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MESSAGE FROM THE AAP PRESIDENT

(The following letter from AAP President Pat Schroeder appeared in the Washington Post on February 4, 2005. It responds to an op-ed piece on the “gender gap in reading” in which Mark Bauerlein, director of research at the National Endowment for the Arts, and Sandra Stotsky, a research scholar at Northeastern University, assert among other things that books don’t captivate boys because “publishers are more interested in avoiding ‘masculine’ perspectives or ‘stereotypes’” than in giving boys what they want to read.)

“Why Johnny Won’t Read” [op-ed, Jan.25] maintains that boys are not offered books that interest them because political correctness has driven publishers to avoid “masculine perspectives.” This assertion is both bizarre and unfounded!

An extraordinary range of books is being published for children and young adults, including tales of adventure, mystery, military exploits and sports. What’s missing are enough teachers and librarians to help youngsters find just the right book, funding to stock school and public libraries and keep their doors open so kids can use them after school and on weekends, sufficient resources to enable classroom teachers to keep up with new children’s literature and reacquaint themselves with classics, and enough people willing to stand up and fight organized censorship campaigns aimed at removing books from classrooms and library shelves, books such as the Harry Potter and Captain Underpants collections that young boys love and want to read.

Maybe the proposed “special study of gender differences in reading” will provide answers somewhere down the road. In the meantime, if we want to encourage more boys to read, finding adequate funding for school and public libraries seems a good place to start.

*Patricia S. Schroeder
President and CEO
Association of American Publishers*

NEWS FROM WASHINGTON

New OFAC Regulations Remain Problematic

In an effort to defuse legal challenges brought last fall (notwithstanding repeated denials by the Government that the action was taken in response to the lawsuits), on December 15 the Treasury Department’s Office of Foreign Assets Control (OFAC) issued revised regulations governing U.S. publication of works originating in countries under U.S. trade embargo. OFAC’s attempt to regu-

late such publishing activities was challenged in federal court last September by a coalition of publishers and authors, including AAP’s Professional and Scholarly Publishing Division (see *Monthly Report* September/October 2004), and in a separate suit brought by Nobel Laureate and human rights activist Shirin Ebadi. The two suits were subsequently joined.

The revised OFAC regulations stipulate that U.S. publishers do not need to seek a specific license to engage in “all transactions necessary and ordinarily incident to the publishing and marketing of manu-

scripts, books, journals, and newspapers in paper or electronic format,” with individuals in Cuba, Iran and Sudan. According to the Treasury Department’s announcement, “the new rule enables U.S. persons to freely engage in most ordinary publishing activities with persons in Cuba, Iran and Sudan, while maintaining restrictions on certain interactions with the governments, government officials, and people acting on behalf of the governments of those countries.”

Although acknowledged as a “step in the right direction,” the revised regulations remain problematic for

the plaintiffs and for Congressman Howard Berman (D-CA), the sponsor of the original “free trade in ideas” legislation that exempts informational materials in all media from the reach of U.S. trade embargoes. In a statement issued on December 16, Congressman Berman rejected the revised regulations “as a desperate attempt to head off mounting legal and political pressure” and not “a serious effort to rationalize an indefensible and counterproductive policy.” Congressman Berman took strong exception to the fact that “the regulations continue to represent that the government has the inherent legal authority to regulate these activities,” an underlying assumption that “violates both the letter and the spirit of my amendment.” The new regulations, he said, raise important Constitutional issues. “In America, publishers do not need permission. OFAC is still acting like they have the authority to grant permission and that interferes with our fundamental right to freedom of expression.”

Congressman Berman also pointed out that the revised regulations apply *only* to publishing, and not to other creative works. “Why should it be okay for a publisher to commission a book from an Iranian dissident, but not for a film studio to work with a Sudanese filmmaker, or a recording studio to collaborate with a Cuban musician? This makes absolutely no sense.”

Lawyers representing the Government and the parties in the civil action have met to discuss what impact, if any, the revised regulations

may have on the pending lawsuit. As a result of a series of extensions granted to the Government, plaintiffs are still waiting for the Government’s response to the complaint, which is now expected to be filed in mid-February.

ANNUAL MEETING

Lawrence Ferlinghetti to Receive Curtis Benjamin Award

Lawrence Ferlinghetti, founder of City Lights Publishers, a powerful force behind the Beat poetry movement, and one of the iconic figures of 20th Century American letters, has been named to receive the Curtis Benjamin Award for Creative Publishing, AAP announced on January 31. The award will be presented at the AAP Annual Meeting in New York on March 3.

Mr. Ferlinghetti, who co-founded City Lights book store in San Francisco, launched City Lights Publishers in 1955 in order to “give voice to innovative and progressive ideas.” The press, which celebrates its 50th anniversary this year, is still dedicated to “publishing in a radical democratic tradition.” Since its inception, City Lights has published fiction, essays, poetry, and political analysis by U.S. and foreign writers and has brought back into print neglected or forgotten works. The publishing operation was launched with a “Pocket Poet Series,” the first volume of which was a collection of Mr. Ferlinghetti’s own poetry, *Pictures of the Gone World*, which has become a classic of Beat

literature. Within a year, City Lights had published its fourth and most famous title, Allen Ginsberg’s *Howl and Other Poems*, which led to Mr. Ferlinghetti’s arrest on obscenity charges. His trial and subsequent acquittal in a First Amendment precedent-setting case drew national attention to the book, to censorship, and to the San Francisco literary renaissance. The authors published by City Lights include Jack Kerouac, Paul Bowles, Denise Levertov, Norman Mailer, Pablo Neruda, Frank O’Hara, and Philip Lamantia.

Maintaining that the function of an independent press is to discover new voices and allow them to be heard, Mr. Ferlinghetti said recently: “From the beginning, the aim was to publish across the board, avoiding the provincial and the academic....What has proved most fascinating are the continuing crosscurrents and cross-fertilizations between poets widely separated by language or geography....”

The Curtis Benjamin Award, which is administered by the Association of American Publishers, was first given in 1975 to honor Curtis Benjamin, a much admired former President of McGraw-Hill. It is given to a living publisher in the United States who has demonstrated exceptional creativity and innovation in publishing.

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“Know Thy Customer” is Theme for 2005 Program

Publishing industry leaders are using a host of innovative approaches to “sell more content to more people, often in unexpected formats,” and in the process debunking the myths of “low margins and low growth.” AAP’s 2005 Annual Meeting, which will be held on Thursday, March 3 at the Marriott Marquis in New York, will explore strategies for identifying and reaching customers. Peter Skarzynski, founder and CEO of Strategos, will coordinate a discussion featuring innovative leaders in publishing, bookselling, distribution, buzz marketing, and branding.

New York City’s Chancellor of Education Joel Klein will give the keynote address at a luncheon, that will also feature presentation of this year’s AAP Honors to *USA Today*.

The afternoon session will look at areas of the industry that are booming—including graphic novels (featuring authors Neil Gaiman and Art Spiegelman), e-books and new technology, audio books, and e-learning.

The meeting will end with a Chairman’s Reception beginning at 4 p.m., at which the Curtis Benjamin Award will be presented.

The full program and registration information can be found on the AAP web site (www.publishers.org).

ANNUAL MEETING FOR SMALLER AND INDEPENDENT PUBLISHERS

Akashic Books Publisher Johnny Temple Wins Miriam Bass Award

Johnny Temple, Publisher of Akashic Books, has been chosen as the second recipient of the Miriam Bass Award for Creativity in Independent Publishing, AAP announced February 3. The award will be presented on March 4 in New York at the AAP Annual Meeting for Smaller and Independent Publishers.

Given annually, the award was created in memory of Miriam Bass to honor her many contributions to the book publishing community and is co-sponsored by AAP, Rowman & Littlefield Publishing Group, and National Book Network (NBN). It carries a \$5,000 cash prize, which is fully funded by Rowman & Littlefield and NBN.

A judging committee representing a cross section of the industry selected Mr. Temple in recognition of his extraordinary success in publishing and marketing *Hairstyles of the Damned*, by Joe Meno, which was chosen by Barnes & Noble for its “Discover Great New Writers” program. *Hairstyles of the Damned* is the first title in Akashic Books’ new “Punk Planet” series, which will focus on the lives and interests of punk-oriented youth and is designed to appeal to that audience. Mr. Temple, a rock and roll musician with a passion for “urban literature,” proved to be the perfect

publisher for the book and expanded the audience for Meno’s work significantly.

Members of the Award Committee are Peter Burford (Burford Books); Marcella Smith (Barnes & Noble); Ron Powers (Ingram Book Group); Tom Dwyer (Borders); John Whitman (Turtle Books); and, before her departure from Publishers Weekly, Nora Rawlinson.

Pat Schroeder, President and CEO of AAP said that Mr. Temple’s award “celebrates the special vision that allows a creative publisher to connect a book with its perfect audience.”

Obviously delighted by what he termed “a wonderful honor,” Mr. Temple said he was “greatly indebted to the AAP and its evidently adventurous judging committee,” adding that “Credit for what we have accomplished thus far must also be extended to phenomenal indie publishers like Seven Stories, Soho, 2.13.61, and others who bent over backwards to help Akashic find its footing in our early days. And Dan Sinker at Punk Planet Books deserves equal praise for the success of Joe Meno’s fantastic novel.”

Jed Lyons, President and CEO of National Book Network and the Rowman & Littlefield Publishing Group, noted that “Miriam Bass was someone who loved and inspired creativity in other people. Her amazing gift for eclecticism would have helped her spot Johnny

a mile away. Congratulations to him from Miriam's former colleagues here at NBN."

Nominees for this award may be engaged in any area of book publishing provided their publishing house is independent. The Award Committee judges look at creativity in any aspect of publishing, including editorial, marketing, sales, finance, or production. Nominated by his staff, last year's winner Alexander G. Skutt, President of McBooks Press Inc., received the award for his creative leadership in handling a crisis that might have crippled his publishing house when his distributor went bankrupt.

HIGHER EDUCATION

College Faculty Say Student Success Depends on Textbooks; Study Results Refute PIRG Claims

Early last year, the higher education publishing community was called on to respond to a "research" report released by the Public Interest Research Group (PIRG) asserting, among other things, that college and university faculty did not have a high regard for textbooks, were opposed to new editions and supplemental learning materials, and that students were being "ripped off" by having to purchase these materials at inflated prices.

To obtain solid data to answer these assertions, AAP's higher education publishers asked Zogby International, a highly respected, indepen-

dent polling and research firm, to survey a broad range of U.S. college faculty members to ascertain their actual views.

Released in January 2005, the Zogby study, which surveyed 1,029 faculty members including faculty at community colleges, found that the vast majority—some 84 percent—believe their students absolutely need a textbook to successfully complete their courses and that college professors overwhelmingly prefer their students to have both current textbooks and supplementary materials such as study guides, online applications, and CD-ROMs. The poll was conducted from December 8 to December 20, 2004, and has a margin of error of +/- 3.2 percentage points.

The survey found that 8 out of 10 faculty members (80 percent) consider it important to have the material in texts used for their courses as current as possible, and almost two-thirds of those surveyed (62 percent) say they prefer to order texts with the most recent copyright date. Seventy-five percent of faculty either require or recommend that their students purchase textbook packages that include supplemental materials, such as study guides, lab manuals, and digital media like CD-ROMs and online tools. By an overwhelming majority (84 percent to 7 percent) faculty say their students absolutely must have the required textbooks to get a good grade in their courses, according to the Zogby survey.

On February 1, 2005 the PIRGs

released a second report claiming that publishing practices were unnecessarily driving up the price of college textbooks. Armed with solid data from the Zogby survey, AAP President Pat Schroeder responded in an NBC television interview and a media statement, citing the PIRG study's flawed methodology, selective use of data, and refusal to acknowledge recent research data that contradicts its findings. AAP Higher Education Executive Director Bruce Hildebrand has spoken with more than 50 media outlets nationwide.

In addition, it was subsequently discovered that in asserting double-digit price increases in higher education textbooks since 1994, PIRG used statistics that pertain to the *entire educational market*, and include not only elementary/secondary teaching materials but puzzles, toy blocks and art materials used by elementary students, and lab supplies used in high schools.

Mrs. Schroeder said: "For more than a year we have offered to meet with PIRG members, to share information, to build student awareness of the value choices available to them, and to discuss ways to make textbooks more affordable. We have renewed our offers to meet with PIRG. For now, we hope that facts will drive the discussions about college textbooks and that everyone will keep their eye on the prize; providing the best possible education to America's college students."

Information on the Zogby Survey and AAP's response to the PIRG report can be found at: <http://www.publishers.org/highered/index.cfm> For additional information: Stacy Scarazzo (sscarazzo@publishers.org).

COPYRIGHT

AAP Joins in Successful Effort to Get Supreme Court Review of *Grokster* Case

AAP joined with a host of groups representing media and professional sports organizations, whose members rely on effective copyright protection for their livelihood, in asking the U.S. Supreme Court to review and overturn the 9th Circuit ruling in *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.* That decision would allow providers of peer-to-peer file sharing services to avoid secondary liability for facilitating acts of copyright infringement simply by taking *no action* to eliminate or minimize the amount of online copyright infringement by users of their service.

The brief points out that notwithstanding an earlier ruling by a separate panel of the 9th Circuit which required a peer-to-peer service (in that instance, Napster) to do "everything feasible to block files from its system which contain noticed copyrighted works," the *Grokster* ruling held that "by simply switching from a centralized index of files to a decentralized index of files (a process invisible and meaningless to an Internet user)" the peer-to-peer service could duck all secondary liability. The brief points out that the

Grokster decision "has the perverse effect of discouraging peer-to-peer services from acting responsibly."

The case will be closely watched as the Court is expected to revisit its 1984 landmark ruling in the "Sony-Betamax" case, which upheld the right of viewers to record broadcast television programs for later, "time-shifted" viewing as a non-infringing fair use of the copyrighted television broadcast. In its ruling a closely-divided Court established the principle that manufacturers and distributors of devices that can be used to infringe copyright, such as the videocassette recorders at issue in the case, cannot be held secondarily liable for infringements by their users as long as the devices are "capable of substantial non-infringing use."

Oral argument is set for March 29.

INTERNATIONAL FREEDOM TO PUBLISH

U.S. Publishers Sought for Iranian Literary Works

In an effort to encourage and increase the diversity of literary works being published in the U.S., the AAP International Freedom to Publish Committee announced December 17 that it is offering U.S. publishers a unique opportunity to bring the work of three gifted Iranian authors to an American audience.

The Committee, in consultation with a distinguished group of scholars and writers in the U.S. and Iran, selected three contemporary Iranian novels and commissioned partial translations and a *precis* of each. The novels are *The*

Drowned by Moniru Ravanipur (translated by M.R.

Ghanoonparvar), *The Empty Palace of Soluch* by Mahmoud Dawlatabadi (translated by Judith M. Wilks), and *Christine and Kid* by Houshang Golshiri (translated by Roxanne Zand). To support U.S. publication of the works, the Committee has secured funding that will provide \$10,000 to the U.S. publisher contracting for English language rights for each work, half of which would be used for further costs of translation and half to be used for promotion and publicity.

In making the announcement, the IFTP Committee noted that although there has been some confusion regarding U.S. government regulation of publishing activities involving Iran and other countries under U.S. trade embargo (and indeed publishers and authors have filed suit challenging the government's assertion of any licensing authority with respect to publishing activities), a revision issued in December by the Treasury Department seems to indicate that whatever the outcome of the lawsuit U.S. publishers would not need to seek government permission to publish the type of work being discussed in the announcement.

Interested publishers should contact Charlotte Sheedy at The Charlotte Sheedy Literary Agency, 65 Bleecker Street, New York, NY 10012, to obtain the sample materials and, if necessary, the original text. Ms. Sheedy is conducting negotiations on behalf of the authors on a *pro bono* basis.

AAP URGING BOOK DONATIONS FOR TSUNAMI RELIEF EFFORT

AAP is actively supporting the efforts of the Asia Foundation's *Books for Asia* program to rebuild libraries in South Asian countries devastated by the December tsunami.

Hundreds of schools and libraries in Sri Lanka, southern Thailand, and Indonesia's Aceh province were destroyed or badly damaged by the tsunami. Donations of new primary and secondary level readers and textbooks are desperately needed, and donations of English-language books are especially treated. AAP is urging its members, and indeed the entire publishing community, to consider donating these badly needed books through the Asia Foundation's *Books for Asia* program.

AAP President Pat Schroeder remarked that *Books for Asia* has had longstanding programs in these countries and earned the trust of government officials and communities long before the tsunami disaster. "Asia Foundation President Doug Bereuter and I have been friends since we served together in Congress," Mrs. Schroeder said, "so I've been aware of the great work being done by *Books for Asia*. They have people on the ground and a system already in place for importing donated educational materials duty-free, for distributing books to schools and libraries, and for monitoring their distribution to insure that they go to

schools, libraries and students who need them. This is a great way for publishers to help rebuild communities and lives."

Additional information on The Asia Foundation and Books for Asia, as well as guidelines for book donations, can be found at: www.asiafoundation.org/Books/overview.html.

Publishers interested in donating books should contact Gavin Tritt, Director of Books for Asia, by phone at (415) 656-8990 or by email at gtritt@asiafound.org.

FREEDOM TO READ

AAP Files *Amicus* Brief in "Friends" Harassment Suit

AAP has joined with four other Media Coalition members, the Freedom to Read Foundation, ABFFE, Publishers Marketing Association, and the Comic Book Legal Defense Fund, in filing an *amicus* brief in the California Supreme Court supporting Warner Brothers motion for summary judgment in *Lyle v. Warner Brothers*.

The case was brought by Amaani Lyle, a writer's assistant hired to take notes during the brainstorming sessions of the writing team for the TV sitcom "Friends." After being fired for not typing fast enough, Lyle filed a sexual harassment suit against Warner Brothers, claiming that the sexual content of the conversation in the writers' room, although not directed at her, created a hostile work environment. Warner Brothers' motion for

summary judgment was granted by the trial court but reversed by California's intermediate appellate court, which stipulated that the case required a jury determination as to whether the speech in the writers room was "necessary" to the "creative process."

The brief, prepared by Media Coalition general counsel Michael Bamberger (Sonnenschein Nath & Rosenthal), argues that the decision of the California appellate court threatens the ability of authors and book editors to create works of fiction and non-fiction "with a free exchange of ideas and information during the creative and editorial process," and because of its inevitable chilling effect, threatens booksellers and librarians as well. "The creative process is, by definition, creative, which is to say that by its nature it is unique to the respective authors and editors involved...To require the participants to justify the 'necessity' of minor segments of the creative process after the fact represents a misunderstanding of the creative process..." the brief states.

In addition, the brief argues, "The Court of Appeals' sweeping definition of 'hostile work environment' including speech neither directed at nor about the complainant, could also be extended to reach the physical production and distribution of the First Amendment-protected works" and "could well impose liability on printers...or on retailers...when objected to by an employee."

Publishers Saddened by News of Gordon Conable's Death

AAP joined colleagues in the library community and free speech advocates everywhere in mourning the death in mid-January of Gordon Conable, President of the Freedom to Read Foundation, who AAP President Pat Schroeder called "a real First Amendment hero."

Following a term as associate director of the Fort Vancouver (Washington) Regional Library, Mr. Conable served as director of the Monroe County, Michigan, Library System for ten years from the late 1980s through the 1990s. A fierce First Amendment advocate, one of his first actions was to revamp the system's check-out procedures to protect library patron privacy. In 1992 Mr. Conable found himself at the center of a storm when elements in the community were outraged by the library's decision to make the Madonna book, *Sex*, available. His refusal to back down when the confrontation turned ugly and resulted in his receiving bomb threats. In 1996 Mr. Conable was named to the Freedom to Read Foundation's Roll of Honor. Following his tenure in Michigan, he joined a library management company in California, and was a frequent speaker on First Amendment and library privacy issues.

"At a time when free expression and the right to dissent are so seriously threatened, losing a free speech warrior like Gordon Conable is doubly hard," Mrs. Schroeder said. "AAP will contribute to the Free-

dom to Read Foundation in his memory, and others who share his commitment may want to do so as well." *Contributions can be sent to the Gordon Conable Memorial Fund, Freedom to Read Foundation, 50 E. Huron Street, Chicago, IL 60611.*

Joint Program at ALA Conference Will Look at Free Speech as a Casualty of War

The AAP Freedom to Read Committee, ALA's Committee on Intellectual Freedom, and ABFFE will co-sponsor a First Amendment program at the ALA 2005 Annual Conference in Chicago, entitled "Intellectual Freedom: A Casualty of War?" Scheduled for Monday, June 27, from 1:30 pm to 3:30 pm at the McCormick Place Convention Center in Chicago, the program will explore the history of intellectual freedom in wartime, the extent to which the current war has had an impact on free speech and dissent, and strategies for the book and information communities to help maintain our liberties during "perilous times."

The featured speaker will be University of Chicago Law Professor and best-selling author Geoffrey R. Stone. Professor Stone's book, *Perilous Times: Free Speech in Wartime from the Sedition Act of 1798 to the War on Terrorism*, has been named a 2004 Notable Book by the *New York Times*, and Best Book of the Year by the *Washington Post*, *Los Angeles Times*, *Christian Science Monitor*, *Chicago Tribune* and the *Philadelphia Inquirer*.

TRADE PUBLISHING

AAP Trade Publishers Partner in New York Adopt-a-School Program

AAP's Trade publishers have partnered with the New York City Department of Education to bring resources to city school children under the Adopt-a-School program. AAP has formally partnered with four schools located on a campus in the Bushwick section of Brooklyn, and member publishers have provided books to schools in the Bronx as well. In addition to book donations, publishers are coordinating visits by authors, and offering to open their doors for field trips, and are making staff available for career fairs and other events. Over the coming months, the program will be expanded to serve more New York City schools.

"Authors at Your Library" Web Site Set for June Launch

AAP's Trade Libraries Committee is moving ahead with plans for the "Authors at Your Library" website, which will be launched in June at the ALA Annual Conference in Chicago. The website will serve as a database of information about authors and libraries to make it easy for librarians to find authors for events. The site will also contain information about contacting various large publishers to obtain authors to participate in events.

For additional information: Katie Blough, AAP New York (kblough@publishers.org).