

Novelists' INK

The official newsletter of Novelists, Inc. — a professional organization for writers of popular fiction.

Agents: The Good, The Bad, and The Ugly

By PATRICIA GARDNER EVANS

This article was written thanks to Jean Auel, Georgia Bockoven, Janice Young Brooks, Dorothy Cannell, Lillian Stewart Carl, Clive Cussler, Janis Flores, Barbara Keiler, Marilyn Pappano, Nora Roberts, Charles Ryan, Janice Davis Smith, Patricia Werner, Sherryl Woods, and five unnamed co-conspirators who represent, collectively, science fiction, fantasy, young adult, juvenile, romance/women's fiction, mystery, romantic suspense, adventure, thriller, and mainstream.

The Good

In a perfect world, editors would be so beguiled by our manuscripts and proposals that they would beg to offer us the fabulous sums we deserve. As you may have noticed, the world isn't perfect. This leaves us with two choices: handling the business as well as the creative aspects of a writing career ourselves or hiring someone to do the "contacts and contracts," as Lillian Stewart Carl calls it. Enter the literary agent, whose profession was probably born the first time a tale was told around a fire pit and someone saw a couple of new careers opening up in addition to flint knapper and hunter/gatherer, already deciding his percentage of the extra mammoth steak he would negotiate for the storyteller.

Not everyone needs or wants a literary agent all of the time.

A number of the 19 authors contributing to this article agreed that writers of series romance can do very well without an agent since those contracts don't have as much room for negotiation and contacts are easily made, leaving the agent—as one author put it—with little to do but collect commissions. [see sidebar, page 8] Surprisingly, though, even the two authors perfectly happy without agents suggested that agents could be useful if negotiations got nasty, as an intermediary between an author and an editor, or if a writer needed "selling" to a new publisher. Not surprisingly, agented authors cited many more reasons for utilizing the services of an agent. All of them listed the advantages of having a tough negotiator who knows markets and contracts on your side. Most also mentioned the career planning and guidance agents can offer, and having someone looking out for your business interests—nudging editors for responses to proposals and payment, keeping track of trends, alerting you to new opportunities, resolving disputes and explaining convoluted clauses—lets you get back to your regularly scheduled life, already in progress.

Besides as an enforcer with magnum force, authors also use their agents as sounding boards for proposals, to vet manuscripts and to provide general support and encouragement. "I call her and whine and cry," one author says. Not everyone is like-minded; for some, agents are strictly for business. As another writer said, "I don't look to my agent to boost my ego" and "the 'literary' part [is] handled directly between the editor and myself. In that case, I don't want anyone talking for me." She and others said it wasn't necessary that their agents like their work, but most disagreed, wanting an agent who genuinely likes and is enthusiastic about what they write. "How could you expect someone who's not enthusiastic about your writing to 'sell' it to others? Inconceivable!" But, in fact, the author who said her agent didn't particularly like her work had negotiated very good deals for her, especially hefty foreign sales. As she says, it's unreasonable to expect an agent to know and appreciate every kind of writing; she doesn't. Another explained succinctly that it wasn't necessary (*continued on page 8*)

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PRES

Notes from the Revolution

This is still a private newsletter, but I must swear all of you to secrecy, anyway. What I am about to say should not be revealed to non-members (all publishers, agents, and editors, please stop reading now). They will find out soon enough.

We at Novelists, Inc. are part of a revolution. Well, maybe we should call it a rebellion. We aren't interested in destroying the old literary order. We just want to shake it up.

Genre fiction has long been literature's ugly red-headed stepchild. Romance, mystery, science fiction, westerns, horror, whatever people love to read, the literary establishment loves to hate. But we who practice the craft of popular fiction are sick of second-class citizenship. That's why we formed this organization in the first place.

Every rebellion needs one thing, money. Without money, the world passes you by. You can't purchase arms, you can't finance political or publicity campaigns, you can't get anybody to take you seriously unless you spend money.

Some rebellions and revolutions have solved that problem the easy way. They became stickup artists. Remember the Symbionese Liberation Army and Patty Hearst? Remember the Sandinistas, who financed a revolution by kidnapping the guests at a diplomatic cocktail party and ransoming them off for a couple million bucks? How about the IRA's war taxes?

I'm not suggesting political extortion, attractive and romantic though it may seem. I've stumbled across something even easier. Bear with me because it's a little complicated, but believe me, the ride is worth it.

Everybody who writes or publishes words for a living is concerned about so-called reproduction rights. I'm talking xeroxing, not the other kind of reproduction. There's a move on around the world to crack down on Kinko Copy Centers and their like, so that writers and publishers don't get ripped off.

Some countries are more concerned about this matter than others. Norway and Germany, two of our more anal national entities, have even gone so far as to establish Reproduction Rights Organizations (RROs)

to collect royalties each time some poor devil slaps a published book on the copy machine.

The idea sounded a little bureaucratic and silly to me until I discovered that the royalty funds in those two countries amount to a million bucks a year. Two types of royalties are collected: ones for individual titles and ones which are "non-title-specific," meaning nobody knows or can remember what books were being copied.

The individual-title money goes to authors and publishers. The non-title-specific funds go to an international bureaucracy called the Copyright Clearance Center. Under an agreement negotiated over the past several years, the CCC is supposed to pass some of those funds to writers' organizations in the United States.

The process gets very complicated and might be boring beyond reason except that the writers organizations stand to benefit to the tune of \$200,000 a year. The Authors' Guild has become the unofficial lead organization in putting together a coalition of writers' groups who would become beneficiaries of the funds.

Does everybody see where I'm going with this? Right! Money for our little rebellion. Symbolic AK-47s and literary limpet mines to assure that popular fiction is accorded its due respect in the cultural world order.

There's a catch, though. The present agreement with the copyright cops, the CCC, applies only to groups with 800 members. That standard seems a bit high, to me. Most writers' organizations can't boast 800 genuine, practicing wordsmiths, as opposed to 800 affiliate members, associate members, would-be writers, hyperthyroid fans, and the like.

When I discussed that issue with Robin Davis Miller, executive director of the Authors Guild, she agreed that the membership requirements probably should be lowered. She suggested 500 as an equitable number.

Amazingly, that's about how many members we have in Novelists, Inc. We have grown enormously in the past several years, from five founders to 160 founding members to 496 active, practicing members the last time

I counted. That's close enough to 500 that I don't think the copyright cops are going to kick, particularly since our membership is so clearly hard-core and professional.

But we've suffered a little erosion this year, not surprising since the publishing business has been taking about as many direct hits as your average punching bag in recent years. The final roster is not complete, but we may need to come up with some new members to make the proposed cut-off for participation in the reproductions rights pool.

That's where you all come in. Even if it were not for the money, this organization needs to grow. We need to broaden our base in all genres if we are to have a strong voice in the literature business. So I would like to personally ask every member to go out and recruit one more member.

Go after the serious ones, the ones who might understand what we are trying to do. Pick people who are not ashamed to write what the literary snobs dismiss as "commercial fiction." Recruit writers who tell stories for the love of it. They may not even know there are like-minded rebels around.

The officers you elected last year have given a good deal of

thought to all the issues that are involved in membership and recruitment. We stand ready to admit as many new members as possible, so long as they meet the simple requirements spelled out in the bylaws—authorship of two novel-length works of fiction, one of which has been published in the last five years. There are no hidden gimmicks, no secret handshakes, no unspoken membership requirements. This is an organization of rebels, not a closed terrorist cell.

Don't stop at one new member, either. If the spirit moves you, grab off a couple. Talk to writers at your local lunch groups, get a list of potential recruits from the genre organization to which you belong. Dual membership, in genre organization and in Novelists, Inc., makes perfect sense.

We are still creating Novelists, Inc. We are still defining ourselves as an organization. We could use new blood to help us in that endeavor, and we could use 500 new members to insure that we get an equitable share of the funds due to authors whose works are copied improperly.

After all, rebellions aren't free. They only make you free.

— Evan Maxwell

LETTERS to the editor

LETTERS to the editor is the most important column in our newsletter, since it is the monthly forum in which we can all share our views and express our opinions. Anonymous letters will NEVER be published in NINK. Upon the author's request, signed letters may be published as "Name Withheld." In the interest of fairness and in the belief that more can be accomplished by writers and publishers talking with one another rather than about each other, when a letter addresses the policies of a particular publisher, the house in question may be invited to respond in the same issue. Letters may be edited for length or NINK style.

Rustling In the Groves

Many thanks to Tetel, Davidson, Radway, Tompkins, and Torgovnick for such refreshing essays on women's popular fiction. If I ever become masochistic enough to go to grad school, I'll surely consider Duke University! And Ms. Torgovnick—as for those of us without the safety net of job, tenure, and salary, I have to admit that, in my case, I'd probably never write if I didn't always need the money. I know some people are driven to write; frankly, I'd almost always rather be on a beach somewhere, *thinking* about writing. Not only are our dues different, sometimes our incentives are, too.

The subject of academic snobbery toward popular fiction reminded me of an incident that occurred in 1989. I had just sold my fourth book, and a friend took me out to dinner to celebrate. We were accompanied by her then-boyfriend, who was in grad school at my old college. He congratulated me on the sale, then asked (in a tone which implied that the only possible answer was an eager affirmative) if I was now going to try to get into a graduate program in creative writing. As a student. So someone could teach me to write.

I try never to be snide; I invariably fail.

I pointed out that I had no time to pay someone to "teach" me to write; I was too busy earning my living writing. I suggested that I was probably already selling more novels and getting paid better for them than the people teaching the courses he suggested. And as for improving my skills, I certainly intended to—but in the professional arena, working with editors and being read by thousands of readers, rather than in an ivory tower.

He clearly considered all of this a *non sequitur*; surely the only possible long-term goal of my puny commercial book sales would be to help me qualify for an academic program where I would learn to write "real" fiction. Grrrrr.

By the way, I hope it's clear that I do not condemn higher education, just pompous idiots.

Moreover, most of my non-publishing friends (you know: civilians) read a wide variety of fiction which includes literary, commercial, and classic novels. I've questioned about a dozen of them and learned that real people—avid, intelligent, literate readers—are generally unaware that these classifications even exist, let alone that they affect how books (and their ➤

LETTERS to the editor

(Continued from page 3)

authors) are treated, reviewed, packaged, and marketed. It's a pretty small elite of the literate masses that attempts to define what's worthy and unworthy in fiction. — **Laura Resnick**

In Defense of Reissues

I was so glad to read Dixie Browning's letter regarding reissues and Candy Lee's response in the NINC newsletter. There are readers who want reissues because they are new readers following an author, or because they somehow let that special book slip away and want to reread it. Personally, I like the newsletters which recognize reissues because I might have missed that book the first time around and appreciate the pointer/review of that read. In these tough economic times, purchasing a book that we have already read or perhaps have in our "keeper" (excuse me, Patricia Gardner Evans) collection is irritating and a double hit in the pocketbook. We need our reissued backlists; we also need to foster the best possible relations with readers. Therefore, my suggestion from left field—Is it possible to imprint a small, but recognizable logo on the cover of reissues across the publishing industry? Of course, the logo should be in the exact same place on every cover, making it easily spotted by the potential buyer.

I believe this courtesy would really be appreciated by readers and not that difficult to incorporate in cover layout, whether new cover or original.

— **Lois Kleinsasser (w/a Cait Logan/Cait London)**

Exciting Times Ahead on the "Superhighway"

Mr. Maxwell raises a host of interesting issues in his President's Column in the March, 1994 issue of *Novelists' INK*. These are exciting times. Let me share my perspective on some of them.

CD-ROM multimedia is the first new technology I'd like to consider; I hope no one will object to my adding some explanatory material, these issues cannot be discussed without being specific.

CD-ROM itself is simply an information storage technology. It's significant because it can store so much information in such a small place, a single computer disk. It is possible to store an entire dictionary on a single disk and this capability is going to continue to grow and become less expensive. It's well established in the reference area and it may well replace books in this area.

But that's not what everyone is so excited about. The other significant factor in CD-ROM technology is that its storage capacity is so vast that text, still pictures, video, audio (both word and music), can be stored and combined on a single disk. That's what CD-ROM multimedia is. This is where all the smoke and fire is coming from currently. CD-ROM multimedia has already proved itself in the reference area and in electronic games. The current debate that I'm hearing is will CD-ROM multimedia become a new entertainment form for adults. Will adults, who traditionally don't play electronic games, turn to CD-ROM multimedia on its own appeal and/or as an alternative to movies and books.

And when I say adult entertainment, I do not mean pornography, which is also being sold in CD-ROM multimedia.

A flood of CD-ROM multimedia products is literally being rushed to market. CD-ROM multimedia disk drives are being installed in computers at a phenomenal rate. Many of the CD-ROM multimedia disks are expensive, much as home videos were when they were first introduced. This is the beginning of something, no one's sure what. It's simply unclear what people will want from CD-ROM multimedia entertainment in the adult market.

I confess to having recently been a skeptic about the long term appeal of CD-ROM multimedia to adults as an entertainment medium. I'm becoming more convinced that the combination of text, audio, and visual that makes up CD-ROM multimedia will evolve into a unique entertainment media, though I do believe it is being oversold. Remember we are always talking about degree here, how big is big, not whether or not the technology will succeed. CD-ROM multimedia is not a version of the 8-track tape. If you subtract electronic games and reference books, precious little successful CD-ROM multimedia disks are left in the current market. There is a gold rush on now and outside of the game and reference companies, it's anyone's guess what CD-ROM multimedia products will work for adults.

How will this affect writers?

Some writers may find themselves working on actual disks for CD-ROM multimedia companies, writing new material and adapting old material. Some writers may have their work adopted into a CD-ROM multimedia product. I do not believe the CD-ROM multimedia format will replace books. They are far closer to movies than they are books, and I think the audio and visual aspect is their primary appeal. Writers should also be aware that CD-ROM multimedia is an expensive item to originate, akin to a \$50 coffee-table book and then some. The origination costs range from a rock bottom low of \$200,000 all the way up to \$1,000,000 or more. Of necessity this will limit the amount of CD-ROM multimedia disks available and keep their cost to consumer somewhat high. It also means there will be a lot of casualties out there. On a wholly practical note there is a war on here in New York over the control and definition of electronic rights. This would take even more space than I have here to explore.

The other major area of debate is the information superhighway. This "highway" exists. It's been made possible by the existence of the telephone line, the computer, and the modem. It allows for the transfer, by phone, of massive amounts of data. Computers talk to computers anywhere in the world. This is the "on-line" world and it continues to grow. The Internet, which is a loosely organized system of computers, already has 11 million users. Professional on-line services host two million themselves. There are something like 50,000 computer bulletin boards in this country. All use similar technology, though the complexity and vastness of this system is not even describable.

I believe on-line technology can change publishing in a number of significant ways. A few small companies are trying to sell books on-line, downloaded directly to your computer. It's pos-

sible to access thousands of magazines and databases on-line, both for free through the Internet or for a fee with fee charging on-line companies. It's still not clear how on-line technology will affect publishing, but there is clearly a lot of interest. There will certainly be significant issues to address here; traditional notions about copyright and ownership may well be threatened if the entire texts of books are freely available on-line. Perhaps the most interesting subject of Mr. Maxwell's letter concerns print on demand. This truly would be a staggering breakthrough, no inventory, no shipping, the creation of a product on-site, while you wait in the bookstore. The technology is shaping up quickly, but it is still very far away. When this does occur, and it will, the entire business will go through a massive restructuring. But this is nowhere in sight, though it is a wonderfully alluring topic to think about.

I hope I've shed some light on these issues and shared a perspective that can profit the membership. Authors with "franchise" properties may well begin to think about how they could be adapted in CD-ROM multimedia and writers and agents may well want to begin to compile a new submissions list—of CD-ROM multimedia companies who will need writing talent to create their products. Literary agents like myself may well find themselves working with or representing computer programmers and small production companies seeking the kind of expertise we possess in marketing, contracts, copyright, etc.

It is the beginning of something big and it bears close watching from all of us.

— Ethan Ellenberg

Used Books

The March newsletter was great and I particularly agreed with Patricia Gardner Evans' letter on used bookstores. I think her solution (a one-year "freeze" after publication on the sale of our books by the used bookstores) is an eminently logical and workable solution.

I've done a private "poll" of the most popular romance-oriented new/used bookstore in our area and it appears they get in about four-six copies from book club people before or during the time category novels are actually on the shelves. Now, assuming that only half of those would have resulted in "new" sales, that's still three books. Doesn't sound like much until you take into account that the latest figure I've read indicates there are nearly 8,000 used bookstores operating nationwide. Multiply it out, and that's nearly 25,000 copies of our books that possibly would have sold if the used bookstores weren't in competition with us. It's not only the royalty loss that bothers me, but the 25,000 minus on our sell throughs. A 25,000 book "loss" is enough to make or break an author within her house and that's scary.

Also, there's a lot of talk lately about the popular fiction market just generally "flattening out." (Excluding, of course, Grisham, Crichton, et al.) That flattening seems to have started about the same time as the recent proliferation of used bookstores. Worth considering.

While I'm not so concerned about used book sales *after* my books are no longer available in the bookstores and supermarkets,

I am worried about the losses that are accrued during that four-week period. It seems to me that a lot of the authors who have stood up and said these used sales are trivial, are the "bigger" authors who have enormous print runs and whose books have a much longer shelf life.

I do, however, agree with those authors that we need to find a workable solution (such as that proposed by Ms. Evans) and get on to other important issues—such as the lower royalties on book club sales.

— Judi Lind

More on Used Books

I have carefully avoided the used bookstore controversy over the last few years. When pressed I have evaded condemnation of such stores while clarifying in detail how the advance/royalty thing works to those wide-eyes innocents who believe because Susie Q. Author got \$20 gazillion for her next two books—as reported in *USA Today*—we must all get \$20 gazillion, which is, of course, paid immediately upon press release. With a chuckle I spell out how publishers like to pay the author's advance in 27 unequal installments over a period of 13½ years; which is why agents flourish, and get to take a percentage of our hard-earned income. With a warm smile I explain that I write books to support my family, and not as a hobby. I must earn back every cent of that advance before I begin to get royalties; and if more books go into the used bookstores than the next printing, I may not see any royalties at all. This seeming lack of success on my part will naturally be blamed upon the author.

My listeners go away slightly goggle-eyed because, after all, they didn't know it worked this way. Writing books is portrayed as romantic, and wonderful. No one bothers to tell the uninitiated that only 5% of all Authors Guild members makes a taxable income doing this—not that I would personally stop even if I wasn't one of that 5%! My rationale, however, doesn't stop people from running a used bookstore, or from buying in one; but hopefully they will now understand that authors are not greedy, grasping monsters out to prevent the down-trodden from buying and reading books. I'm just a working woman who isn't married to a millionaire.

Actually I felt pretty smug about my ability to handle a situation that I could neither control, or change. Then last autumn a picture appeared in *PW* of a smiling gentleman opening his third, or fourth, "Used Bookstore Warehouse." I saw red, white and blue! While not thrilled with the MOM&POP stores, I can live with them. None of us, however, should have to live with monster used bookstore warehouses. This is ridiculous. And where are the idiots who publish us in all of this? Sitting serenely in their executive suites? Lunching at Lutece, and Four Seasons, with "real" writers? Romance tops a billion a year in sales now. We sell 47% of all mass market paperbacks. But for how long will the goose continue to lay its golden eggs if the farmer looks the other way while those eggs are stolen. Eventually the goose will die.

Patricia Gardner Evans makes some excellent points. The time has certainly come for action, and I suspect the ➤

LETTERS to the editor

(Continued from page 5)

author groups are going to have to be the ones to lean on the publishers. Romance fiction is the easiest target because it's the biggest, but when it becomes less profitable, the other fiction, and then nonfiction genres will be pillaged too. *Aux armes, citoyens!* Which is a fancy way of saying we better get off our tuffets before it's too late.

— Bertrice Small

Used Books—Another Facet

Patricia Gardner Evans' letter on used bookstores motivated me to share my recent experience. My latest book, released in February, carried the following dedication: "A special thanks to readers who purchased this book new."

Shortly after the book hit the stores I received a copy of a "letter to the editor" which had been faxed to *Romantic Times*. The letter writer was insulted and outraged by my dedication. After voicing her extreme displeasure, she ended by saying that she would no longer recommend my books to anyone. What follows is a slightly condensed version of my reply:

Kathryn Falk kindly passed your letter on to me, and quite frankly, I'm puzzled by your outrage. I am truly grateful for the people who support me by buying my books new, and I wanted to express that appreciation. By the same token, I have previously dedicated books to people who run used bookstores, because I also appreciate the fact that they often handsell my old books and keep them in circulation after they are no longer available in the regular market. What I don't appreciate is the growing practice of putting new books on a special shelf and reselling those books over and over, with an incentive given for a quick return. That is theft, pure and simple.

What is a person to do with a used book? you asked. Should it be read once, then burned? you wanted to know.

Give it away, is my answer. Pass it on to a friend. Give it to the library. I give books away all the time. I give copies of my books to the local library. I give copies to nursing homes. I give copies to people on fixed incomes.

Another suggestion would be to simply *hang onto the book for several months, then trade it in.*

You mention Mom and Pop stores. You are obviously unaware of what a booming business the used book industry has become. I've been toiling in obscurity while my newly released books are sold and resold by people who have no idea what they're doing to the very writers they profess to love. It is the fact that someone is making a tidy profit on my books while at the same time crippling my career and weakening the foundation of the entire romance industry that concerns me. If you are a true book-lover, you too should be concerned.

I have friends who run used bookstores. They are truly my friends because they understand the predicament romance writers are in. They wait to sell our books until those books are no longer on the shelves of major chains.

With publishers, numbers are everything. *Everything.* And

used book sales don't count. It's that simple. More and more often, writers are hearing that their sales figures aren't good enough, while everyday more and more used bookstores are opening, yet writers are hesitant to speak up for fear of inciting *just such a reaction as yours.*

I knew my dedication would stir up some comments, hopefully some healthy discussions which would get people thinking, get people to open their eyes. I had hoped readers would be savvy, mature, and fair enough to look at the issue from both sides, and to see the writer's side with a new awareness. (Regardless of your letter, I am still hoping for that.) I am surprised and disappointed that it would stir up such wrath. It's too bad a person can't speak her mind without being attacked. All I can say is, shame on you.

— Theresa Weir

Used Books—One Reader Understands

I enjoyed the article in the last issue of *Novelists' INK* regarding the funny (and sometimes insulting) comments we receive in fan letters. I remember one of them which quoted a reader as saying, essentially, "I never pay for new copies of your books—as they're so much cheaper in used bookstores." I've gotten many of those myself, and they always bring a wry chuckle. However, in light of that, I thought you might be interested in the following quote from a reader:

"... I hadn't read you until A Season of Angels but that hooked me and I've been catching up on your backlist ever since. ... I'm enclosing a dollar for you, just because I want you to have royalties for the books I've bought used!"

This gave me a laugh—and the reassurance that there are readers out there who know we don't make a dime on those recycled copies!

— Debbie Macomber

Publisher Response Applauded

I was quite surprised to read Walter Zacharias's reply to the letter about Zebra's late royalties that appeared in the March issue of *NINK*. I felt sure that Walter could not have written such a letter if he had any idea of the difficulties his authors frequently have in getting paid on time, so I wrote to him personally, detailing my own experiences with both royalty and advance payments during the ten years I have written for Zebra.

As I had suspected, Walter indeed did not know what his authors were going through. The day he received my letter, he called to thank me for making him aware of the situation. He also assured me that he was making some organizational changes within the company to ensure that those issuing the payments would be more responsive to authors in the future. Then he instructed me to let him know personally if I ever encountered any other problems. I mentioned that, as a matter of fact, I was still waiting for my most recent advance check which was late.

While I remained on the line, he tracked it down and told me the check had been signed and mailed that very day—but the entire amount had been incorrectly sent to my agent even though my

new contract specifies that I get my share directly. Walter told me his son Steve would see if he could retrieve the check from the mail room before it went out, and Steve would call me the next day to let me know what happened. Steve did call me the next morning to tell me the check had already been mailed, but that if I wanted, he would issue a new check that day and send it directly to me. He was better than his word. That afternoon my editor called to tell me she was over-nighting the new check to me, and I received it the next day.

You can imagine how pleased I was. If *NINK* hadn't addressed this issue in the first place (and allowed the publisher to respond!), I probably would never have thought to contact Walter about the problems I'd encountered and nothing would ever have changed. I think this shows that NINC can be of real service to authors and publishers alike by informing them of problems and keeping the lines of communication open. My thanks to *NINK* for taking a stand and to Walter Zacharias for taking action.

— Victoria Thompson

Open Lines

I thought everyone might like to see a letter Nora Rawlinson, editor of *Publishers Weekly* wrote to me after reading my coverage of her speech at the San Antonio conference. Another line of communication has opened seemingly with the opportunity for discussion—and education.

— Patricia Gardner Evans

Dear Ms. Evans:

JoAnn Ross was kind enough to forward a copy of your *Novelists' INK* coverage of my presentation of the October meeting. In keeping with the tone of the entire meeting, I felt your piece treated me fairly, while also including the views of many in the audience. And, if you are responsible for the headline—bravissima! Of course, one wonders if I was the enemy, or if the audience was!

You may be aware that since that luncheon, we have had some staff changes. Penny Kaganoff is now Editor of *Kirkus* and Maria Simson is editor of paperbacks for *PW*. Maria is a delight (and a romance fan) and is interested in making changes. We met recently with Candy Lee of Harlequin, whom I had met courtesy of your group. We're going to make sure she is not insulated from the concerns of the genres!

My only quibbles with your piece are those things which I wish I hadn't said. In revealing how much reviewers are paid, I didn't really mean that we shouldn't expect quality. I did make the point about paperback; but what I meant was that it seems that publishers often test out a writer in paperback. By the time they have made it to hardcover, they often have had honed their writing skill.

Anyway, when I get brave enough, I will write a piece for *Novelists' INK*. I hope that it is up to the standards you have set!

— Nora Rawlinson

P.S. I now have my own subscription to *Novelists' INK*.

INTROducing

The following authors have made application for membership in NINC and are now presented by the Membership Committee to the members. If no legitimate objections are lodged with the Membership Committee within 30 days of this NINK issue, these authors shall be accepted as members of NINC:

New Applicants:

Vicki K. Hinze, Niceville, FL
Carla Luan, Houston, TX
Debbi Wood, Lincoln City, OR

New Members:

Donna Kauffman, Sterling, VA
Ellen Jones, Los Angeles, CA

To obtain a copy of the full minutes of the Board of Directors' meeting, send \$2.00 plus SASE to the P.O. Box. For an updated copy of the Bylaws, send \$2.00 plus SASE. For a copy of the Treasurer's Report, send \$1.00 plus SASE to the P.O. Box.



"Two things impressed me mightily at San Antonio. First, it was the only conference I'd ever attended whose workshops were devoted entirely to business, not technique. I learned a whole lot! Second was the absolute lack of distinction between the "stars" and novices like me.

"Everyone I met was eager to exchange information, ideas, and advice."

— Claire Bocardo

Editor's Corner

Although we've received responses to our request for writers working with disabilities or chronic illness, we could use a few more members willing to be interviewed. All responses will be kept strictly confidential. Please contact the editor if you'd like to participate. A special thanks to those of you who've already generously agreed to contribute to this article.

As reported in the March issue of *Quill & Quire*, Torstar Corp. has spent \$4 million to purchase a 16% stake in a Toronto CD-ROM publisher. Brian Hickey, President of Torstar subsidiary Harlequin Enterprises, will sit on the board of DISCIS Knowledge Research. At present, most of the titles in DISCIS's catalogue are children's books and educational materials.

Quote of the Month: "Eventually people realized that the Information Superhighway was essentially a CB radio, but with more typing." Humorist Dave Barry in *Newsweek*.

Agents: The Good, The Bad, . . .

(Continued from page 1)

because "I'm better at what I do than he is." Marilyn Pappano, whose agent does like her work, theorizes that an agent who doesn't care for your work could be an advantage since she is only interested in the money and wouldn't be tempted to settle for less because she liked something so much and wanted to see it published.

After the majority said it was vital that the agent like their work, they did an about-face and said it wasn't necessary for the author to like the agent. However, as with any successful business relationship, respect, confidence, and trust on both sides is necessary.

The Bad

Enough of the good, now for the bad—which is always more interesting, of course. None of the authors reported the number one, hang-'em-high offense: embezzlement. For this an agent will remain unforgiven, no matter how the litigation turns out. There were horror stories on a smaller scale, however, still scarier than demonic clowns or birds with their own theory of population control because the stories were real and happen all too frequently. Nine respondents have fired agents and consistently for the

same reasons: the agent didn't return phone calls or answer letters, didn't send out manuscripts, didn't send money promptly or—as one author summed it up—"didn't sell book, wasn't available, fired." Additional firing offenses were editorial interference, bullying, and, for one author, just plain terrifying her.

Another, who has had three agents during a 17-year career, feels that once the "honeymoon" is over, agents are off seeking their next selling author and losing track of details because they have too many authors. She also feels they don't push hard enough on negotiations because they don't want to jeopardize their standing with a house.

So—is anybody happy with his agent? Yes, a surprising 80% of the authors responding are, but most went through several agents to find the right one for them. One author now has the same agent she fired back in 1981 because "we were both young and incompetent back then, but we got better." Like hers, many agent problems stem from the writer's inexperience. The rookie writer, thinking the hard part was over when he typed "the End," often grabs the first agent who offers to run the overwhelming gauntlet of editors, contracts, royalty rights, etc. for him. With more self-confidence, experience, maturity—and less blind gratitude, the

author realizes the agent isn't the saint he thought she was after all and looks for someone better. Like a greeting card says, sometimes to find a prince (or princess), you have to kiss a lot of toads. Most authors reported an average of three toads for every prince. Even then, of course, there are a few warts, but what in life is perfect (besides chocolate)? As one author said, she doesn't like everything her husband does, but she hasn't filed for divorce.

Although most authors might put the author/agent relationship more on the level of that they have with their doctor, firing an agent can be as traumatic as parting with a spouse. No relationship is without annoyances, so most authors don't sweat the small stuff as long as the important matters are being taken care of. Clive Cussler says his only gripe about his agent of 25 years is that he doesn't drink.

The Ugly

True malfeasance is thankfully rare, but "uglies" like questionable ethics, snail-like payment, non-response, and slipshod habits are not, unfortunately, and, like the song says, breaking up is hard to do. Some

A FISTFUL OF DOLLARS

One of the NINC members who reported on agents uses a literary lawyer instead. The reason is, plain and simple, money. While agents charge 10-15%, Elaine English (Lichtman, Trister, Singer and Ross, Washington DC) charges by the hour, which translates into a few hundreds, not thousands, of dollars per book. With seven years experience in both fiction and nonfiction, Ms. English does not market work or help polish proposals and manuscripts. She does look at contracts, talks about problems she sees, and explains how to deal with them. This normally takes one-two hours of her time. For a few dollars more, comparatively, she will do the negotiating.

The moderate cost of a literary lawyer may appeal especially to those authors who sell their own books but want contract advice and negotiating help. Writers who are trying to walk a tightrope between business and friendship with an editor may appreciate being able to put someone else in the line of fire relatively cheaply in order to preserve a valued relationship.

Literary lawyers generally get involved in negotiations at one of two stages: at the first serious nibble before a written contract is proffered or after the author has contract in hand. Ms. English feels negotiations are more successful if she enters into them at the first stage. By the second, refinements such as retention of certain rights or an increased advance may be all that is possible, not major changes. Literary lawyers negotiate differently than literary agents, she feels. Agents look more at "big ticket items" like advances and royalty rates and are not sufficiently sensitive to the more boilerplate items. Although she didn't say so, the agent's and lawyer's priorities are understandably different when one considers a lawyer's training and that the agent's fee is a percentage of whatever the author earns, not a flat hourly rate. As an example, Ms. English pays special attention to the "acceptability of manuscript" clause, structuring a time frame to protect the rights of the author so that repeated revisions cannot be demanded and very detailed reasons are necessary if a manuscript is deemed unacceptable. She also works to improve the author's position in the area of indemnification by requiring insurance by the publisher and author input and approval of settlements as well as the time line for reversion of rights. She tries to retain the author's electronic rights, sees that they are narrowly defined, and has negotiated with on-line services.

The ideal would be equal negotiation of big ticket items as well as small change ones, of course. **NINC**

PRESIDENT's column

. . . and The Ugly

author/agent break-ups rival Donald and Ivana's, if less public, so some may wonder if a written contract is a safeguard. The majority of respondents said no, that the agent's name on the publishing house contract was enough. "The author/agent contract must be easily breakable, so what's the point?" was Janice Young Brooks' opinion. Some agency contracts have fine print that uncared authors accept only later to discover that escape from Alcatraz would have been easier than from that contract. Try as they might, they still end up every which way but loose, shackled for months or even years to someone they now detest, their careers dead in the water. One member's agent feels contracts protect the agent, not the writer, and won't use them.

However, a minority favored written contracts and presented excellent reasons why. Marilyn Pappano won't do business without a written contract. "It's foolish and unprofessional." Sherryl Woods and several others added that a contract spells out everyone's expectations. Charles Ryan likened a contract to a ring, symbolizing the relationship. Those on the other side might liken it to a prenuptial agreement, where failure of the relationship seems a given.

Regardless of your position, there are some ugly realities you should be prepared for—in writing. Agents die, become incapacitated, retire. How do you get your money or manuscripts then? Who is the signatory for the client account in the event of death, etc.? Is there a separate client account? An agent should maintain a separate escrow or trust account for client funds. Commingling client money with the general agency account means your money could get tied up in probate, bankruptcy or divorce proceedings, and you could end up waiting months for your check and then get only 50 cents on the dollar. Does the agent have a surety bond so if he decides to play the ponies with your money, you still get paid? What about error, omission, or fidelity—incompetency liability—insurance? Membership in the Association of Authors' Representatives is a good sign, but it isn't a substitute for your financial protection.

And what about you? Do you have a will (you should!), and does your agent know to whom to send checks, etc. to in the event of your demise? True, you won't care at that point, but your heirs might. Several years ago I heard of an author dying without having told her agent what to do in that event. The heirs hadn't been close to the deceased and the lawyer was disorganized so it was a number of months before the agent was tracked down. In the meantime, he'd heard of the author's death and, not knowing who to contact, had held onto a sizable royalty check until he just "sort of" spent it. Your agent needs something in writing from you, too.

Another potential ugly is the percentage an agent charges. The majority felt 10% was fair, with only extraordinary expenses like mass copying of a manuscript or overseas express mailings to be passed on to the author. Regular business expenses should never be passed on; these are the same "cost of doing business" expenses everyone, including us, pays. If an agent charges 15%, no additional charges were considered legitimate. Some agents charge a flat yearly "office fee expense" of up to \$100. The ex-

penses are rarely, if ever, itemized so the author has no way of knowing how or if the money was spent on his business. Several authors called this nothing more than a rip-off.

One writer lamented finding an agent who "only" charged 10%. They're out there. Georgia Bockoven added an interesting aside. She is represented by the William Morris Agency, who also represents many screenwriters. Her agent told her the agency had discussed charging regular writers 15% but, since they could only charge screenwriters 10%, they felt they couldn't charge other writers more. Clearly, the screenwriters are smarter and better organized than we "book" writers are.

Another financial point to consider is splitting checks, with the publisher sending the agent a check only for her percentage and the remainder directly to you. The publishers are not as unwilling to do this as writers seem to think. One advantage is speed. Checks detouring through an agent can take two-three weeks longer to arrive. A few notoriously slow agents make a month or more the rule rather than the exception. Another advantage is not having to worry about your money being tied up in the event of the agent's death, etc. A third is that if you part from the agent, the break is clean. You are not still financially joined, a real advantage if the parting is acrimonious.

A major disadvantage cited is that the author has to keep track of when checks should be arriving and either calling, himself, or calling the agent to hassle the publishing company. Since the agent is paid the same amount either way, one would think the agent would be keeping track as well and making the calls without the author's prompting. A real problem could develop when foreign sales are significant if the check *doesn't* go through the agency. Foreign sales can be complex enough without having separate checks sent, and even the most ardent check-splitters advocated having all foreign income come through the agent. In recommending that all income pass through the agency, Janice Young Brooks said that separate checks "show an enormous lack of trust, and I wouldn't want an agent with so little pride as to accept such denigrating conditions."

Another ugliness as far as respondents were concerned were agents who are also published and currently selling writers and agents who are also book packagers. Both were considered major conflicts of interest and questionable ethically.

The Necessary?

Even the unagented acknowledged that an agent can be necessary. To decide whether one is necessary all the time or only in exceptional circumstances, first consider the financial pros and cons. If you sell your books yourself, an agent is not going to be cost effective if all he does is get you a bigger advance—unless we are in a period of very high inflation. There is always some inflation from year to year so advance dollars this year will be worth a few cents more than the royalty dollars that come in after your book is published. An argument can be made that negotiating a significantly higher advance will make the company back the book better and/or do a bigger print run to earn back its money, but it's unlikely the increased advance would be that

Agents

(Continued from page 9)


high. To really earn his keep, an agent would have to negotiate a higher royalty rate overall or on book club or foreign sales than you had been able to do yourself.

If an agent makes a sale for you in a new market or with a new publisher that you felt you couldn't make on your own, then you can consider her commission a finder's fee—a reasonable expense for something you more than likely wouldn't have gotten otherwise.

After doing the math, you may think that an agent isn't worth the cost—just as some agents decide about authors. However, there are intangible benefits of having an agent. Agents take care of the negotiating, fine tooth comb contracts, monitor and assess opportunities, keep track of proposals, checks, manuscripts, and other necessary but annoying details. Agents can also provide editing and critiquing and, perhaps even more important, they can provide much-needed support and encouragement. An agent as an intermediary between you and an editor you have come to value as more than a business acquaintance can preserve a relationship that wouldn't survive the sudden impact of blunt, tough talk about money and hard negotiation. Both of you can pretend it is the agent being so crass and unreasonable; not very mature, maybe, but it works. An agent may never get you one more dollar than you could have gotten yourself, but still be worth every cent of her commission.

The respondents universally agreed that the ideal agent is a tough negotiator and expert on contracts and markets. Integrity, responsiveness, and remembering who is working for whom are givens. For those who want it, an agent should also be supportive, yet critique well. Naturally, one writer's dream agent will be another's nightmare, so how do you find your dream and avoid the nightmare?

The number one piece of advice is to talk, talk, talk with other writers. Then, armed with some names, dig out your NINC agents' survey and do some comparison shopping. Contact those you are still seriously interested in, and, lastly, meet the finalist(s) face to face before you decide—at a conference, any which way you can. As one author counsels, choose an agent as carefully as a housekeeper, nanny, or business manager. Writers tend to be too casual about this sometimes. Nora Roberts' advice was echoed by the majority—"make sure you're compatible, that your goals are understood, and be reasonable. Don't expect miracles."

After you've decided, the advice from Clive Cussler is to "call them frequently." Several cautioned against becoming personal friends with your agent—not always possible to avoid, but the author/agent relationship should first and foremost be an employer/employee relationship. Barbara Keiler states what should perhaps be the writer/agent credo: "The agent works for me. I am the boss. The agent's job is to help me succeed as a writer and a professional. I have the final say." And last—and certainly most—from Sherryll Woods: "No one, not even the very best agent, cares as much about your career as you do. Stay on top of things yourself." 

Book Passage to Pay Author Royalties

By BILL PETROCELLI

An author's worst nightmare is not getting published, but a close second is being published and not getting paid for it. This can happen in two situations: the sale of remainders and the sale of used books.

We've decided to do what we can to help change this situation.

Starting January 1, 1994, we will pay authors a royalty of 5% on the sale price of remainders and used books sold at Book Passage.

Why are we doing this? Basically, because we think it's good for business. We like to see authors well-paid, happy and productive, because that usually means more good books for us to sell. Is anyone going to make a lot of money on this? Probably not. At best, it's a get-rich-slow scheme. But who knows, maybe we can start a trend.

Used Books

With most books the author receives a royalty at the time the publisher first sells it as a new book. But this is not true of later sales. The author has no legal right to a royalty on the subsequent sale as a used book, nor does he or she have any practical way of knowing how often the book is resold unless the book dealer voluntarily provides that information.

So the author gets a royalty on the first sale, isn't that fair enough? In many cases, no. Most authors including those who later become famous are paid a very small "advance" against royalties for their early books, and that's usually the only money they ever see. But if those books later become collector's items, they may be sold and resold for many times their original price. It's not unusual for a rare book dealer to sell *one* early "First Edition" for more money than the author received for the sale of *all* the books at the time they were published.

Remainders

While the situation with used books is an injustice, the situation with remainders is often a scandal. Most publishing contracts give the author a percentage royalty—typically, between 6 and 7.5% of the suggested retail price printed on the book. But there's usually a big exception: If the publisher sells the book at anything over the normal trade discount it gives to bookstores, the royalty percentage is often reduced. This doesn't usually happen on publisher sales to bookstores, but it can happen on "special sales" to warehouse clubs and other mass merchandisers. Worst of all, from the point of view of an author, is when the publisher sells the balance of its stock at a cut-rate price as a "remainder." Under many publishing contracts, the author gets nothing.

The Book Passage Plan

The Book Passage royalty plan works like this:

1. We'll pay a 5% royalty to authors who let us know they want to participate in the plan. Several authors are already on our mailing list, but to be sure we have your name and address please drop a note to the attention of "author royalty program." We'll keep the names and addresses confidential.
2. We need the author's name and address—not the publisher or agent. We want the royalties, small as they may be, to go direct-

ly to the authors. We're also limiting this to living authors: We don't want to get entangled with the literary executors of Hemingway, Shakespeare or anyone else.

3. We'll accumulate royalties and pay them every six months or earlier if the amount is large (as we hope it is—for our sake, as well as the author's). We'll pay royalties on sales after the date the author begins participating in the program. There's no easy way for us to track down earlier sales.

4. This will apply to all sales of used books, including those that we are selling in conjunction with the Hospice of Marin. The payment of author royalties will not affect the portion of the

proceeds from those sales that go to benefit Hospice programs.

5. If we need to modify this plan, we'll announce any changes in a future *News & Reviews*. We think we've got this pretty well planned, but we're not sure what problems we'll encounter as we put it into practice. **ANNA**

Editor's Note: The above was reprinted with permission from Book Passage News and Reviews. To order the catalogue or the newsletter, or to be included in the author royalty program, the address of the Book Passage is 51 Tamal Vista Blvd, Corte Madera, CA 94925. 1-415-927-0960, 1-800-321-9785, or Fax: 1-415-924-3838. A special thanks to Georgia Bockoven for bringing this to our attention.

THIS didn't WORK for me

Adventures in Paradise

By JOAN JOHNSTON

I'm living the dream of all writers. After ten years as a published author, the past two writing full-time, I picked the most beautiful place in the world I could find to live and moved there with my son. I write contemporary and historical western novels. What better place to live than in the west?

I arrived in Jackson Hole, Wyoming, a valley surrounded by gorgeous mountains layered with aspen, pine and fir, home of the Grand Tetons and the Snake River and close enough to spit at Yellowstone National Park, in September of last year.

I leased a wood and stone house high atop a mountain in a gorgeous area called Indian Paintbrush. I took a walk shortly after my arrival and located 17 different wildflowers.

Over the past six months I've seen lots of moose. They're usually mean, and it can be inconvenient when one parks himself at the end of your driveway. Deer, buffalo, porcupine, elk (Jackson Hole is a winter elk refuge. I can see thousands about 15 minutes from my front door), foxes and trumpeter swans abound. Of course there is also the local fauna—horses, Herefords, Angus, longhorns and llamas (used for hunting pack trips).

I've done some of the best writing of my life here. It seems the spirit does soar when faced with such a vast and lovely wilderness. But my phone bill is hundreds of dollars each month to keep me in contact with other writers, and I miss my acrylic nails, Burger King, and chain bookstores. I've crossed the Teton Pass during a blizzard and driven 90 miles to Idaho Falls just to get a look at what's new on the shelves.

I've kept myself busy two-stepping at the Million Dollar Cowboy Bar, where saddles are used as seats at the bar. I've eaten lunch at the Stagecoach Bar and the Sugarfoot Cafe. I've been dogsledding in Togwotee Pass and learned to downhill ski on the Tetons. I drove a snowmobile to Old Faithful and back to the edge of Yellowstone Park. These are things you can't experience anywhere else.

But Jackson Hole isn't what I expected it to be.

Cowboys here wear baseball caps instead of Stetsons, filthy

thermal coveralls instead of jeans, and Sorel boots that are akin to footwear from the L.L. Bean catalog. They invariably leave a dog in the front seat to guard their 10-year-old pickups. I don't believe they shave or bathe, at least not on a regular basis. I even know why.

It's too cold.

I wear so many clothes I haven't seen my underarms in six months, let alone shaved them. (For those of you who may be interested, the hair only grows about an inch long.) I started shaving my legs when I started skiing because I didn't want to have an injury and end up grossing out the orthopedist. As it turned out, my legs were lovely the day I sprained my medial collateral ligament. The orthopedist—who just happens to be a doctor for the U.S. Olympic Ski team—gave me a knee brace and told me I could hit the slopes again whenever I felt ready. I'm still limping four weeks later.

Life here is more primitive. There is no mail service. I have to pick up general delivery at the post office. There is no garbage collection. I haul plastic bags to a bin at the bottom of the mountain. Everyone has four-wheel-drive and carries emergency rations. Winter here can kill you.

I won't be staying in Jackson Hole. I'm heading back to south Florida when my lease is up in June. "It isn't the cold," I tell people. "It's the isolation." People here don't really care what's happening in the outside world. Their biggest concern is whether too much of the valley is being developed too fast. This, in a town of 4,500 souls, where both traffic signals begin blinking at 10:00 p.m.

I'm not sorry I made this detour in my life. It has helped me to understand that people are more important than places. Jackson Hole is breathtaking. I will miss waking up to evergreens weighted with snow, fog shrouding the Grand Tetons, and the sight of a moose and her calf standing in the shallow water of Fall Creek. These are daily occurrences here.

But more than ever I am aware that writing is a solitary profession. I have learned that I need the daily exchange of hopes and dreams, of successes and failures, with other writers of my ilk. I need to be connected to other people.

The mountains are too lonely. **ANNA**

Conference Update

By VICTORIA THOMPSON, Conference Coordinator

My assistant, Carla Neggers, has been contacting editors and agents about attending the 1994 conference in Atlanta, and she reports that the word is out: Novelists, Inc. is the "fun" conference to attend! Editors, it seems, are clamoring to be selected to represent their house in Atlanta this year and for good reason. This is the one conference where editors (and agents, too!) can meet individually with their authors and really spend some time together in a stress-free atmosphere.

At Novelists, Inc., the ratio of authors to editors is less than ten to one, so if you're looking for a new publisher, or if you've got an idea you'd like to pitch to your current publisher, you won't be

competing with a thousand aspiring writers for attention. And if you're looking for a new agent, NINC's conference is the place to meet some one-on-one and to hear what they have to say in the professional discussion groups. Also, the NINC conference is the ideal time to ask your peers about *their* agents.

Of course, the reason editors and agents think Novelists, Inc. is "fun" is because they can do some real business there, and our members can, too. If you aren't sure whether your agent plans to attend, please give him (or her) a call and encourage him to come. And if your publisher isn't listed in the brochure, give your editor a call, too, and see if they won't change their minds about sending someone. We want to have a lot of success stories to report next year!



the NEXT PAGE

At least two months preceding publication, please send publication information to JoAnn Ross, 43 E. Boca Raton, Phoenix, AZ 85022-4713. You're welcome to submit this information as soon as your publication date has been confirmed.

Brondos, Sharon: *Kiss of Darkness*, Silhouette Shadows

Browning, Dixie: *Lucy and the Stone*, Silhouette Desire (#2 *Outer Banks* Series)

Brownlie, Noreen: *That Outlaw Attitude*, Silhouette Special Edition

Comas, Mary Kay: *The One For Me*, Bantam Loveswept

Copeland, Lori: *Promise Me Forever* (Last book in the *Sisters of Mercy Flats* series), Fawcett

Eberhardt, Anna, w/a Tiffany White: *Love, Me*, Harlequin Temptation

Feddersen, Connie, w/a Carol Finch: *A Bid for Love*, Zebra To Love Again Super Special

Feddersen, Connie: *Dead in the Cellar*, Zebra Mystery

Gellis, Roberta: *Alinor*, Leisure (reissue)

Greenberg, Jan, w/a Jill Gregory: *Daisies in the Wind*, Dell

Hart, Alison, w/a Jennifer Greene: *Bothered*, Silhouette Desire

Hatcher, Robin Lee: *Forever Rose*, Leisure Books

Ihle, Sharon: *The Law and Miss Penny*, Harper Monogram

McCaffrey, Anne: *The City Who Fought*, Baen Books

McCaffrey, Anne: *The Girl Who Heard Dragons*, TOR (Hardcover)

Myers, Helen R.: *Once Upon a Full Moon*, Silhouette Desire

Myers, Mary, w/a Mary McBride: *The Fourth of Forever*, Harlequin Historical

Sandifer, Linda: *Came a Stranger*, Zebra Lovegram

Soule, Maris: *No Promises Made*, Bantam Loveswept

Springer, Nancy: *Music of their Hooves*, Boyds Mills Press (hardcover)

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