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Episode 39:

“Negotiating Contracts with Your Publisher”

Mike Michalowicz ([00:00](#)):

Welcome back to the Don't Write That Book podcast where you can learn how to write your bestseller and own your authorship. Follow along with us as we give you an insider's view of the book industry. Now, here are your hosts. Myself, Mike Michalowicz and AJ Harper.

Mike Michalowicz ([00:16](#)):

I am hungry. I get that hunger pang, you know, for breakfast, all I had this morning was, uh, Greek yogurt. Do you like Greek yogurt?

AJ Harper ([00:24](#)):

I love it, but I don't eat breakfast.

Mike Michalowicz ([00:26](#)):

You don't?

AJ Harper ([00:26](#)):

No.

Mike Michalowicz ([00:27](#)):

Why not?

AJ Harper ([00:30](#)):

I mean, I like it for dinner. <laugh>.

Mike Michalowicz ([00:33](#)):

I'm thinking I like breakfast for dinner.

AJ Harper ([00:35](#)):

I like breakfast food.

Mike Michalowicz ([00:36](#)):

Okay, but you just don't? So, uh, oh, if I don't eat breakfast, I'm, I'm a hangry person, but it's usually around nine now, so it's 10 o'clock that I start feeling hungry, and then I'll get a premature lunch. So I'll

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get like a 11 o'clock lunch, which will get me over to about three. And I'm like, I can't eat again. I've eaten too much. And then by five, I'm ravenous.

AJ Harper ([00:59](#)):

You just love to eat.

Mike Michalowicz ([01:01](#)):

I love to eat. It's funny. Skinny guys can eat a lot. This July 4th. Today, today's July 1st, we record three episodes at a time. And, um, July 4th is one of my favorite holidays because they have the Nathan's hotdog eating contest.

AJ Harper ([01:17](#)):

That's disgusting.

Mike Michalowicz ([01:17](#)):

It's disgusting. Have you ever watched it?

AJ Harper ([01:19](#)):

I, I've watched a enough of it. (Joey Chestnut?) I don't, I think there's a big controversy and he's not actually Joey. Yeah. I saw on the Today Show that there's some sort of issue where he was promoting some other type of hotdog and so (No!) Yeah. And so I don't know how it shook out in the end. 'cause I'm not tracking that story, but I believe he's not going to be at the event.

Mike Michalowicz ([01:43](#)):

There was a guy prior to him, I can't remember his last name, like Yokashi or something, a very skinny guy, and he would eat so many hot dogs.

AJ Harper ([01:55](#)):

I don't like any eating contest. It's disgusting

Mike Michalowicz ([01:57](#)):

It's, it's the definition of gluttony. That and boat crew is basically the same <laugh>, just pure gluttony. Um, today we're gonna talk about negotiating contracts with your publisher, and, uh, I wanna introduce AJ Harper, my business partner and co-writer in all the books we do together. You know, something I admire about you is the, the business acumen around the book. Like, you'll bring up all these ideas we actually did in last week's episode. You were highlighting things. But you constantly are addressing those things and, and very aware of what the new things are. And I think change is afoot in the industry. I think subscriptions and stuff are kind of--

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AJ Harper ([02:37](#)):

That's always the case.

Mike Michalowicz ([02:37](#)):

--burned out.

AJ Harper ([02:38](#)):

Yeah. It's always the case.

Mike Michalowicz ([02:40](#)):

But you're a go-to resource for that.

AJ Harper ([02:41](#)):

Thank you.

Mike Michalowicz ([02:42](#)):

Yeah, you're welcome. It's very helpful. Uh, it comes out of our natural dialogue sometimes as I ask you specifically, but you've brought around some concepts that we've deployed, uh, surveys and contests. Uh, and you, you've given guidance on our subscription models and some stuff we deployed in our businesses. So that's pretty cool.

AJ Harper ([02:59](#)):

Okay, thanks. I'll take that. That's so nice.

Mike Michalowicz ([03:02](#)):

You're welcome.

AJ Harper ([03:03](#)):

Uh, yeah. I'll, okay, so I, I always try to follow your lead with what (Yeah, yeah.) I always try and follow your lead with this. Uh, you are very well read.

Mike Michalowicz ([03:11](#)):

Thank you.

AJ Harper ([03:13](#)):

And you read things that are out of your comfort zone. For a while there though, you were just in like this business book mode. Yeah. But I've noticed the last few years you're just reading. You're just reading. You're just reading all kinds of things.

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Mike Michalowicz ([03:27](#)):

I just, uh, I went on, uh, a website and said, what's the top a hundred fiction books of all time to read? So I just bought them. Uh, like Where the cr Crawfish, Crawfish Sing, is that right? Did I--

AJ Harper ([03:38](#)):

Where the Crawdad Sing.

Mike Michalowicz ([03:38](#)):

Where The Crawdad Sing. I bought that. So that's, I'm reading that this summer at the beach.

AJ Harper ([03:43](#)):

Uh, but wait, I want to clarify. Did you buy all 100?

Mike Michalowicz ([03:46](#)):

No, no, no. I bought like the first five. I have to get through.

AJ Harper ([03:49](#)):

I Oh, I have to tell you. Oh, can I tell you a little, oh, go ahead and tell me this.

Mike Michalowicz ([03:52](#)):

So I have a little shelf at my home, which is books to read. And now I'm, I'm starting to put these must-reads in and they're all specifically outside.

AJ Harper ([03:59](#)):

You need me to give you a list?

Mike Michalowicz ([04:01](#)):

Yeah, I'd love to get your list.

AJ Harper ([04:02](#)):

So I have to tell you this story. My mom, when I was 19, I moved to LA and my, my parents aren't great about things like birthday cards, <laugh>, or, you know, they're just not, I don't know. Yeah. It's a very, I don't know. I had a very extra Gen X childhood with not really <laugh> paying too much attention, but my mom is lovely. I adore her. She is the definition of unconditional love. The one letter I've ever received from my mom in my whole life. Yeah. I was 19 and living in LA and I was so excited because she sent me this letter and it starts Dear Annie, because that's what she calls me. Dear Annie. Something, something news. And then the whole rest of it is this. I've made a list of required reading for any human in society.

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Mike Michalowicz ([04:56](#)):

Oh.

AJ Harper ([04:57](#)):

Here. And she get the whole rest of the letter is her reading list that I must have as a human. And to keep in mind, she's a scholar, A true scholar. Yes. So on the list is like every, you know, classics of literature, you know, the Russians, the every, I mean, just everybody. The Koran, like <laugh>. (Wow.) Just like, okay, I'm 19. Yeah. I'm living in a studio apartment. I'm

Mike Michalowicz ([05:28](#)):

Not reading the Koran today.

AJ Harper ([05:28](#)):

There's like two guys downstairs who have like boa constrictors and they're stoned all the time. Yeah. Like, this is not my <laugh>. No. I take the bus to work. I'm not reading Dostoyevsky on the bus.

Mike Michalowicz ([05:40](#)):

How much have you gotten off that list by now?

AJ Harper ([05:42](#)):

<laugh>. I've made, I, I I will. Okay. She's my mom. So it's just like, I'm not now, I almost don't want to read this spite.

Mike Michalowicz ([05:51](#)):

Exactly. In spite. Yeah.

AJ Harper ([05:52](#)):

It's kind of like when my son, uh, our son said to a, well, actually I should, he's our son. But in that moment, he was my son because he looked right at me and he said, I don't like reading. I'm not like you. So I think he doesn't like to read. I think he would if he didn't have me for a mom.

Mike Michalowicz ([06:14](#)):

That's so funny. Yeah. Yeah. This is the challenge with kids. We tell them what to do. 'cause we think it's in their best interest. And there's this natural resistance,

AJ Harper ([06:22](#)):

Natural.

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Mike Michalowicz ([06:23](#)):

Um, I read The, uh, Great Gatsby.

AJ Harper ([06:26](#)):

Oh, you didn't have to read it in school.

Mike Michalowicz ([06:28](#)):

I think I may have but skipped it or something. So.

AJ Harper ([06:31](#)):

What'd you think?

Mike Michalowicz ([06:31](#)):

Really. Effing. Good. And then I watched the movie afterwards and, um, the one, I can't remember. There's so many versions of that book. The movie was pretty good. It was with, uh, Leonardo DiCaprio. DiCaprio. It was pretty representative of the book.

AJ Harper ([06:48](#)):

You know, he is some, uh, from Minnesota Fitzgerald.

Mike Michalowicz ([06:51](#)):

Is he really? Huh. Such a good book. So, um, that's what I'm doing now. And, but today's reading was, uh, this morning I was reading Edison's biography. I'm going through it. Interesting. Uh, so let me give an update on our publishing contract. There's no update because the last recording was an hour ago. <laugh> We record these back to back. So while you hear this a week apart, there's no update. We have the proposal from, uh, Page Two. They've addressed a lot of the considerations I was discussing with them. And they're structuring as a true business partnership. I'm really enamored by them. I'm still in the process of doing the due diligence of, uh, going through the proposal process and going to the remaining big four of the big five. Um, I wonder if we could go back to Penguin, too. Someone else?

AJ Harper ([07:41](#)):

No, they, no, they passed.

Mike Michalowicz ([07:42](#)):

They as an entire organization or just the imprint?

AJ Harper ([07:44](#)):

The imprint. But you could, I guess, but that's, that's kind of weird.

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Mike Michalowicz ([07:49](#)):

That's kind of weird.

AJ Harper ([07:50](#)):

Yeah. I would I just move on.

Mike Michalowicz ([07:53](#)):

Okay.

AJ Harper ([07:53](#)):

I'm sure you'll be back around eventually. I've, this is my prediction.

Mike Michalowicz ([07:57](#)):

Yeah.

AJ Harper ([07:58](#)):

My prediction is, I don't know when, but it'll be (Back to Penguin.) Um, yeah. Within maybe say five, six years. Yeah.

Mike Michalowicz ([08:06](#)):

I could see that. Yeah. That phone call will come again. All right. So today we're talking about contracts. You're going, I've done a lot of this negotiations and reviews. I get into it, the weeds I did with Page Two this weekend. Um, so you're gonna lead more of the kind of questions and I'll, I'll give you my insights.

AJ Harper ([08:24](#)):

I mean, I think it's really helpful to start with reframes because something that's really important to me when I speak to my authors is to advocate for themselves. And we have a tendency to be so grateful to get the contract. Especially with traditional publishing. That we're just like, okay, I'll do whatever you say. Yeah.

Mike Michalowicz ([08:44](#)):

Whatever you want.

AJ Harper ([08:44](#)):

Right. Or we seek, and as you should see, if you don't have an agent, an intellectual property attorney should be reviewing your contract, for sure. And if they say it's fine, then you're gonna go for it. And you don't really think, well, wait a minute, what, is this actually gonna work for me? Or how could this be better? So I really want to, I think we need some reframes that contracts are negotiable. That royalties are negotiable. We think they're not. And that subsidiary, subsidiary rights, such as audio and translation

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rights are also negotiable. And the delivery data is negotiable. There's a lot of stuff. So we want to get at that. Um, what, talk to me about some of the things that you've negotiated in contracts.

Mike Michalowicz ([09:30](#)):

Yeah. So what's interesting with, uh, the, I'll start off with Penguin's negotiations or, or, or contracts. The most negotiable thing is the advance, um, of the, the size of the advance and the tranches. So there is a traditional setting that they, the publishers have. So Penguin does, uh, a four tranche on signing, on submission manuscript on publication date. And one year after

AJ Harper ([10:02](#)):

It's actually acceptance of manuscript, which means you have to get through all of,

Mike Michalowicz ([10:05](#)):

Oh, not submission. Right.

AJ Harper ([10:06](#)):

You have to get through all substantive editing before they accept.

Mike Michalowicz ([10:09](#)):

You're right. It's not submission, it's acceptance of manuscript. That's right. So the day you sign, so say it's for really easy number, take a hundred thousand advance, it's 25 grand. 25 grand. 25 grand. Um, the tranche can be negotiated, um,

AJ Harper ([10:25](#)):

Down to three.

Mike Michalowicz ([10:26](#)):

Down to three. It is typical, but you know, you can negotiate anything if you're the right person at the right time. It's just one upfront. Uh, we want your story so you can negotiate that. Um, the royalties are negotiable, but they have their standards. It is much more difficult. So negotiation means leverage. You have to have some form of leverage. So the standard is 15% on print books. I can't remember, 25% I think, on audio and so forth. Um, but you can negotiate it and you can do trades too. You can say, I'll take less of an advance for more royalties. That's exactly what we did with All In. All In, is a \$0 advance. But I, uh, what they call a profit share, which is effectively double the royalties. So we went from 15% to almost 30%. I think it's like 27% how it works out.

AJ Harper ([11:15](#)):

And by the way, that's off list price. So when you're quoting that 15%, that's for the print version and it's off the list price. It's not a net.

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Mike Michalowicz ([11:24](#)):

Correct. So if a book sells for \$30, you, we will net \$4.50 a book. That actually sounds a little bit high. Um, because I, I think the average is about \$3.50 a book, but up to say four 50 a book. The, um, with, with the profit share, we're gonna be netting about \$7 a book. So it's not, it's not a double of the royalties. So that's negotiable. Uh, the other thing that's negotiable that just went into my mind and slipped out, oh my gosh, was, uh, we negotiated the calendar, negotiated terms. Um, well, you can negotiate on the audio rights. There's a book called the Personal MBA and this is, this is conjecture, so I'm not exactly sure. Uh, I can't remember the author name, Josh something. But he and I heard this at the grapevine, reserved the audio rights for himself with his publisher and said, I'm gonna exclude audio rights. And they agreed and makes almost all of his income off the audio rights. It sells so well.

AJ Harper ([12:27](#)):

Must be hard though to get a Big Five to give up on audio.

Mike Michalowicz ([12:30](#)):

Yeah. Uh, um, Ryan Holiday said it best. He goes, that's how they keep their lights on. You know, Ryan's argument it, and I'm sure he has no problem me sharing this. When we were in our group, our, our first year that we all met, um, at Don's house, he goes, uh, he goes, your job and he's telling the whole group is to negotiate in advance so much that you're stretching the publisher to the limit. And he goes, if you don't earn it out, you actually won. Right.

AJ Harper ([12:56](#)):

Hmmm. Really?

Mike Michalowicz ([12:57](#)):

Yeah. I mean, I think from the logical basis he's right. So, okay. Get Different. We got a mid-six figure dollar advance. We have not earned it out. We may over time, the book volume is not indicating that it's not gonna happen anytime soon. It's too bad because it's a freaking great book. But we quote unquote won. But in the long term, I think we lost.

AJ Harper ([13:18](#)):

You did. But that's, I don't think we won. If you're--

Mike Michalowicz ([13:20](#)):

Right. On the contract, we did.

AJ Harper ([13:22](#)):

If you're just thinking of the contract and you're just thinking of cash.

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Mike Michalowicz ([13:26](#)):

Yeah.

AJ Harper ([13:27](#)):

Then yes. But what are we doing right now? We don't have a contract with Penguin Random House.

Mike Michalowicz ([13:32](#)):

Right. And that's definitely a factor.

AJ Harper ([13:34](#)):

And that was the beginning.

Mike Michalowicz ([13:35](#)):

That was the beginning.

AJ Harper ([13:35](#)):

Of that process.

Mike Michalowicz ([13:37](#)):

Exactly. So they're like, Hmm, we're spending too much on this guy. So you can negotiate that.

AJ Harper ([13:44](#)):

Can I interrupt for a second? So, when I was a publisher, we weren't gonna budge on royalties, but we would increase royalties based on performance. And that's an, it's a no-brainer because we want authors to want to sell more, to sell more books. And so we were willing to increase royalties if it met a certain threshold.

Mike Michalowicz ([14:08](#)):

Penguin's contracts have been at 10,000. There's a, so the ultimate royalties is 15% by default, it starts off at 10% up to 10,000 books, 12.5% up to 15,000 books, and then 15% after. So you can negotiate those book quantities and say, I want a 5,000, 7,000 or whatever. So you can negotiate that. You can negotiate foreign rights. I think this is something that's overlooked that authors simply say, okay, you have worldwide rights.

AJ Harper ([14:38](#)):

Worldwide. Yeah.

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Mike Michalowicz ([14:39](#)):

Yeah. And the publisher may take a substantial amount of that income I found with international rights, because we've negotiated some ourselves. The advance is a big deal. That's the money that you're guaranteed to get. The subsequent royalties that they pay you, not every publisher will pay those. So either it isn't earned out or they just don't report it. There's no enforcement mechanism as a small little-

AJ Harper ([15:03](#)):

Well, okay. I can give you some insight into this.

Mike Michalowicz ([15:05](#)):

Talk to me.

AJ Harper ([15:05](#)):

So here's what happens. So from a publisher's perspective, so they're, the publisher is entering into a, negotiate into a deal with, say a publisher in France. Okay? They are depending on that publisher in France to report correctly.

Mike Michalowicz ([15:22](#)):

Right.

AJ Harper ([15:23](#)):

But that doesn't almost happen. I remember we had an incident, I think we had one French publisher. It, one time. It took them two years for one book to respond, to even tell us anything. We also didn't know when the books were coming out. One time a book came out and we didn't know it was coming out. And it was already out. We could not, I mean, the negoti-- The just, it was like, it was like a part-time job to just chase them down. So this stuff happens a lot. Obviously you, this is a benefit of working with a, a publisher that has reputable connections with reputable, uh, foreign publishers.

Mike Michalowicz ([16:03](#)):

You've got to vet them out.

AJ Harper ([16:04](#)):

So they're dependent. It's not that you're not seeing that money, it's that, uh, you aren't necessarily seeing the report from that foreign translator, but all of those royalties that it also may not have earned out in that country. Yeah. And if it does though, that does go into your pool towards your advance.

Mike Michalowicz ([16:24](#)):

It does. It does. If they report it. I just don't know. Some of the smaller publishers, I don't have to miss any reputation. What the motivation is to accurately report and timely report.

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AJ Harper ([16:35](#)):

I mean, you would think that the scouts that negotiated the deal would be chasing it down because they get a percentage of it.

Mike Michalowicz ([16:40](#)):

Yeah. Yeah.

AJ Harper ([16:41](#)):

But I, that's one thing that I feel the, a lot of them don't chase it down. I mean, sometimes they do. But--

Mike Michalowicz ([16:46](#)):

We negotiated quite a few contracts on our own because of Toilet Paper Entrepreneur, Surge, the original edition of Profit First. And, um, interesting. We dealt with Russia. That was like the, probably the most reliable publisher, consistently sending royalties, reporting. China was pretty good. Mexico was excellent or Spanish, but it was out of Mexico and Germany. But other countries that we dealt with, and these are, this is not the country, obviously it's the publisher, but Italy, France, Lith-- France, uh, France for French, uh, Lithuania, um, Albanian, Ukrainian, all those never heard again, just no reporting at all. So just be leery of that. But you can negotiate with your publishers saying, I want to carve this out. So with Penned with Purpose, you know, we represent authors and one of our authors, Dr. Pygian, is writing a book. She is fluent herself in Spanish. She has a residence in Mexico, uh, and has strong a strong network there. We wanted that. And also in France, same thing. We carved out the Spanish translation rights and the French translation rights. The publisher came back and said, well, can we get a first right of refusal? Meaning we give them the first right of refusal, they'll come back with the best deal they can get. And we had to just consider it and then move on. Um, so it was interesting. So those are carved out, so you can do that. Um, I, I've never seen people carve out the Kindle or the ebook rights, why not?

AJ Harper ([18:22](#)):

I mean, you can look, it never hurts to ask. I've never seen it either.

Mike Michalowicz ([18:26](#)):

Uh, movie rights. So some of these movie writes, uh, workbook writes, so Profit First, we talked with Penguin about doing the workbook and they said, "Sure." And wanted to start a deal. That was absurd. So we said no. And I'm like, well, it's do it ourselves. Like no, no, no. Not so fast. We own the rights.

AJ Harper ([18:45](#)):

Yeah. I'm about to do a workbook, actual workbook class on this, uh, workbook mastercraft. And I'm gonna share that story. And, uh, as a cautionary tale, honestly, because if you're working with a traditional publisher, it's not likely that they're gonna do a workbook right away when you need it. They're usually behind on keeping up with this stuff. And uh, then you can't do your own. So yeah,

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carving that out would be good. I have a story about the movie rights. So this is interesting. With our publishing house, which again, we was a boutique house for fiction and we sold it to Chicago Review Press in 2022. We had movie rights as just part of the package. But then when we had some big authors break out, uh, C.B. Lee and Julian Winters, our two examples, they got fancy agents. They were not agented when we acquired them. And those agents wanted those movie rights back because it was harder for them to go sell the next thing without having a full package. Um, so they didn't wanna have anything that was, they wanted a clean package to offer for film rights. They didn't want us involved at all.

Mike Michalowicz ([20:08](#)):

Interesting.

AJ Harper ([20:09](#)):

And so that was a factor in, and we, we negotiated and, and handled some stuff.

Mike Michalowicz ([20:14](#)):

How do you negotiate that?

AJ Harper ([20:16](#)):

Well, I don't know if I can actually talk about it. I have to be frank with you. I don't know that I have the right to talk about it.

Mike Michalowicz ([20:22](#)):

Well, well, let me ask you this. Can a publisher hypothetically monetize it? If, if you did have the movie rights in the movie?

AJ Harper ([20:27](#)):

Yeah. So we actually had rights. Well, it was, we didn't have the right to, we weren't negotiating it, but we would get a percentage.

Mike Michalowicz ([20:36](#)):

I Okay. That's how it works. Okay.

AJ Harper ([20:37](#)):

And they wanted that clean. Sure. Okay. Understood and fair. And so we created an addendum. Yeah. Um, to the author's benefit, because we cared about the authors. We wanted them to, to have what they wanted to have. And frankly, it was just smart for us for a tiny little company. And if they did get a movie deal, even if we didn't get a cent of that book sales, the book sales would go through the roof. So it just makes good sense. But some, so that just tells you that that was after the fact, Mike, that we

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added an addendum to an existing contract. Yeah. Which can happen. And I think sometimes we think we sign it and then that's it. Yeah. But you can negotiate an addendum.

Mike Michalowicz ([21:12](#)):

Yeah. But, but I suspect it's much more difficult to negotiate an addendum if you want it and you know it in the beginning, go for it.

AJ Harper ([21:19](#)):

Yes. And, but if you have a small publisher, though, so we were small, it's much easier to work with them.

Mike Michalowicz ([21:26](#)):

We had a, uh, I don't even what the term is because it's my first time I experienced a callback. So basically we went to a publishing deal. We're representing an author, Melissa Dugalecki. She's writing a really effing cool book. And we've now changed the title. I'm not gonna share it yet. But, uh, the publisher was disappointing to say the least. We had a contract with them and the publisher was failing on their side. So what we did is we called them and said, we want out of this deal. And so we wrote a, a contract cancellation and the contract parameters. And the initial contract was that if there's a cancellation, the author is responsible to cover the costs that was incurred by that publisher. And the publisher is required to release all the material associated with that. So there should be a cancellation clause in the contract too, that if someone's failing to deliver, there's a way out.

AJ Harper ([22:22](#)):

Yeah. So tell me about some of the modifications you've been able to negotiate in your own contracts.

Mike Michalowicz ([22:28](#)):

Um, we talked about advances. That was one. Uh, there's, there's a lot of nuance components. Um, one C component was like, there's these, these protection clauses. I'm just, I'm kind of riffing off my own mind that we, so I don't have an agent. We have an IP attorney that we hire to go through it. And I have another technique we use, um, and I'll tell you in a second, because it's a really effective technique. But there was these nuanced components. One of them was around some kind of a indemnification, I can't remember. Another one was around timeframe. After a certain period of time, I can't remember what the trigger was. And we were able to compress in our favor. Um, so I'm sorry, I just can't remember the detail, but he, here's the technique we used. I reached out to Todd Herman. He wrote a book called, uh, the Alter Alter Ego Ego Effect.

Mike Michalowicz ([23:28](#)):

Yeah. the Alter Ego Effect. It's a great book. He hired or was engaged with a really high-end agent who represents some of the big names. I said, Hey Todd, uh, do you mind sending me your contract? I wanna see your negotiated contract so I can compare it to mine. He's like, yeah, no, no problem. Uh, I think Don has sent me his, I think I got like five contracts from authors that have agent representation. And so

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then I use those contracts back in the day. You just do a line for line comparison and say, what, what do they have that this doesn't, that mine doesn't have? And that's how I did it. Now you can probably just do an AI to input it and say, what does my contract not have? So that was a quick way to find like these nuanced components. Um, I wish I could say more, but all the stuff that we covered about like advances, uh, royalties, I've negotiated all those things. The audio rights I've, I've had the conversations with and, and didn't get what I wanted, but had the conversation. So I'm like, I, I wanna retain the audio rights. And you hear on their side, forget that, Mike, you know? No way.

AJ Harper ([24:33](#)):

But you've been able to negotiate other things, like, for example, um, where you're going to record it.

Mike Michalowicz ([24:40](#)):

Oh yeah. That's a good one.

AJ Harper ([24:41](#)):

You know, there's, there's other things I, I've had authors ask, uh, when for our little house, they wanted more author copies.

Mike Michalowicz ([24:50](#)):

Yeah. We always, that's a good point.

AJ Harper ([24:51](#)):

Right? Um, just little things. There's other things you can have control over that are easier to negotiate.

Mike Michalowicz ([24:58](#)):

Author copies are good for marketing. Um, it was interesting. There was a time Penguin stopped doing it. I got probably 2000. I, I asked Penguin, I said, what can I get from you that really doesn't cost you anything that's substantial? They said, it costs us nothing to print books. We print such a huge volume. It really doesn't cost us much. You can get thousands of books from us.

AJ Harper ([25:19](#)):

And that would be the case for you. For a small press not so much, but maybe you could get something else?

Mike Michalowicz ([25:24](#)):

But they curtailed it. That was back in the day. And, and now if I asked, Hey, can you send me a, you know, 500 copies of, of of Profit First? I'd be like, no. But back in the day, okay, what are you using for marketing? Which we did. Uh, and what was interesting was, I don't know what it is today, but you gotta ask the question, what can I get from you? And they'll tell you in certain circumstances. We, here's one thing I negotiated, too. To be, for the audiobook to read my own books. I said, I, I, I got put in that I read

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my own book, um, as opposed to a, they'll, they'll say that the publisher has the right to choose if the author reads the book or an external professional. And so I said, no, it's gotta be me.

Mike Michalowicz ([26:08](#)):

And they agreed to that. So they put that in. I required to be compensated for it. Like they'd compensate a professional and they paid me for it. You know, like 5,000 bucks. Um, and then I said, it has to be in the contract that I can riff. I don't do a straight read. What's so weird, and still, even today, most publishers say, you just gotta read the book. It's an under bridge book. You gotta read it verbatim. And so I riff, I just did a conference in Boston, uh, this past weekend. I was coming back from it when you and I were talking. And, um, it happened again. People come up and say, I love your books. And they said, because you riff, it's like, it's like a book on steroids. There's a podcast almost version of the book. So it's a whole book plus some. And they, they'll tell me specific things. Oh, you added in this. Oh, here's an update since I wrote the book. They love it. I, yeah. And I'll just riff. And,

AJ Harper ([27:03](#)):

But you had to fight for it.

Mike Michalowicz ([27:05](#)):

Fight for it. My God. And it's, it outsells and I can point to it compared to my contemporaries. We sell more audio books on a percentage basis compared to print than, than my contemporaries. And I'm like, the only difference is I don't do a straight read.

Mike Michalowicz ([27:21](#)):

And you had, I put it in the contract.

AJ Harper ([27:24](#)):

Let's talk about bonuses, because I think sometimes people are confused. You get a, a bonus when you reach a certain threshold. So I'm not talk-- Earlier we talked about increasing the, how the royalty percentage increases, but it's very common to get a, a bonus if you hit the New York Times best alerts bonus if you earn out in the first year. Bonuses like that, those are easy for publishers to give you because they don't think you're gonna do it.

Mike Michalowicz ([27:50](#)):

They don't think you're gonna do it. And if you do do it, it's simply in advance.

AJ Harper ([27:56](#)):

It's, yeah. It's not like extra cash.

Mike Michalowicz ([27:58](#)):

It's not extra cash. Yeah. It's not bonus.

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AJ Harper ([28:00](#)):

It's like, here's a present.

Mike Michalowicz ([28:00](#)):

Yeah. They said say, here's your money earlier. So we had that for, I think for probably all our books. If it got New York Times bestseller, there was a additional 50 to a hundred thousand dollars immediate, they say reward or bonus advance, which then you have to earn out over subsequent sales.

AJ Harper ([28:17](#)):

It's just-- Yeah. It's, it is in advance. So when you hear authors say, I got a six-figure deal, sometimes a bunch of that six figures is in the bonus. Which means they're never gonna see it.

Mike Michalowicz ([28:27](#)):

Yeah. Yeah. E exactly. So

AJ Harper ([28:30](#)):

That said, you could negotiate it if it's something that you want.

Mike Michalowicz ([28:35](#)):

Right! Yeah. You can negotiate that because

AJ Harper ([28:37](#)):

That one's pretty easy

Mike Michalowicz ([28:38](#)):

To get. Yep. I mean, the big negotiation is, well, the two major categories are money. How do you maximize your income? And secondly is control and authority. How much can you retain for yourself? And that's, that's the two levers you're constantly negotiating.

AJ Harper ([28:53](#)):

I think there's a third lever that we should talk more about, which is trying to get marketing written into the contract.

Mike Michalowicz ([29:01](#)):

Oh, okay. That's a good one.

AJ Harper ([29:02](#)):

Yeah. Because I have a, um, I have a former client, only former, because she's done writing books. But in her, in her book, she had specific marketing because I was like, how are you getting this? I know that

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most authors are not getting this kind of marketing support. And to be clear, everybody, people don't really understand. Yes, it's true: Traditional publishers are not going to do the marketing for you. But really what that means is the front face marketing, they're not gonna be, it's not, you know, the stuff you want, which is advertising. And getting on NPR and whatever, whatever, all that stuff that's forward facing. Yeah. They're not doing, but they actually are doing marketing. It's just internal. It's industry specific. Their sales team is out there doing stuff. The problem with publishers is they don't tell authors what they're doing.

AJ Harper ([29:57](#)):

So then authors say, publishers don't market your book. Well, they do, but they're not, you are responsible for that front-face marketing and engaging with your readership and building readership. They can't do that part for you. But they can. They are. And they can't. They can. And they are out there trying to get your book on shelves. They just don't tell you a whiff about it. Yeah. So that said, there are extra things they can do. And a lot of it having to do with maybe hooking you up with getting some publicity here or there. You could, you know, book tours, don't... Y'all, unless you're a big author, this is not something that you need your publisher to do for you. It's not gonna make a huge difference in sales. That said, you can weave some stuff in. And this client of mine, she had got a bunch of stuff like, how are you getting this? It was written in her contract, which her agent negotiated for her.

Mike Michalowicz ([30:53](#)):

What are some of the things she got?

AJ Harper ([30:54](#)):

Um, I just felt like she was on, got a lot of PR.

Mike Michalowicz ([30:58](#)):

Okay. Yeah. They, they had some PR levers. Um,

AJ Harper ([31:02](#)):

She also had some ads.

Mike Michalowicz ([31:03](#)):

Yeah. Penguin off, uh, in one of our contracts, we had them guarantee a investment of a certain amount, which I can't remember what the dollar amount was. It was minimal. I'll say it was under \$10,000, which isn't minimal, but for them ,of guaranteed, I think it was Amazon advertising or something.

AJ Harper ([31:19](#)):

I think, you know, um, having been a publisher myself, I would ask for Okay, you know, where, what industry book industry events could, could they secure that you're going to be present for those? For

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example, American Library Association is a massive conference. Big authors go and do huge signings there. They speak there, you know, you can ask, can I go to that? Can you sponsor me? You know, they're not really sponsoring you, but they're giving you one of their slots. Yeah. Um, you are not gonna go there as an individual, believe me. So I think be creative in thinking outside the box of what you might ask them to do in terms of marketing.

Mike Michalowicz ([32:00](#)):

Um,

AJ Harper ([32:00](#)):

Oh, I have another one.

AJ Harper ([32:03](#)):

I want, I want you to ask your publisher that promise that they're doing trade reviews for you, because traditional publishers can submit trade reviews to, this is, um, publishing industry critical reviews that the industry uses to make buying decisions that librarians and booksellers use to make buying decisions. And also good reviews can be a game changer for some, for some authors. They can also really help with selling those translation rights that we talked about. But publishers know that they're, they can submit for trade review to Publishers Weekly, Kirkus, Booklist, et cetera. But there's no guarantee that they'll get it. So when you submit, there's only so much, so many reviews that they'll do. So they hold back. They don't submit everybody, because they want certain books they want to do for trade review. So you might not know if yours is getting sent or not. And they're also not going to tell you unless you ask.

Mike Michalowicz ([33:03](#)):

You know, another thing you can negotiate, which may not go into the contract specifically, but who your editor is, you can interview your editors. That's what we've been doing with our authors is saying, we, we look prior to committing to the, uh, to, to submitting the manuscript specifically, we wanna know who the editor is and have a dialogue with them and make sure there's rapport and that this person works in this genre in space.

AJ Harper ([33:28](#)):

Oh, that one's huge. Yeah. I mean, if you're at an imprint for a Big Five, you would think they do.

Mike Michalowicz ([33:33](#)):

Yeah. Yeah. But it's important to have that interview. I didn't do it. We've always been assigned someone. Um, but then once we started Pen with Purpose, we started doing that, it's like, oh, this is really, really prudent.

AJ Harper ([33:44](#)):

So what do you think are some red flags in contracts? Something that would say, Hmm, I don't know.

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Mike Michalowicz ([33:49](#)):

Legit saw this, not on mine. And I won't say whose. There were comments. It was a different contract. They just cut and paste the different contract in there, and there were comments left in there.

AJ Harper ([34:00](#)):

What?

Mike Michalowicz ([34:01](#)):

Yeah, it was, they sent us a Word document and I hit comments, I blink. I'm like, oh my God, this is for someone else.

AJ Harper ([34:07](#)):

Oh, that's a big red flag. What else is getting passed around?

Mike Michalowicz ([34:12](#)):

I know. Yeah. So is yours gonna get passed around? But you know, they all start with a template. They all start with a, a template. So are you just getting the template of the contract? I I would just --

AJ Harper ([34:22](#)):

Well, you're going to get one. I mean, they can't start a template.

Mike Michalowicz ([34:24](#)):

No. But there should you, you wanna see if you had a conversation prior to going to contract, which you should have. You gave 'em a proposal. There should be some edits and changes to you. Like this one, I'm looking here, you can see the red lines on it, like the edits past our, after our conversation, uh, I'm trying to find the page that doesn't matter. But there's all these edits in this agreement after our conversation, specific to our conversation. So the, the question is, when you get a contract, did they, for the dialogue that proceeded that, did they integrate?

AJ Harper ([34:54](#)):

Right. Okay.

Mike Michalowicz ([34:54](#)):

Similar discussion points.

AJ Harper ([34:54](#)):

I see that point. Yeah.

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Mike Michalowicz ([34:55](#)):

If there's nothing there, it's like, oh, They're placating to you.

AJ Harper ([34:59](#)):

who does that? Nothing. Like, literally nothing.

Mike Michalowicz ([35:02](#)):

Oh, yeah. You can have a discussion saying, Hey, here's what I'm thinking is what I want. Oh, yeah, yeah, yeah. We, we absolutely do that. And generic proposal, huh?

AJ Harper ([35:07](#)):

Yeah. So, uh, I have another one contract, which is total control over any intellectual property associated with the book,

Mike Michalowicz ([35:17](#)):

Walk away, run away, run, run, run, run. They will give you specifics like certain media types, like if it's on CD ROM or something like that.

AJ Harper ([35:26](#)):

Well, if it's the actual book itself in any format that makes sense.

Mike Michalowicz ([35:34](#)):

Speaking is another one would be is a red flag. Oh, I've seen that. That we are, are we get any of your speaking fees? It's like, are you effing kidding me?

AJ Harper ([35:40](#)):

That's, that's ludicrous.

Mike Michalowicz ([35:42](#)):

Ludicrous. I've seen agencies try to get that. Now they're trying to be speaking, represent representation also, which

AJ Harper ([35:49](#)):

That's a separate deal, man. Yeah.

Mike Michalowicz ([35:51](#)):

And I'd also be really leery of that. A book agent and a speaking agent is radically different. Those are.

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AJ Harper ([35:57](#)):

Yeah. They don't know the industry.

Mike Michalowicz ([35:58](#)):

It's a, I do a lot of speaking. It's a massively different industry.

AJ Harper ([36:02](#)):

Uh, those are two big red flags for me. What about green flags? What makes you happy when you see it in a contract?

Mike Michalowicz ([36:07](#)):

Red lines that have the edits for me.

AJ Harper ([36:10](#)):

Oh, okay.

Mike Michalowicz ([36:10](#)):

Fair and common comment. Um, a big green flag is the willingness to discuss and explain. Hmm. I wanna hear the why. Uh, my, we can't change the royalty structure because... And, and they actually said it once when it came to the audio when I said, I really need the audio rights. And they said, Mike, listen, that's how we keep our lights on. We, we can't give you the audio rights. Like, that is the majority of our income. And uh, I just wanna understand. So I accepted that. I'll take No, but I don't, I like to hear the here's why behind it. That's a green flag.

AJ Harper ([36:45](#)):

Yeah. So that's it. No other green flags. I mean, I would think, you know, a little more creative control or input maybe noting that the author will have input at least in certain things.

Mike Michalowicz ([36:57](#)):

Yeah. Well, well, I maybe I did kind of a, a catchall. I said, when, when they integrate a red line to the stuff you discussed, those are the green flags. It's those elements like Yeah. The, the control you have reading your own audio and, and making sure contractually that you're the reader of your own audio. This isn't true for fiction necessarily, but for prescription,

AJ Harper ([37:16](#)):

It's not true for fiction at all.

Mike Michalowicz ([37:18](#)):

<laugh> Prescriptive nonfiction is definitely true.

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AJ Harper ([37:20](#)):

I mean, you look, you might have to, if you, okay, let's, for nonfiction, you should read your own stuff. But let's be really clear, you better train, be you better get some training.

Mike Michalowicz ([37:28](#)):

On speaking. Yes.

AJ Harper ([37:30](#)):

You, you need a voice coach and you need someone to help you, you know, figure out how to, what are your operative words and how to breathe and how to pause. And you don't wanna, you really need some training. That said, for fiction, what you can do is say, I want approval on my voice talent. So for example, especially if you're an author, say you wrote about, you wrote a book that has a person of color as a main character, and you might, or a person of a certain ethnicity, you might be really important to you that the actor that's doing that performance is the, you know, comes from the same background. Um, or you just might wanna make sure that you're signing off on that person. Yeah. So you, you, those are, these are some things that I think just being willing to work with you is a green flag. Being actually wanting to hear what you have to say about the contract.

Mike Michalowicz ([38:23](#)):

<laugh>, there's an author I know, and it worked, but it was risky and it was never intended this way, but he walked the, uh, kind of the racial divide here. What he did was he wrote a book. The, one of the characters in his book is an African American bus driver. And this bus driver is the, the guide for the book. Like the, is delivering all the knowledge. He read his own book, *White Male*, and he does her voice, but he impersonates an African American female voice. And it's like, Hmm, that's risky,

AJ Harper ([39:01](#)):

But how, but that's, there's no stereotype like that. And then you're just was he stereotyping?

Mike Michalowicz ([39:07](#)):

Wasn't stereotyping necessarily, but he did use some words in his book, in his literature that would be, would, could be considered stereotyping. And it wasn't the intention, it's just he was walking a dangerous line. So I'm wondering what you do? In the *Pumpkin Plan* I did voice impersonations, um, just to, to identify different characters. Well,

AJ Harper ([39:29](#)):

I think you, you at that point, you aren't the person who makes that decision. You are consulting with people who represent that community. Exactly, yes. And you're saying, what do you recommend I do in this? How do I do this situation? How in fact, they should have been consulted when he was writing dialogue for that character. Yeah. That goes way back. But if you can't do anything about it, then you absolutely... You don't make that decision on your own.

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Mike Michalowicz ([39:53](#)):

Yeah. Talk with the,

AJ Harper ([39:54](#)):

Talk with the people who are, represent that community and ask what to do rather than deciding yourself.

Mike Michalowicz ([40:00](#)):

Yeah. I think that's smart. I think that's really smart.

AJ Harper ([40:03](#)):

Because that's a, that's a no.

Mike Michalowicz ([40:04](#)):

What if you don't have an agent at all? That's, that's my situation. I gave you the hack of you can get other people's contracts. Uh, we did a workshop together and I gave people my contract. I don't freely give it away. There's a lot of confidential information there. So it, it's only

AJ Harper ([40:19](#)):

That was a small group.

Mike Michalowicz ([40:19](#)):

Yeah. A small group. Um, I do it with people I trust. Yeah. Uh, specifically, I mean,

AJ Harper ([40:25](#)):

You could black out certain parts of it.

Mike Michalowicz ([40:27](#)):

Yeah. You could redact it for sure. So that's a great comparative technique. Uh, there are, uh, intellectual property attorneys who specialize in, in, in authors and other forms of media. So definitely hire that attorney. It's worth the x hundreds or thousands of dollars you're gonna pay. Yeah. Um, contract addendums. Um, we, you were talking about marketing support. I can't think of many cases I did it, but when we were discussing the workbook for Profit First, there was gonna be a contractual addendum to it. Um, but that never came to fruition in any way.

AJ Harper ([41:07](#)):

So what do you, what do you wanna say to anybody who's maybe afraid to start these negotiations? You just have some general advice about it. Because again, this has always started the conversation. I want authors to go in strong, and it doesn't mean that you need to be a jerk about it.

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Mike Michalowicz ([41:24](#)):

Yeah. Don't be a bully.

AJ Harper ([41:25](#)):

And you have to know what you're still willing, you know, when you're willing to walk away and when you're not. But I also don't want authors to go in and just accept everything without considering if there's another way that they can get more what they need.

Mike Michalowicz ([41:36](#)):

Yeah. I mean, consult with an outside party. So if you have representation, you know, clearly consult with them. But even if you do, I would still talk with other authors. Just get a sense for what other authors have gotten it. It gives you a really good sense. Listen to this episode again, that'll give you some parameters. Uh, the next thing is, um, know what your leverage points are. Like where do you have stuff that is significant, um, where there's a value to the publisher, for example, for getting it? So Dr. Epygian, when we were negotiating her contract for her, the Spanish rights were very important. But we also pointed to the publisher, she has a presence here in Mexico. It's gonna further build her English speaking community throughout Mexico, which is a big portion of the population. So there is some wins for them by not being associated with those rights.

Mike Michalowicz ([42:26](#)):

Um, so there were, we, we showed the, the benefit to them, but we were also staunch that this was very significant to her. We also, and this is a classic in negotiations, there's certain things that are the throwaways. So we needed the, the Spanish rights. We needed the French rights. We really didn't care about the international rights. So we said, Hey, we want to control all international rights. Uh, and they said no. They said, then we said, well, can we at least have France? Right. <laugh> Yeah. And no problem. So so you start off with the bigger as. Yeah.

AJ Harper ([42:55](#)):

So some basic negotiation rules of negotiation apply here. Yeah,

Mike Michalowicz ([42:59](#)):

Yeah.

AJ Harper ([42:59](#)):

But ultimately go for it. Try it.

Mike Michalowicz ([43:02](#)):

Yeah.

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AJ Harper ([43:03](#)):

I, I, I will say this from a publisher's standpoint, it didn't upset me if a, an author came back and said, can I negotiate this, this piece or that piece?

Mike Michalowicz ([43:12](#)):

And I think one, at least my experience is once you have the initial contract, it, they don't res, I've never seen someone rescind a contract. We negotiate it and they didn't say, oh, because you're negotiating. We're not gonna take the whole contract back. I'm sure it can happen. But once you have the contract, at least you have the, the starting point. Now you go through the negotiation.

AJ Harper ([43:31](#)):

I mean, I guess if you were asking for ridiculous things, like "I want four elephants"

Mike Michalowicz ([43:37](#)):

Yeah. Carrying me to

AJ Harper ([43:38](#)):

Yeah. "To carry me on launch day." Yeah. Right. Or if you just kept coming at them, if it went on for months and months, that would be for us, for a small press to be like, okay, yeah. We don't need it that badly. You know?

Mike Michalowicz ([43:53](#)):

Yeah. Being concerned or afraid is, is normal. The takeaway is exactly what you said is a contract is simply, uh, an offer. Yeah. It's not the final deal. And, and you have the right to negotiate to, to serve your, to your advantage. And I, I think a publisher would respect it. You said you did. Yeah. Because this means, this author's really invested in having a successful book. Yeah. And if they're willing to negotiate with you, they're probably willing to negotiate on selling more books. When they have a, a speaking engagement, they're, they're probably willing to push. That's a good thing. Yeah. Okay. Hope you got some good insights from this episode. We look forward to seeing you. Next week we're gonna be talking about the author voice. Yes. Okay.

AJ Harper ([44:34](#)):

That will be finding it. How do you find your author voice? Finding it? Yeah.

Mike Michalowicz ([44:40](#)):

It was so funny just a little teaser for that. You shared a few episodes back, like, how do you make something like my voice? And you said, oh, when, when Mike is generally talking, he'll use conjugations, like, don't do that. But when he's emphasizing something, he'll say, do not do that. And I was like, holy crap. I just, all the,

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AJ Harper ([45:00](#)):

You're obsessed with this .This is like the third time you've mentioned it,.

Mike Michalowicz ([45:02](#)):

Because I noticed it all the time when I'm talking.

AJ Harper ([45:04](#)):

I got more, man.

Mike Michalowicz ([45:06](#)):

I know. So we're gonna discover how to find your voice and maybe how someone else can even emulate it a little bit. Uh, thanks for joining us for this episode. Remember, the website is dw tb podcast.com. But before you go to that website, go to Amazon right now buy Write a Must-Read, by AJ Harper. I'm telling you that book will transform your life. And, uh, when you go to dwtb podcast.com, you can get all our free materials there. Also, please email us hello@dwtbpodcast.com. Both AJ and I get that. Share what you wanna share. Tell us your story. We'd love to talk about it. And anything that you wanna learn from us, we'll dedicate an episode to it. Thanks again for joining us for today's episode. We look forward to seeing you next week. We're gonna find your voice, and as always, don't write that book. Write the greatest book. You can.