

AFTRA

American Federation of Television and Radio Artists, AFL-CIO

Non-AFTRA Contracts: Advisory Notice

The following is a reprint of an advisory geared to up-and-coming broadcasters who are not yet AFTRA members. It is reprinted here for the information of members.

AFTRA has received increasing reports of non-AFTRA agents representing broadcasters, and that some of these non-AFTRA agents are offering terms in their “non-AFTRA contracts” that are very problematic. Signing one of these non-AFTRA contracts without knowing exactly what the language in the contract means can be a very bad decision for a broadcast professional. Increasingly, AFTRA has seen younger broadcasters entering union markets from non-union markets who have already signed non-AFTRA contracts that contain what we refer to as a “**perpetually-renewing agency clause**” or “**evergreen**” clause.

Here are some of the potential dangers of signing with an agent that is not franchised under AFTRA’s Rule 12C.¹

Perpetually Renewing Agency Contracts- Broadcasters Be Aware!!

Non-AFTRA contracts can allow a non-AFTRA agent to charge anywhere from 10% to 25%, and often state that **all extensions, renewals or renegotiations** of employment contracts are commissionable, even after the expiration or rightful termination of the non-AFTRA contract. This means that if you decide to terminate your non- AFTRA contract, or let it expire, you will be faced with a non-AFTRA agent who demands commission be paid for as long as you are working for the same employer.

Do not sign an agency contract that contains a provision that allows an agent to continue to receive commission on your work with your employer even after the agency contract comes to an end. Such a provision allows an agent to profit from your employment for years after you have ceased to be represented by the agency. These types of provisions are not permitted in the AFTRA Standard Contracts used by AFTRA Franchised Agents. These clauses can be buried deep within a non-AFTRA contract and therefore hard to detect. For more information about these perpetually renewing clauses or evergreen clauses that have appeared in non-AFTRA contracts, please contact the National Agency Department at agency@aftra.com.

Additional language to look out for:

- **Arbitration Clauses** - Arbitration clauses are included in contracts to serve as an expedited, cost-effective way to settle disputes. However, some of these non-AFTRA contracts require that arbitration be heard in the State where the non-AFTRA contract was first signed. If the non-AFTRA agent gets you employment in another part of the country and a dispute arises,

¹ The AFTRA Regulations Governing Agents Rule 12C is the agreement between franchised agents and AFTRA with terms and conditions negotiated to benefit both the agent and AFTRA members.

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you may have to pay airfare, room/board and miss work to travel in order to defend your rights.

- **Check Authorizations** - There should not be an authorization buried in a contract to have the agent handle/receive your checks. A check authorization agreement should be a separate agreement signed by both agent and broadcaster. In most of these non-AFTRA contracts, you would be required to legally terminate the entire non-AFTRA contract if you want to rescind your check authorization with a non-AFTRA agent. In the AFTRA contracts, the check authorization is a separate agreement that is terminable at will, as long as it is done in writing.
- **Contract Term** - The AFTRA contract allows for an 18-month initial term agreement (renewable after a year) and three-year contracts after that.
- **Automatic Renewal** - Do not sign a contract with an automatic renewal clause. The AFTRA contracts also require that you sign a new agency agreement after the original one expires. It may seem time-consuming, but it is beneficial when you want to end a relationship with an agent.
- **Termination Language** - Review the termination language before signing a non-AFTRA contract. Almost all of these non-AFTRA contracts allow for termination only 30-90 days prior to the automatic renewal date set forth in the non-AFTRA contract. These dates can become confusing if you are in your third or fourth renewal contract. You may be tied to the non-AFTRA agent for a new contract if you miss your termination window.
- **Commission** - Most non-AFTRA agency contracts state that all work obtained, directly or indirectly, while you are under the non-AFTRA agency contract is commissionable. This means that the non-AFTRA agent may commission work you obtain, whether or not he or she did any work. Be careful to ensure that reasonable services are performed in exchange for compensation, and that these services are specifically addressed in any contract you sign. The services should be performed as long as the agent receives commission.

The dangers of such non-AFTRA contracts and the important protections of the AFTRA Franchised Agency regulations are among the many reasons why AFTRA members should only work through AFTRA franchised agents for their agency representation. If you are interested in obtaining a list of agents franchised by AFTRA, please email us at agency@aftra.com or go to our Web site at www.aftra.com.