, West deal that gives residuals to the writers on its prime-time animated shows such as "The Simpsons" and "King of the Hill." Some animation projects are not covered by any union.

WGA, West recently renewed its efforts to organize animation writers and launched an internal Animation Writers Caucus five years ago, but Local 839 doesn't want to give up that jurisdiction. Steve Hulett, Local 839's business agent of the last 17 years, was a writer at Disney feature animation from 1976 to 1986 and worked on "The Fox and the Hound" and "The Great Mouse Detective." He's less than sanguine about the possibility of improving the residuals situation, given past failed efforts by both guilds to achieve a better deal.

"On a philosophical level, I think residuals should be paid to everybody — generous residuals," Hulett says. "But there are two issues here: what you think should be done, philosophically, and what you have the ability to achieve."

That second question will be re-addressed in November 2007, when the collective bargaining agreement between the WGA, West and the studios expires. Though the issue of residuals for its members will likely take a back seat to the WGA, West's fight to organize reality and cable TV writers, the next round in the dispute will likely draw blood on both sides.

Six figures at stake

ANY discussion of DVD residuals will be tense. And with DVD sales leveling off, studios are even more reluctant to cut into income by agreeing to make more people eligible to receive them.

Nor are they eager to revisit the old formula for calculating the residual payments. Residuals in any form were established in 1960, and the current formula, which has remained unchanged since 1985, is 1.5% of 20% of the gross revenue. That may seem complicated, but here's how it sounds to Dave Reynolds, one of three Oscar-nominated writers for "Finding Nemo," which grossed $340 million domestically and sold 30 million DVDs in North America alone. Using the formula, and with a DVD costing on average $20, Reynolds' take would have been one-third of $1.8 million, or $600,000 — if he'd been eligible.

The guilds have argued that the formula is outdated — it goes back to a time when VHS tapes were expensive to produce and no one knew who would buy them — and they've argued for increasing it in every recent round of bargaining with the studios. But the studios counter that their residual payouts on live-action films, including theatrical bombs, can equal tens of millions of dollars annually. Add payments for their huge animation hits, and they'd be sharing a much bigger piece of the pie.

(The studios don't want to talk about any of this — reps from DreamWorks, Disney Animation and Pixar ignored or denied requests to discuss the issues.)

One workaround for animation writers has been to negotiate for box office performance bonuses. The standard deal, which Rossio and Elliott, Weiss and Stern, Mazin and others have benefited from, works like this: Once the film's gross crosses the $100-million mark, the writer gets a flat bonus of, say, $10,000 for that milestone and then for every $25-million milestone thereafter up to $300 million.

Reynolds, who worked on 14 films for Pixar and Disney feature animation over six years in the '90s, had negotiated a bonus deal on "Finding Nemo" and earned somewhere around $100,000 in bonuses.

Compared with the half-million more he would have earned in residuals if his film had been live action, that was relatively paltry. Still, "I knowingly went into it because I loved working with the guys at Pixar," Reynolds says. "I said, 'I've got a chance to be on something special.' This is a situation I went into with my eyes wide open. Now, today, if I got on another project that was not Pixar, that was some other studio, I'd ask for the moon."

The chance to work on "something special" ends up being the studios' ultimate bargaining chip.

"The pool of people who want to do this work is enormous," Mazin says. "The No. 1 fear of any creative person in Hollywood should be undercutting. Meaning that there are people who, out of sheer desperation or desire to be in this business, will work for nearly nothing." Even though an animation project could tie them up for years.

Reynolds says that in the two years he worked on "The Emperor's New Groove," his efforts filled two legal boxes; Elliott and Rossio produced 500 pages of script material for "Shrek."

"The animated films take so long that you have to say, 'Well, are you willing to work on this movie, which may take up to five years to do, and sacrifice three or four live-action features?' " Rossio says. "If it does take five, that has a huge economic impact on a writer."

But rocking the boat is risky. "If you go, 'Hey, how come this isn't [covered by the] Guild?' they go, 'We don't need you,' " Reynolds says. "The machine is too big for one writer to stop it."

Rewarding collaboration

EVEN as animation writers make the case for parity with their live-action peers, they acknowledge the large role that story artists and animators still play in the writing of any animated feature. All the writers who commented for this story made a point of saying that it isn't the screenwriters alone who deserve to participate in the profits generated from their creative collaborations.

"Storyboard artists bring so much wit and brilliance to the characters and the plot," Weiss says. "You find all kinds of stuff when they're drawing that gets cross-pollinated back and forth. I think in an ideal world, the primary storyboard artists, the ones that really are helping craft that story, they too deserve some kind of a residual situation."

Elliott, also a WGA, West board member, agrees and proposes a residuals pool that would be shared among writers and story artists. The problem with such a fix is that, as Cox points out, storyboard artists are salaried employees of the company, with weekly paychecks, vacation and holiday time, bonuses and health insurance, but the writers are employed per project and paid for each stage of that process plus back-end performance bonuses.

"The structure of the deals that we make in animation are made to reward the writers in success," Cox says. "And they're triggered the moment the film comes out. Those public box office figures get immediately translated into checks."

In the end, it's likely to be personal relationships and not guild combativeness that level the playing field and achieve the financial parity the animation writers seek.

For the last two years, Mazin has been developing his first animated feature, "Opus," about the central penguin from the classic "Bloom County" comic strip, for the Weinstein Co./Dimension Films. Though the studio told him that the project would be covered by the Animation Guild, Mazin capitalized on the track record he had built up on the company's extremely successful "Scary Movie" franchise to negotiate an "as if" agreement that mimics the WGA, West's handling of residuals and credit disputes, should they come into play.

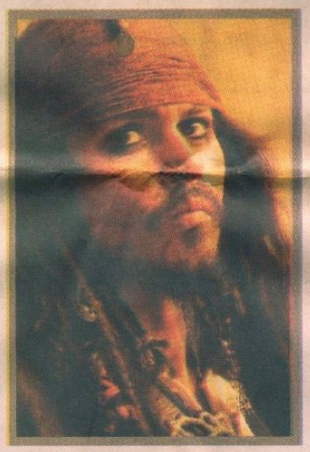
"I came to the table with a belief that credit protection and residuals are not something that should be optional for writers," Mazin says. "Therefore, they can't be optional for me. I can't take a public stance that all writers should get these things and then give them away."

"Even though I feel that it is immoral for animation companies not to pay residuals to writers, I don't ever think that making that argument will be effective," Mazin adds. "That is not going to convince them. One of the things that is going to have to start happening is more [writers] are going to have to start making 'as if' deals. Because if the writers they want are insisting individually on terms frequently enough, at some point critical mass will occur."

Send comments to calendar.letters@latimes.com.

TED ELLIOTT, left, and TERRY ROSSIO

The team hasn't written an animation screenplay since 2001's "Shrek," below right, starring Cameron Diaz and Mike Myers. Their live-action labors on "Pirates of the Caribbean: Dead Man's Chest" will likely yield serious bounty once DVD sales begin.



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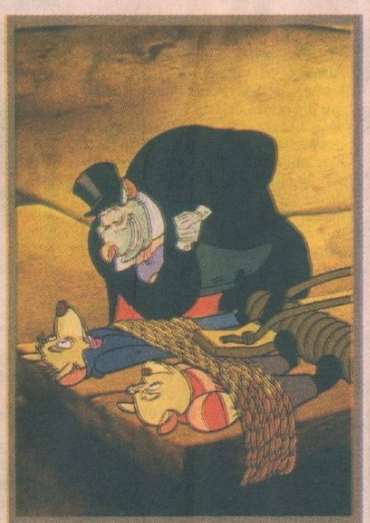

Walt Disney Co.

STEVE HULETT

A residuals proponent, the business agent for Local 839 and a onetime animation writer ("The Great Mouse Detective," right) says, "There are two issues here: What you think should be done, philosophically, and what you have the ability to achieve."