

NINK

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BeachCon Recap: Gloves Off: Contracts and Naughty Authors

Brainstorming: The Future of Publishing Panel Report #2, Contracts and Copyrights

Time: 10:45 a.m.

Location: Same room as before, gorgeous beach resort (suffering for our art), yada, yada...

BY MEREDITH EFKEN

After a super-fast turn-around, we've reset the platform for the next panel. I've become sort of obsessed with making sure the panelists have fresh glasses and aren't accidentally drinking out of used ones from the last panel. I think the wait staff is eyeing the supply closet and wondering if anyone would miss me.

All the panelists (David Forrer, Alan Kaufman, Carly Phillips, Deb Werksman, Donna Hayes, Chris Kenneally, Al Zuckerman, and Brenda Hiatt) are in their seats, and I see no rogue showerheads lurking above them. I'm thinking this should be a snoozer of a panel—all the arcane details of contracts and copyright issues. We put it mid-morning hoping that would help everyone stay awake. I sit back and prepare to take notes on what should be our calmest panel of the day.

Moderator Peter Novins starts out by asking a tactfully worded question that I shall paraphrase thusly: Because we've got so much more sales info and data, what are publishers doing to change the way they pay authors? (i.e. We want our money faster and more often!)

Al Zuckerman is to the point. "Almost nothing."

Darn.

He goes on to explain that there is one publisher who is trying to move to a FOUR payment schedule for advances! (Collective gasp of outrage from audience.) He sees nothing to indicate they have any recognition of the fact that they even have the information. But on the other hand, he does admit that publishers send out thousands of royalty statements each period. Having to do that more frequently would be time consuming and expensive, so it's not a simple matter to deal with. There should be a better way to handle it, but he's not sure what that would be.

Alan Kaufman points out that publishers tend to be conservative and resist change, and they've had bi-annual accounting for years so there's not

Continued on page 4 ▶

INSIDE this ISSUE

<i>President's Voice: A Word of Thanks</i>	3
<i>BeachCon Recap: The Psychology of Character Motivation</i>	7
<i>BeachCon Recap: My Muse Was Hiding Out at the Beach</i>	9
<i>BeachCon Recap: Plotting the Perfect Murder</i>	11
<i>BeachCon Recap: Carina Press Workshop</i>	12
<i>2011 Conference Announced</i>	13
<i>The Mad Scribbler: The Santa Paradigm</i>	15
<i>Not Your Usual Writing Advice: Productive Procrastination</i>	17
<i>Bulletin Board</i>	18
<i>Writing Is Taxing: Estimate, Guesstimate</i>	19

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The following authors have applied 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 15 days of this Nink issue, these authors shall be accepted as members of NINC. For further information or to recommend eligible writers, contact:

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NINC Statement of Principle

Novelists, Inc., in acknowledgment of the crucial creative contributions novelists make to society, asserts the right of novelists to be treated with dignity and in good faith; to be recognized as the sole owners of their literary creations; to be fairly compensated for their creations when other entities are profiting from those creations; and to be accorded the respect and support of the society they serve.

Gloves Off

likely to be a shift any time soon. Also, publishers don't like to fully staff non-profit-making departments like the royalty department, so they're usually understaffed. It's also a matter of cash flow—publishers end up waiting a long time to get paid, too.

But a few areas concern him greatly:

- ▼ Publishers are not staffing up to be able to account for new digital sources of income or ad revenue surrounding future sales of e-books. By that, he is talking about the ads on Google or other sites that surround the books and are (or will be) a whole new source of revenue for the publisher. He wants authors to have a share in it as well.
- ▼ A major publisher has created a new boilerplate that says the first \$1,000 of income from e-books comes straight to the publisher. (Another outraged gasp from audience—I guess we're not going to be sleepy after all.) When he asked why, their excuse was that their royalty department was not equipped right now to deal with and measure ad revenue. His reply? "Well, you'd better get ready." He says not being ready is not a valid excuse.
- ▼ And by the way — reserves on the first two royalty periods are fine, but there's no reason for publishers to continue holding reserves past the first year.

We have two publishers on the panel — Donna Hayes, CEO of Harlequin, and Deb Werksman, the editorial manager of Sourcebooks. They both look like they have Things To Say, and Deb gets the first shot.

"Since it appears the gloves are off," she begins, "let me just say I respectfully disagree from a publisher perspective."

Alan looks startled by that for a moment, and then laughs a little, but I can tell he's preparing not to budge. Things are definitely livening up now. These panelists really know how to make a discussion about contracts more exciting.

Deb explains that Sourcebooks is an indie house, not a conglomerate house. As such, they believe in back-listing books for very long time.

She has facts:

- ▼ Publishing is an industry where 50% sell-through on a book is considered success.
- ▼ This means we can assume that 40-50% return rates can be expected. This figure can be higher on "not successful" books.
- ▼ Many stores practice "refreshing payables"—which is when stores order books, then return them, then reorder a week later.
- ▼ Books can come back at any time, and many are affidavit returns—books that are destroyed instead of physically returned so they aren't available for resale.
- ▼ All this has a big impact on the publisher's cash flow, and not just in the first two royalty periods.

Al Zuckerman is unmoved by the plight of the publisher. "If you have a book that is performing well, with consistent sales, there is no need for a reserve, and yet publishers are still doing it."

Well then.



Why Do We Even Allow Returns From Bookstores?

- ▼ *Because booksellers won't stock them without the right to return them. There have been recent publishing attempts to launch imprints that have no returns, and it hasn't worked. Penguin tried to offer a discount to booksellers based on how few returns they made, and it failed. Bookstores will cut orders to the bare minimum and not stock the titles.*
- ▼ *Booksellers never really know how many copies of a book will sell. Publishers want to encourage sellers to take large quantities of a title so the book is noticed more, but what if—despite the promotional efforts—the book just sits there? That's bad news for everyone.*
- ▼ *Compromises such as time limits on returns don't work well either. Booksellers will look for any excuse to pass on a book.*
- ▼ *Additionally, we don't want to force sellers to return a book by a certain time. We want to give the chance for the book to stay in the store as long as possible.*



Donna Hayes finally jumps into the fray. She says that yes, we have some information in terms of point of sales, waiting for returns, affidavit points, etc. but it's not so different from what we had 10 years ago. However, at Harlequin, they try to give accurate sales information to the author.

The guys look like they're about to disagree with her again, so Peter hurriedly moves on to the next question. This one is on piracy — how can we better protect the copyrights of the books?

Donna announces she recently joined the AP board, which is actively working on reducing piracy. Additionally, Harlequin has created a website specifically set up for their authors to report piracy. They have two people in their legal department whose sole job is to pursue those sites.

Deb offers the point that piracy might not be as hurtful to book sales as we might think because the people who pirate weren't likely to buy our books anyway.

She is all but ignored (sorry, Deb!) and several of the other panelists offer up the following tidbits:

- ▼ Education is key. In the future there will still be copyright because our Constitution ensures it. It is not going away.
- ▼ Authors can address the issue on their websites.
- ▼ We hear “Information wants to be free” and we think “not costing money” instead of “liberated.” But the rest of that quote actually goes on to say, “Information wants to be *expensive*.” Information wants to be freely available but **very valuable**.
- ▼ Used bookstores could disappear.
- ▼ A reasonable price point affects the amount of piracy, too.
- ▼ Education goes both ways, not just to the reader. Authors need to know what they can do and what their publishers are doing.
- ▼ Pat McLinn targeted the advertisers on these piracy sites. It was an effective tactic to combat the piracy sites. It might be a technique to try on a wider basis.
- ▼ Most piracy happens from outside North America, from countries who don't have a legitimate distribution channel for English-language books.

Deb caps off the discussion by saying that even putting the piracy question aside for a moment, the part about information wanting to be free is crucial. One thing they're concerned about is that as the e-book industry grows, it will be very important for publishers, authors, and agents to frame the conversation and not let the tech folks set the agenda especially on price.

That point generates much more enthusiasm.

Suddenly, we notice that there is one panelist who hasn't yet said a single word — David Forrer, with InkWell Management. The soft-spoken (and apparently long-suffering but knowledgeable) agent grabs the microphone in the slight lull in conversation to play catch-up:

- ▼ **On payment:** He would like to know how publishers can become more transparent on accounting and royalties. There needs to be more accountability.
- ▼ **On Info for Payment:** some publishers say they can get numbers on weekly basis, some say it's a month or more.
- ▼ **On that first-\$1k-to-the-publisher deal:** The publisher should have said, “It's a cash flow issue and we simply need that money first.” It's that transparency thing again.
- ▼ **On reserves:** Contracts seem to be always evolving. When he sees a reserve that doesn't appear justified, he usually is able to get that reserve released.

Peter turns the discussion to the tangled, messy Matter of the Out-of-Print Clause. (cue foreboding music) **Does contract language stating a book is considered to be in print if it's available in any format, combined with all this new technology, mean that no book will be out of print, ever?**

To no one's surprise, there are several strong opinions on the panel. Here's a quick run-through:

- ▼ Alan's Rant: “Agents do a good job of battling the rights issues with publishers. But this is one area where I'm amazed at how ineffective and bad a job everyone has done.” Ouch!
- ▼ According to Alan, it is now practically industry standard and impossible to get the clause changed.
- ▼ You can change it in some ways—restricting it to trade editions or to availability in the English language. **But the killer is that the book is deemed in print if they sell \$250 worth of the book in a two-royalty period.**
- ▼ Alan feels this should be in units instead of dollars, and \$250 over two royalty periods is ludicrous. He's negotiating it with CEOs regularly. There should have been an outcry about it in the publishing community, but there wasn't so it's now nearly a done deal. It *can* still be negotiated, and should be, but it has become part of the boilerplate so now it's more difficult to get it changed.
- ▼ It's a huge trap because it allows publishers, in their concern about holding rights in the face of the digital ▶

transition, to hold rights forever.

- ▼ Al Zuckerman agrees that there shouldn't be a dollar amount — it should be number of units instead. He has successfully negotiated with all major publishers that if they want to keep book in print, they have to sell 300 units in any format in a single royalty period, or the rights revert. Some of his authors with out-of-print books are making deals with Amazon or other places and selling them electronically.
- ▼ Donna says that Harlequin looks at it as trying to do the best for their authors by converting their backlists as quickly as possible to e-books. Their intent is to do the best job they can to keep selling those books. The money put into marketing that has been quite valuable and effective for both the publisher and the author.

On the issue of subsidiary rights and author/agent attempts to reserve them: Will we see a move toward limited license terms for rights?

Alan says no — it's not going to happen. Major publishers are right now grabbing as many rights as they possibly can. They are running scared because the changes are happening so much quicker and with more force than anticipated. They are like large ocean liners trying to turn around and it's difficult. Their answer seems to be at this point to try to grab as many rights as possible and embed in contracts ways to keep authors from getting back rights. Publishers provide very necessary services, but have huge challenges facing them.

Al Zuckerman points out that there are two rights that are most valuable: foreign and film/TV.

Another contentious issue — E-Book Royalty Rates:

- ▼ Brenda says that as e-books become a larger part of the market, authors need to pay extreme attention to royalty rates when they are negotiating contracts. Publishers have not been willing to budge on rates. The 25% rate is not an industry standard yet, and she wants to encourage authors and agents to stay on top of that because it will affect author income substantially.
- ▼ Al agrees. "Currently, most major publishers pay 25% of net or 15% of list on e-books." He has negotiated for some of his clients the ability to take a second look at the royalty rate after three years. This allows them to potentially renegotiate the royalty rate at that time, with the right to pull the e-book if they can't agree on an acceptable rate. Either Alan or Al has just pointed directly at Harlequin, criticizing their 6% royalty rate on e-books as being unacceptably low, even compared to other publishers.

Donna says, "Our position on e-books is that first, we pay off cover price and not net, and second, until the e-book market evolves further and we know what is happening with it, we won't pay differently or more than what we pay for print books because our expenses have not been greatly different for e-books than for print books." She also points out that paying on gross can be much better than paying on net.

Alan responds that he thinks there will be big push to increase author's share on e-book rights. I think the audience is hoping he is correct, but we are all wondering how Donna arrived at her numbers. She promises to provide that information for us.

And finally, now that our heads are spinning with numbers and clauses and terms and rights — Christopher Kenneally uses the quote, "If you're confused, you're beginning to understand the problem." And it seems apt to me — our final question for the panel is on the issue of the Moral Turpitude clauses that have begun popping up in major boilerplate contracts.

This clause basically says that the publisher can terminate the contract if the author behaves in an immoral way or does something that will damage the publisher's reputation. The room erupts in disgust over this. How can they get away with such a clause?

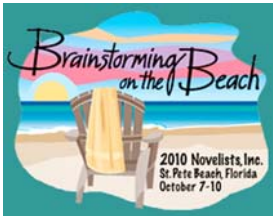
Alan has high compliments for HarperCollins in general, but he says they have a new boilerplate that is "positively Dickensian." It is trying to take back many of the gains that agents and attorneys have fought to achieve over the last fifty years. Agents and attorneys have gotten back most of it, but the biggest surprise was this clause that immoral behavior of the author could warrant termination of the contract. It is possible to negotiate it out, but agents and authors should be aware of it.

From the back of the room, our NINC sweetheart, Carolyn Pittis, says she doesn't think that is actually in the HarperCollins boilerplate. Alan looks sincerely regretful to have to tell her otherwise, and Al is nodding, too. A few emails to her legal department later, she is acknowledging that they are right — and she gives an emphatic, "That's terrible!" in response.

Carly Phillips says that this trend troubles her greatly. "I wouldn't sign a contract like that, and my behavior's pretty good!" The problem is who determines what "immoral" means?

I will ponder that later as I'm enjoying a tropical drink at the bar. We naughty, naughty authors — good thing we have upstanding parental publishers to make sure we behave. Otherwise, who knows what we might get up to? But thankfully, we have publishers who are wise and full of integrity, who are themselves moral paragons of virtue, to define and control our behavior for us.

On that note, it's time to adjourn for lunch — and it's the most delicious crab bisque I've ever tasted. I have the pleasure of sitting with Kasey, Kelly, and several of the Harlequin contingent — including Donna Hayes. Contract disagreements and bizarre clauses aside, these are truly wonderful people, and I feel lucky to be part of this intriguing and diverse community. ▲



BeachCon Recap: The Psychology of Character Motivation

A summary of Dr. D.P. Lyle's workshop

BY SASHA WHITE

In order to create great characters and write compelling stories, we need to understand the psychology of our characters. It's easy to think Goal, Motivation, Conflict, but in reality we know that creating memorable characters is not so easy. With that in mind I stepped into the conference room at the Tradewinds Island Grand and prepared for Dr. D.P. Lyle's workshop, *The Psychology of Character Motivation — Understanding the Whys of Character Thought, Action, and Dialogue*.

Admittedly, I was worried that taking a workshop from a Dr. on the psychology of character motivation might be a bit too, oh I don't know... school-ish for me. You know what I mean? I've never been one to read textbooks and I don't have much love for big ten-dollar words. I like it when things are explained to me in a simple straightforward way. Dr. Lyle did even better than that — he used examples that made things crystal clear.

I'm going to jump right in with the recap here and start with his slide show. It looked a little like this....

Tough Guy	-----	Whiner
Team Guy	-----	Rebel
Artist	-----	Dreamer
Smarty	-----	Dummy
Blooming Rose	-----	Wallflower
Grinder	-----	Lazy Dog
Goody	-----	Baddy
Believer	-----	Doubter

For the workshop he used the character and story line of *Silence of the Lambs* for an example.

First we went over each line asking which side of the board Hannibal was on at the start of the book. Then again at the end of the book. Then we did Clarice, start and end of the book. Sometimes the character fell in the middle, but often it was closer to one side than the other.

See an example of the Clarice chart below.

Tough Guy	-----S-----	Whiner
Team Guy	--S-----	Rebel
Artist	-----S-----	Dreamer
Smarty	-----S---	Dummy
Blooming Rose	-----S---	Wallflower
Grinder	-----S-----	Lazy Dog
Goody	---S-----	Baddy
Believer	--S-----	Doubter

Now keep in mind I can't remember exactly where Dr. Lyle put them, so these are my remembered interpretation.

Basically, at the start of SOTL Clarice was a rookie FBI agent who followed all the rules, did her job, and didn't think much for herself or stand out from the crowd in any real way. But as the story changed, so did she. She learned, and grew, and changed, until at the end of the story she ignored procedure, and her own safety by going into the basement after Buffalo Bill (bad guy serial killer) to rescue the girl. At the end, her chart was drastically different than it was at the beginning. Everything changed. Clarice, and her belief system, were changed forever by the choices she'd made in the course of the story. ▶

Hannibal, however, changed very little throughout the story. The one thing about him that did change, however, was essential. At the beginning of the story Hannibal was simply the bad guy. Sure the way he killed was disgusting, and what he did (eating the victims) was gross, and we all knew he was evil, but that was pretty much the same at the end of the story. The change in him was brought on by Clarice. The change was that he grew to admire and care about her, and that added dimension not only made him human, it made him even more terrifying.

What we need to learn from these examples is that characters are people. People we create who grow and change as the story moves forward. And change is essential. Our characters come from our imagination; we give them names, jobs, desires and foibles. They have good traits and bad, they are not flat, or one dimensional — at least we don't want them to be! We want them to be three-dimensional. In order to accomplish that they have to grow and change, the same way we do.

“Let them live. Let them breathe,” Dr.Lyle says when talking about character. “Then pressure them into changing.”

Why should we pressure them into change? Because people don't change unless they have to. Pressure makes things move and people change.

Not to mention pressure creates tension, and tension makes for great storytelling. So, how do we create this pressure?

Dr. Lyle's answer is, “No win creates pressure.”

This is where we get into the nature of the conflict zone. Dr. Lyle says that when in the zone “characters have to choose A or B, and that choice will change them forever.” We, as the authors, build tension and pressure by showing what the character wins and what they lose with choice A. Then show the same with choice B. And by doing that we show that there is a win for the character in both options, and a loss for the character in both options as well. This is what makes the choice so difficult, and builds the pressure. That pressure can be stretched over months, or flash in seconds.

Again, Dr. Lyle gives us an example of it broken down into something simple so we can grasp the concept, and adapt it to our own stories.

His example is that of a woman with three children, at home, and the house gets on fire. She manages to get two of her three children out of the house before it becomes clear that she might not succeed if she goes in after the third.

This becomes the conflict zone with choice A or B.

A

B

Go in after the third child

WIN if she saves the child

LOSE if they both die and the 2 outside are orphaned.

Stay with the 2 outside.

WIN, she still has 2 children, and they have a mother.

LOSE: she loses the third child.

Both choices have a win and a lose side to it. So which does she chose?

“We are all trapped by who we are,” says Dr.Lyle. Meaning this is the type of pressure and conflict that changes your character. No matter what choice she makes, she will never be the same person she was. These are the types of conflicts we need to think about. We need to understand who our characters are at the core, not just on the surface, in order to put them under pressure and create the changes in them that come with great characters and major storytelling. Once you've put your character into the conflict zone, and you've made it clear what the win/lose options of both choices are, you need to decide what choice you can **use** best in your story.

There was also a bit of talk about how different it is when you're writing a series. Series characters don't need to, and really shouldn't change so massively in each book. If you're writing as series you can't have them change so drastically in each story because then you risk losing your readers. Readers follow a series because they like the character. They want to see the character challenged physically and intellectually, they want to see his belief system challenged, but they love the characters the way they are, and don't really want to see them change fundamentally in each story.

The final message of the workshop is that often we get too caught up in the writing. We need to take a step back, breath, and *think*. List all the options your character has, then make the right choice for the story — which is not always the right choice for the character's well-being. Sometimes people do bad things for good reasons, and vice versa, and we need to think of our characters as people, or there's a chance they might become flat and one-dimensional.

This workshop was the second of the day for Dr. Lyle, and when it was over I was lucky enough to get a few minutes alone with him and my video camera for an on the spot interview. You can view it here on YouTube (<http://www.youtube.com/watch?v=ugf0JukRXXMI>) and see just how dynamic and adept a speaker Dr. Lyle is.

Please check out Dr D.P. Lyle's website at <http://www.dpylemd.com>. Not only is he a wonderfully dynamic

speaker, but he is generous with his knowledge and thoughts on his blog as well. His **Writers Forensic Blog** (<http://writersforensicsblog.wordpress.com/>) is a highly recommended resource.



BeachCon Recap: **My Muse Was Hiding out at the Beach: Getting Back into the Game**

a Brainstorming at the Beach Workshop report

BY ELAINE ISAAK

A few years ago, Ellen Tabor had published three historical romances, with another in the pipeline, and a brand new Novelists, Inc. membership. She was living the dream of being a published novelist. Then her line closed, leaving her next work in limbo. She opted to pursue another goal, returning to college and landing a position teaching composition — and selling her master’s degree novel to a publisher. . .that unfortunately went under. Is this starting to sound familiar? After that came a dry spell when it seemed she just couldn’t sell a thing. Demoralized, Ellen began to lose interest in writing altogether. Then she recalled a conversation with her father at their Tybee Island, Georgia home: “If you don’t write the story of Tybee, nobody will.”

The story of Tybee, conceived as a resort for working-class people in the late 1800s, had always intrigued Ellen, but how did it relate to the fiction career she longed for? Still, she started paying attention to how a regional non-fiction book might be marketed. She visited local tourist destinations and found not only non-fiction titles, but also children’s books, middle-grade, and adult fiction titles based on those same locations — and selling to the locals and tourists who visited there. Ellen started interviewing locals, thanks to her own island connections, and teamed up with an academic author, Polly Wyly Cooper, who was researching the same material. Together, they created not only *Tybee Days: 100 Years on Georgia’s Island Playground* but also *Sand Between our Toes: Tybee Island Family Photo Album*, thanks to the generosity of citizens sharing their historical photos.

In December 2009, Kennesaw University Press took a chance on these non-academic titles, and soon found they had a couple of regional bestsellers on their hands. Ellen and her co-author promoted the books through local gift shops and tourist areas as well as bookstores, and Ellen found herself not only with hundreds of story ideas, but also a platform as an expert on local history from which to market and sell the fiction projects she has in mind. She and her co-author were recently given the Georgia Author of the Year Award for 2010, and she returns home from the conference to a television interview about their work.

Ellen shared some of the Tybee stories she had collected, and also her thoughts about how to re-start a career. She kept motivated during the five-year writing process because she had no deadline. “I could do this the way I want. If I had a deadline,” Ellen said, “a lot of stories wouldn’t have been told.” She researched the potential for competing titles about the people of the area and found none, so she knew she had a promising niche. When the offer came in from the press, she had the contract reviewed by a literary attorney and was able to win higher royalties. Before, she had been worried about ever publishing again, but this project got her out of the rut of rejection. “I’ve seen so many fiction ideas come out of this that I can’t wait to get back to the writing.” Ellen points to *Midnight in the Garden of Good and Evil* as a title once thought so regional that it would not achieve wide success. However, readers remain hungry for stories of the South, the coast, and the type of history that brings nostalgia and good memories.



Ellen recommends using your off-time to research topics and other genres. Attending the BEA convention exposed her to the wide variety of books she might be writing, outside of her roots in historical romance. “I just think the muse hangs out at the bookstore, but not only in the romance section.” Also, her non-fiction work has given her a built-in platform for selling other regional works, promoting these with the contacts she has made, and selling more books to an interested readership.

As Ellen’s talk broke out into general discussion, we generated all kinds of ideas about how to re-start a writing career, many of which dovetailed with other themes of the conference, like looking to small press or e-publishing as exciting alternatives to the traditional route. Other ideas you might try include:

- look for something special about your town or area that people might be interested to know about
- write something off-beat — take the chance on a work that may seem less commercial
- working in a niche market allows you to maintain your skills, build your audience, and work toward a breakout
- walk the dog or mow the lawn — physical activity and nature often rejuvenate the writer
- choose an unfamiliar topic and research it, using it as a springboard for fiction
- write short stories either about new ideas or tied to your previous work — sell them or give them away as teasers
- use a regional voice and specialty to create a new or more defined author brand
- look for ways to build your day job or other outside interests into a new career direction or platform for related writing
- try an organized program like Julia Cameron’s *The Artist’s Way*
- clean out the closets or drawers — freeing yourself from the accumulated history in more ways than one
- immerse yourself in hobbies or crafts — not only can these help you relax and enjoy yourself again, they may clear the mind and provide new ideas

Ellen’s muse might have gone to the beach, but her new start inspired a lot of brainstorming — a fun fulfillment of our conference theme.

Elaine Isaak will be getting back into the game under a new name with a series of dark historical fantasies starting next year. But you still do not want to be her hero.



The voting results for 2011 are now official.

President-Elect, Lou Aronica
Secretary, Denise Agnew
Treasurer, Marcia Evanick

And the Nominating Committee, chaired by Kay Hooper:

Anna Jacobs	Gina Wilkins
Roberta Gellis	Sally Hawkes
Katie MacAlister	





BeachCon Recap: PLOTTING THE PERFECT MURDER

Presented by Dr. D.P. Lyle

BY PAT McLAUGHLIN/PATRICIA McLINN

“Scott Peterson had a problem. His problem was named Laci,” Dr. D.P. Lyle told NINC conference attendees to start his “Plotting the Perfect Murder” workshop.

Lyle began by taking us through the steps Scott Peterson must have followed to go from deciding he had a problem to committing a murder that Peterson intended to be perfect. That mental route starts with a nearly innocent step or two off the straight-and-narrow path, said Lyle, but ends up deep in the woods of planning and executing a murder with the intention of getting away with it.

“Killing her – that’s the easy part,” he said. But what to do with her body, how to create an alibi, how to cover up evidence, those were the elements Scott Peterson needed to consider.

Lyle took NINC conference attendees through Peterson’s likely thought processes in planning how to murder Laci and how to get away with it, reminding us that by extension this would be what our fictional murderers would do before the event.

All Peterson’s planning led to the moment when he called his mother-in-law and spoke the words that Lyle said would make a good opening for a novel: “Laci is missing.”

Ah, that was one of Peterson’s mistakes: An innocent person would ordinarily say, “Have you seen Laci? Is she over there?”

That reveals a pitfall for murderers (real-life and fictional): Knowing the end of the story, they anticipate.

Both before and after the event, this affects the murderer.

“Planning will alter the perp’s behavior. They’re thinking about things. They’re going to different places. They will be pre-occupied, edgy,” Lyle said. All elements writers can use.

“Afterward might be even more apparent.” Lyle pointed out the difficulty of being normal when you’re trying so hard to act normal. Murderers are “constantly trying to cover their tracks. Trying to insert themselves into the investigation. They want to know what’s going on. . . . They might want to lead the investigation in a certain direction.”

“They’re constantly telling themselves not to say something. Trying so hard to *not* say something, that something else comes out. It’s a mind under stress,” Lyle said. “And in all this they give themselves away.”

And the detective is watching for exactly that, eager to add the pressure on that mind.

“Once the detective grabs onto a frayed edge, the murderer has to make things up on the fly, and then the story starts to unravel.”

But Scott Peterson made two other fatal errors, errors that writers need to consider for their murderers, said Lyle.

“*You are married for life to your alibi.*” For Peterson that was the “I was a hundred miles away fishing when she went missing” ploy, backed by evidence he so carefully shared with the police. When bodies showed up near that fishing spot, Lyle said, “Scott’s lifelong commitment to his alibi no longer looked so good.”

“*Mother Nature will not save your sorry ass.*” Once he’d dumped Laci’s body, Peterson had expected Mother Nature to take care of evidence against him. Instead Mother Nature brought the body ashore near where he’d told police he’d gone fishing. (See Fatal Error I.)

Having taken us through Peterson’s thought processes and errors, Lyle prepared us to plan a murder.

But first he pointed out how vital this planning is. Too often writers and their killers “stumble through,” when preparation would tighten the story. After all, preparing is what murderers do. “If you do all that,” Lyle said, “your story will be richer and deeper. . . . The better you are about being a murderer, the better the story will be.”

Writers need to consider each step a murderer would consider – a murderer determined to get away with it. We need to think through and pin down “all the stuff before that opening line: ‘Laci is missing.’ ”

So, he had the members of Novelists, Inc, become a murderer.

Who are we?

Pulling answers from the enthusiastic audience, Lyle created an “us” who was a 37-year old female high school

English teacher having an affair with a 16-year-old football-playing high school student. She decided to break it off – permanently.

Together, we thrashed out how, where and when this murder would take place. At each step we considered the obstacles we – the murderer – would face, sometimes discarding ideas because of the obstacles, other times overcoming them.

Asking ourselves questions each step of the way.

Questions about what method would be best and how to get the needed materials without anything being traced to us. Questions about alibis that could be cracked, transportation that would point to us, GPS trackers, cell phones (“I can’t tell you how many times cell phones and the Internet have been a murderer’s undoing,” Lyle said.)

Detectives look for variations in behavior pre- and post-crime, he reminded us. Perhaps an unusual trip to a hardware store, or a cell phone turned off uncharacteristically.

And, of course, the police quiz the inevitable neighbor who could observe our actions. “A citizen will screw up the perfect crime every time,” said Lyle.

Having addressed who, how, where and when, the big remaining question to be addressed in our rapidly dwindling time was why.

“Police start with motivation,” Lyle said. “Why is what gets everybody caught. It comes down to ‘Who else would kill this person?’ ”

In fact, Lyle said, the most basic formula for police is:

How + Why = Who.

Before Lyle let his band of murderers loose, he urged us all to “sit down and say, ‘I am the bad guy. Why do I want to do this? How am I going to do it? Is this the best tool? How do I get this tool? What do I do with it after? Is there a better option? How do I best do this and get away with it?’ ”

The answers will help us all commit perfect – fictional – murders. ▲



BeachCon Recap: **Carina Press Workshop** with Angela James, Editor and Publisher

BY JOANN GROTE

No workshop was scheduled for Carina Press, but in response to the interest of conference attendees, Harlequin editor Marsha Zinberg graciously gave almost an hour of one of her scheduled workshops over to Angela James to discuss e-book publisher Carina Press. They publish all genres and are very welcoming of new ideas. Although operating under Harlequin’s (HQ’s) umbrella, Carina does not publish books from the HQ romance lines.

Publishing with Carina may be an opportunity to rejuvenate an author’s career, and move to publishing with the regular HQ lines, Angela James said in response to a question from Kasey Michaels. Marsha Zinberg noted that Harlequin will be watching successful Carina authors. Since Carina’s first publications in June, HQ has made two acquisitions for their Direct to Consumer mystery program from Carina.

Carina publishes novellas (up to 15,000 words) and novels. In romance, they accept very sweet romance to extreme erotica. Additionally, they are open to purchasing rights to back-list titles. Carina is currently publishing two books a week, and expects to publish three weekly beginning in January. Approximately 30-40% of their authors are previously unpublished, and 85% are unagented.

When submitting to Carina, a full manuscript is usually requested, though a proposal may, at Carina’s discretion, be accepted from previously published authors. After signing one contract with Carina, subsequent books are usually sold on proposal. Books are priced from \$2.99 to \$5.99 based primarily on word count, with books up to 15K priced at \$2.99.

Royalties are 30% on direct-to-consumer purchases from Carina’s website, 15% for books purchased through other retailers, and are paid quarterly. Carina asks for rights for the life of the copyright. There is usually no option clause, but Carina may ask for one in specific instances, such as when the book is one of a trilogy.

Rights revert if the book is out-of-print for seven years. Carina asks for all rights because they use HQ’s resources for distribution. Marketing is “just as aggressive for Carina as for other HQ lines,” Ms. James said, “and we hope to announce foreign sales soon.” As part of Carina’s marketing plan, the author has the use of Carina’s blog, Facebook and Twitter for the day of the book release.

HQ and Carina are happy with Carina’s sales numbers so far, believing they are good numbers for the digital market. Carina’s most popular book to date is Shannon Stacey’s *Exclusively Yours*, a non-erotic, family reunion romance. ▲

2011 NINC Conference Announced

There are some wonderful things happening with NINC — an even stronger emphasis on the business of this crazy business we're all in, for one. Our *Brainstorming on the Beach* conference last month, including our one-day program, *Brainstorming the Future of Publishing*, opened our eyes to many of the opportunities out there right now, and alerted us to developments we'll be seeing in the next month, the next year, the next several years. You've seen some of the subjects the conference covered in articles carried in the November *Nink*, and now you're seeing more in this issue.

And that's a good thing; we need to hear that all in publishing is no longer doom, gloom, and dire predictions. We need to hear that we have more power over our own careers.

In 2011, we're going to get more specific and hands-on, concentrating on the nitty-gritty, the step-by-step directions. How we're to get where we're going. How our new options work and how we can best work them; both the mechanics and the art of it all. How to sell, where to sell, and even how to structure our financial records. How to find our sales outlets and our worldwide audience. How better to work with our traditional publishers and the new markets. In short, in long, how we can set ourselves up to be sure we're part of the future of publishing. And lastly, that ever famous "and more!"

We've got a lot of exciting plans in the works, and you'll hear about them as soon as we've got speakers locked in. You may not recognize some of the names, but then again, nobody knew who Carolyn Pittis was until they met her in Florida — and now everyone wishes they'd met her, heard her talk so plainly and honestly about the publishing industry.

NINC is going to bring you more speakers you've never encountered at another writers conference (and possibly never heard of), filling our conference with the best and the brightest from all areas of publishing, promotion, and the new markets.

There are a few pertinent pieces of information we can share at this point, and we wanted to do that so that you can all reserve the dates and start tucking away a few bucks a week as you and the rest of us count down the days to our next conference.

First, here's the name of our conference, and it's pretty self-explanatory:

New Rules, New Tools: Writers in Charge

And the title of our one-day program that opens the conference:

The New Publishing: Welcome to Tomorrow!

Next up are the dates — circle them now on your calendar: Thursday, October 19 (the one-day program included in your conference fee), through Sunday, October 23, when we end at noon with our now famous Wrap-Up Session.

The price of the conference is a ridiculously low \$285, and you can break that into three payments of \$95 between January 1 and August 31, 2011.

Lastly, the venue.

We're going back to the beach! We don't have to "sell" the Tradewinds Island Grand Resort on St. Pete Beach to any member who was lucky enough to attend the 2010 conference, but for those of you who couldn't make it to Florida, check out the resort website, <http://www.tradewindsresort.com/properties/island-grand.aspx> or just ask any member who was there.

And, because it seems the hotel staff liked us as much as we liked the hotel and them, the room rate of \$129 plus tax remains the same for 2011, including complimentary full use of all the resort facilities and a 20% discount on food and beverage, as long as you register through NINC. The hammocks, beach cabanas, swans, paddleboats, multitude of pools, and even the early morning dolphin sightings are also included at no extra charge.

We've blocked more rooms at the main hotel for 2011, but with word-of-mouth about *Brainstorming on the Beach* being our best advertisement, those rooms still will go fast. You do not want to wait too long to register and get your form for the hotel. Plus, if we see early enough that it looks as if we're going to fill the block, we'll have more time to perhaps enlarge that number.

Does it get better than this? No, not a whole lot, and not all that often. But this is NINC — and we know how to combine the business of the business with the camaraderie and relaxation NINC members, all hard-working writers, deserve. ▶

So here's the plan:

Renew your membership in NINC now for 2011.
Tell all your non-NINC writing friends it's time to join NINC.

Register for the conference beginning January 1.
Reserve your room at the Tradewinds that same day.
Start thinking about October.

See you on the beach!

Kasey Michaels, Conference Chair 2011
(Yes, again. I'm considering seeking professional help...)

and

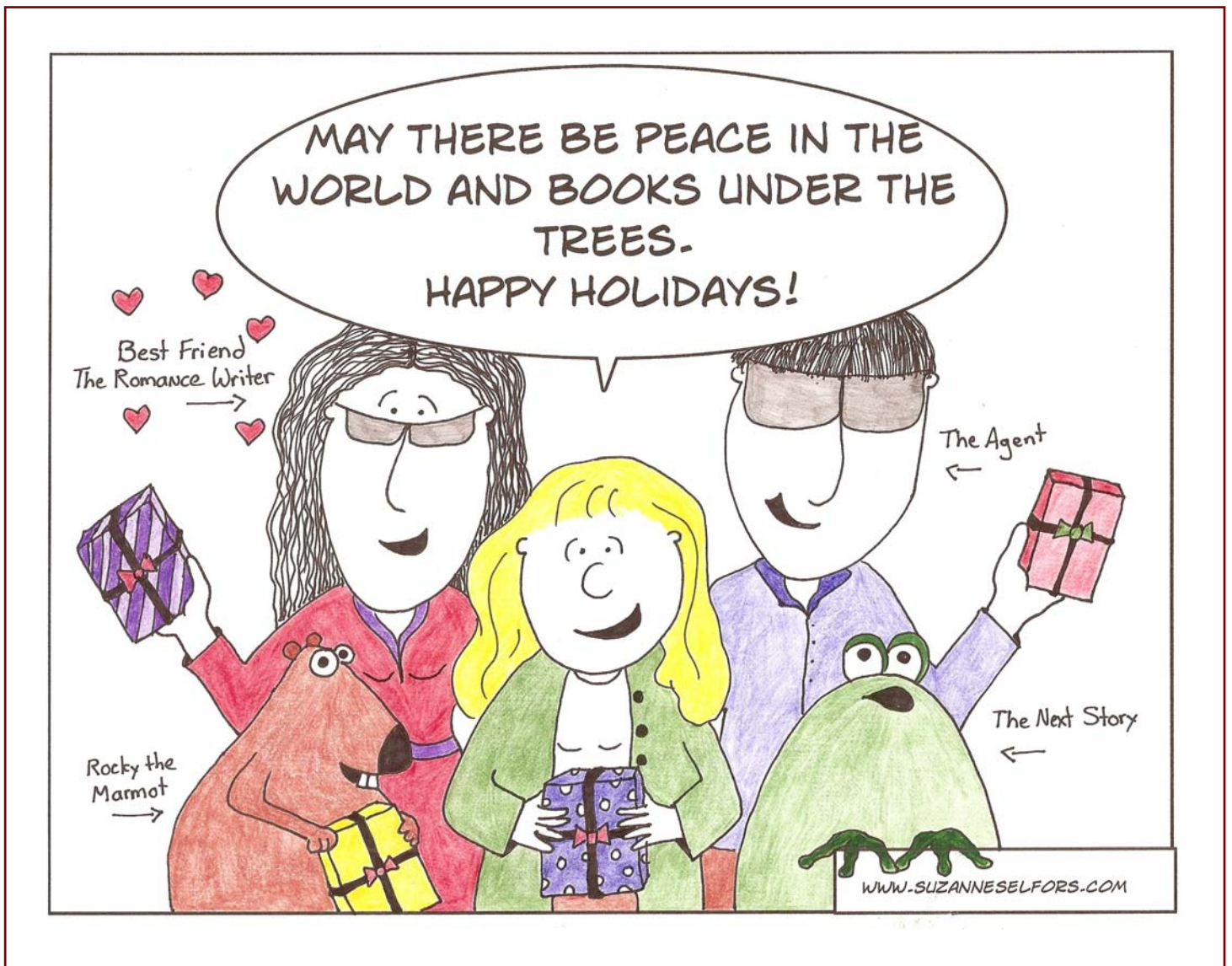
Karen Tintori Katz, Talent Scout 2011
(She is, too...)

Business Briefs

Compiled by Sally Hawkes

Splinter

New teen imprint, Splinter, will start in January for Sterling Children's Books with the January 11 publication of *Tiger's Curse*, Colleen Houck's beginning of a fantasy-romance saga. The author was self published prior to signing with Sterling. The new imprint will release in hard-cover and e-book formats as well as having TAG coding in print versions for smartphone readers. Sterling will also be working with Barnes & Noble on their More in Store program. Two other series are planned for fall 2011 and 2012 as well as standalone titles. Cindy Loh is the acquiring editor.



The Mad Scribbler

By Laura Resnick



The Santa Paradigm

“I stopped believing in Santa Claus when I was six. Mother took me to see him in a department store and he asked for my autograph.”

— Shirley Temple

Several years ago, I gave up on the agent-author business model and returned to representing myself, as I had done during the early years of my career. Since implementing my decision:

- Response times on my submissions have improved
- My advance levels have improved
- My contractual terms have improved
- My foreign subrights business has improved

The explanation for these post-agent improvements is not that I used to work with charlatans. One of my former agents was reputable, and the other three were (and still are) extremely successful.

Nor has my career improved via self-representation because I am brilliant (and I assume that regular readers of this column already knew that “Resnick’s dazzling brilliance” was nowhere among the possible explanations).

And, finally, no, my competence at self-representation emphatically does *not* mean that I ought to become a literary agent; just as my competence at writing in no way means that I ought to become an editor.

Here’s what my experience *actually* means: Self-representation and the agent-author paradigm are *each* flawed but viable business models for managing a writing career; which business model works best for any given writer depends on individual and circumstantial factors.

Neither business model is inherently superior to the other. But the conventional wisdom that one (the agent-author model) is a superior system prevented me from quitting it for several years, even though it kept working out badly for me.

This same pervasive misconception also discourages others from experimenting with self-representation and it causes considerably anxiety in writers who are currently unagented due to circumstance rather than choice. And there are a lot of such writers these days, which is among the reasons I think it’s so important to talk about this subject.

I used to believe that my problem with agents was that I had bad Agent Karma. Why else would I have had such bad experiences with all four of my former agents, as well as having so many downright weird experiences with some of the many other agents whom I queried over the years? I must be uniquely cursed. Somehow, it must be *me*. (And various agents certainly said it was *me*.)

However, ever since I began speaking and writing publicly about the various experiences that led to my decision to quit the agent-author business model, I’ve heard from many writers with so many similar experiences. I have by now realized that it is *not* me. It was never *me*. It turns out that experiences like mine are, in fact, disturbingly common and widespread. It’s just not as well-known as it could be because, for a variety of reasons, most writers don’t talk publicly about these experiences.

After hearing so many similar stories from so many writers about so many agents, I’ve realized that specific writers aren’t the problem, nor are specific agents. The *business model* is the problem. ▶

In the agent-author business model, the role of the literary agent is to be knowledgeable about the marketplace and intuitive about the tastes of editors; savvy about the commerciality and fiscal value of manuscripts; the successful cultivator of a network of professional contacts; a dedicated and resourceful salesperson; an expert in the legal language of publishing contracts; a skilled negotiator; a good editor; a capable administrator; a shrewd career strategist and advisor; and the client's steadfast true believer when the chips are down.

Metaphorically, the agent's role is to be Santa Claus, someone capable of personally distributing ardently desired gifts to a staggering number of individuals on several continents while traveling in a sleigh drawn by flying antelope.

The credibility of the agent-author business model (as well as its undeniable seduction) relies on the fact that almost every agent who's competent enough to stay in the business for any length of time does manage to fulfill much of this daunting description for *some* (or at least *one*) of his clients.

But no agent, no matter how extraordinary an individual, can fulfill that description for *all* thirty, fifty, or seventy writers on his client list. Yet every writer on that list expects the agent to fulfill a significant portion of this description. And there aren't any items in this description which *no* client expects an agent to fulfill.

A business model that relies on a large number of individuals (literary agents) to fulfill *that* complex and comprehensive a role for a much larger number of individuals (their clients), and to do so with no standardized training or specific qualifications, and no licensing or effective system of oversight is a deeply flawed paradigm.

And if you happen to be (as I am) a recipient of private negative-agent-experience anecdotes from writers far and wide, you soon realize that most agents are failing to fill that daunting role for a much larger percentage of clients than is generally known or acknowledged.

It's a business model that can't succeed on a systematic basis. It only works well for a subset of ideally paired individuals and/or within the context of fortuitous circumstances.

One obvious example of this is bestsellerdom. The specific circumstances of bestsellerdom ensure that the agent finds it fiscally and professionally rewarding to invest whatever time and effort is necessary to fulfill all (or most) desired aspects of the agent role for that client. Moreover, if the agent and client have been partnered since the writer's salad days, the rise to bestsellerdom under the agent's aegis could be a sign that they are also ideally well paired.

Or it could be a sign that the author experienced the fortuitous circumstance of being such a commercial writer that all an agent had to do for her to succeed was not actively screw up or get in her way, coupled with the additionally fortuitous circumstance of the agent actually being sensible enough not to screw up or get in the writer's way.

Another obvious example of fortuitous circumstances is when an author sends a proposal to the agent, the agent promptly sells it without any heavy lifting to an editor pal, the author and editor work well together, and the house subsequently keeps re-signing the writer for years thereafter. In such fortuitous circumstances, the writer may have no occasion to learn whether or not he or she is in an ideal individual pairing with the agent until/unless something eventually goes wrong (such as the publisher dumping the author due to weak sales).

But *without* one or both of the conditions which make the agent-author business model functional, my own experience is that agents actually do a *poorer* job of career management than a writer can achieve on his/her own—if the author meets the conditions which make the self-representation business model functional: administrative competence, common sense, professionalism, networking ability, and industry self-education.

Success is never guaranteed in either business model, of course, but it is very likely to elude writers working within either paradigm *if* the minimum conditions needed to make these business models work are not present.

Finally, when choosing a model for career management, writers are not choosing between a good system (being agented) and a bad system (being unagented). We are choosing between two flawed business models whose functionality depends on a specific set of conditions being met.

My career and income have improved since quitting the agent-author business model because I am able to meet the conditions needed to make self-representation function well. Whereas previously, despite years of trying, I was consistently *unable* to find or create the conditions needed to make the agent-author business model work well for me.

Nink's Grinch paradigm wishes you a peaceful Hanukkah, a Merry Christmas, and a Happy New Year!

It's Dues Renewal Time...

Renew easily online at the NINC website: <http://www.ninc.com>. Remember to fill in the Authors' Coalition form, also, for additional NINC funding. Conference, *Nink* every month, a wealth of online features at the website and blog. You need NINC. And NINC needs you. Renew now!

Not Your Usual Writing Advice — Just Another Form of Creativity

BY JOANN GROTE

“The virtue you would like to have, assume it is already yours, appropriate it, enter into the part and live the character just as the great actor is absorbed in...the part he plays.”

— Emerson



As writers, we’re accustomed to hearing ourselves described as creative, and, within limits, think of ourselves as creative. We may say, “Stories come easily to me, but I’ve no talent for dancing.” Maybe so, but I think it’s seldom that a person is creative in only one area. For example, some NINC members are wonderful cooks. Is it important that a writer have multiple forms of creativity available?

Dorothea Brande, author of the 1934 classic *Becoming a Writer*, spent the first 20 years of her career as a writer and editor. In that time, she wrote 17 short stories, 20 reviews and half-a-dozen newspaper items. When she tried to take the next step and go on to a more mature phase [of writing] she said she felt as if she’d turned to stone. “I felt as if I could not start.” Then she made a simple discovery, and in the next two years published three books, the first of which was the highly successful *Becoming a Writer*.

What did she discover? All that is necessary to break the spell of inertia and frustration is this: Act as if it is impossible to fail.

Acting is just another form of creativity. You can do it. Remember your first meeting with an editor? Did you pretend to be confident and calm, all the while hoping your fear wouldn’t overpower your antiperspirant? You were acting. Maybe it wasn’t an Academy-award-winning performance, but it got you through. What about acting confident and calm in your decisions when faced with an angry teenager? You see, you’ve already acted plenty of times.

Fear you can’t carry off the acting convincingly is no excuse for not trying. People who get paid to act fight that fear every day. Jane Seymour says in her book *Remarkable Changes*, “I’m in a state of total panic...with every movie I do. I’m terrified on the first day. Terrified! But by the end of the first take, when the director says, ‘Print, and next shot,’ it’s like I’ve been doing it forever, and the fear is gone.”

The career stories of NINC members show us that career stalls like Brande’s aren’t uncommon. We start worrying whether the market – or editors and agents – will want what we want to write. Our energy goes into worry. The more we worry, the less energy we have to write.

Acting as if we will succeed sets us in motion; that’s the magic in the advice. Remember high school physics? It takes far more energy to set an object in motion than it does to keep it in motion. That law is true when throwing a baseball and it’s true in writing a book.

Early in my career, the writing flowed with little struggle. The editors I worked with liked my stories and almost always bought what I sent them. There were no “what if no one buys it” worries to interfere with the process of story creation. Then I decided to change what I was writing. I stopped submitting to the old market. I started a story that had simmered in my mind for a couple years. I jumped into it thrilled to focus on the new venture.

After a short time, as with Brande’s experience, it was if I’d put on the brakes. Instead of getting lost in the characters and story, I wondered who would buy the manuscript, and whether I was making plot choices that would most please editors and readers. I went months without writing. Each day that went by, I felt less confident in my ability. What did it matter that my published books filled an entire shelf in my bookcase? That was no guarantee of the future.

Then I remembered the secret Brande discovered. I began to act as if editors, agents and readers were eagerly waiting for my story. The joy of creating a story came back, and along with it, the energy and focus to write it. I love writing again, and an agent I admire – met at a NINC conference – has expressed interest in reading the manuscript and encouraged the new direction of my writing.

If you’re stalled in your own story or career, try another form of creativity: act as if the world is waiting for your writing creations ▲

NINC Bulletin Board

COMPILED BY SUSAN LYONS

**Do you have info
for the Bulletin Board?**

Send it to Susan at
susan@susanlyons.ca

NINC Online

NINC Blog

NINC's blog is a large part of our online presence and a great way to promote your work. Please sign up to blog by going to the YahooGroups NINC Calendar. Also, if you have ideas for industry professionals who'll share their expertise, pass along that info. Has your agent, editor, publicist, website designer, cover artist, etc. blogged at NINC?

— Patricia Rosemoor

NINC on Facebook

Remember we're on Facebook, too. Please visit often and share your news and ideas.

What's Going On with Other Writers' Organizations

Note: The following is provided for member information and does not constitute an endorsement by NINC of the organizations or activities.

The Screenwriters Summit is in L.A. December 11-12, 2010, featuring Syd Field, John Truby, Michael Hauge, and Christopher Vogler.

Details: <http://www.screenwriterssummit.com/>

The Writer's Digest Conference will be held January 21-23, 2011 in NYC. Topics include: the future of publishing, getting published in the digital age, platforms and social media, craft, pitching.

Details: <http://www.writersdigestconference.com/>

The San Francisco Writers Conference will be held February 18-20, 2011.

Details: <http://www.sfwriters.org/>

Romance Writers of Australia Inc holds its annual conference over 4 days in August each year. The organizing committee for 2011 has released a call for workshop proposals, closing December 10. If you've ever thought of visiting the beautiful land down under, this is the perfect business-related excuse with the added benefit of a weekend meeting and mingling with Australian writers.

Details: http://www.romanceaustralia.com/conference_melbourne.html

Adventures at the NINC Website

Do you suffer from hippopotomonstrosesquipedaliophobia?

You're a writer, so I'm guessing you don't, because hippopotomonstrosesquipedaliophobia is fear of long words. Nor are you likely to suffer from ideophobia (fear of ideas), consecotaleophobia (fear of computers or working on computers), or peniaphobia (fear of poverty). How about pentheraphobia (fear of your mother-in-law) or consecotaleophobia (fear of chopsticks)? If you want to find the name for a phobia, or just amuse yourself browsing all the fears in the world, check out The Phobia List at <http://phobialist.com/>. It's just one of the many resources in the Reference section of the NINC website.

And it's one of the more than two dozen that have been recently added thanks to input from CJ Lyons. Here's another.

Need help constructing the perfect crime scene?

Ask an expert at Crimescenewriter (<http://tech.groups.yahoo.com/group/crimescenewriter/>). This is a forum for asking and answering crime scene investigation, applied forensics, and police procedure questions.

Check out the NINC website Reference page and see all the new things we've added: history, personality types, police, mystery, medical, and more. Also, please send your favorite online resources to susan@susanlyons.ca to add to the Reference section.



WRITING is TAXING

By Diane O'Brien Kelly

GETTING PERSONAL

With limited exceptions, personal expenses are not deductible on a federal income tax return. In today's world, however, where many people telecommute, work as independent contractors, or set their own work schedules and perform personal tasks in between work tasks, the line between personal and business lives blurs.

To avoid missing out on legitimate business deductions or improperly deducting personal expenses, it's critical to know how the IRS distinguishes between the two. The courts have acknowledged that "although many expenses are helpful or essential to one's business activities, such as commuting expenses and the cost of meals while at work, these expenditures are considered inherently personal and are disallowed." Let's look at some common expenses that straddle the business/personal line.

Education. The cost of education or training to maintain or improve skills in the taxpayer's career field are deductible on Schedule C by a business owner or on Form 2106/Schedule A for an employee. However, to be deductible, the education cannot be education required to meet the minimum qualifications to work in the given field. For instance, a CPA can deduct the costs of continuing education once he or she is working as a CPA, but cannot deduct the cost of obtaining the college degree in accounting required to become a CPA in the first place. The bottom line is that education expenses are considered personal unless and until we're actually working in the field the education relates to.

Because there's no minimum educational requirement for writers, we're lucky. As long as we're already in the business of writing when we begin our writing education, we can deduct the cost of an English or creative writing degree. A person who has not yet begun a writing career could not deduct the cost as a business expense.

Education not directly related to your writing business would not be deductible. For instance, in one case, a policeman who attempted to deduct costs for obtaining a philosophy degree was denied the deductions because the degree was unrelated to his profession as a cop. Perhaps he would have been allowed the deduction had he interrogated suspects on the meaning of life.

Remember, too, that there are also tax benefits for personal education, such as the tuition and fees deduction and various education credits.

Books and Magazines. A dance instructor was allowed deductions for magazines and books relating to her dance business, but was denied a deduction for her *Essence* magazine subscription and her child's *Highlights*, which were not related to her dance business. In this same vein, writers would be allowed a deduction for magazines directly related to our writing business, including those magazines purchased to get a feel for a publication to target for a potential article submission. The cost of magazines read for personal enjoyment and unrelated to our writing business would not be deductible.

Meals and Entertainment. Although we are permitted to deduct a portion of meals and entertainment enjoyed before, after, or during the conduct of business with another person, food such as the coffee we drink at a coffee house when writing alone is considered personal and not deductible.

Research Expenses. Some research expenses walk a fine line. In one case, a writer visited brothels in Nevada for the alleged purpose of obtaining information to help with character development and authenticity in his story. Although the IRS initially denied all of the writer's expenses as non-deductible personal expenses, the court found that the writer's efforts in researching, developing, and trying to sell his work showed he had a profit motive. He was allowed to deduct the costs of the joint venture agreement with the publishing company and some cash payments made to prostitutes at legal brothels.

However, the court disallowed deductions for some "interview expenses," claiming certain expenses

incurred by the taxpayer to visit prostitutes were so personal in nature as to preclude their deductibility. This is a real case. I kid you not. The court did not elaborate on how it distinguished between which payments to prostitutes were business expenses and which were personal, but our creative minds can fill in the blanks.

Appearance: Virtually all expenses relating to grooming and appearance are non-deductible.

The IRS denied hair care and manicure expenses deducted by an employee whose employer required a “certain look.” Similarly, a businessman attempted to deduct the cost of contact lenses, asserting they enhanced his personal appearance, thus advancing his career. *Nuh-uh*, said the court. Expenses for items such as contacts or eyeglasses, which are “inherently personal” in nature and used for both personal and business purposes, are not deductible as business expenses.

A manager of an upscale Yves St. Laurent Boutique, who was required to wear YSL items from the store’s stock, could not deduct the cost even though she only wore the clothing to work. Because the clothing would have been appropriate to wear elsewhere and it was simply her personal choice not to wear it other than at work, the cost was not deductible. The court noted, however, that if the taxpayer had been prohibited by her employer from wearing the clothing outside of work the deduction would be allowed.

The cost of clothing is deductible as a business expense only if: (1) the clothing is of a type specifically required as a condition of employment/business, (2) the clothing is not adaptable to general usage, and (3) it is not worn other than at work/business. Thus, virtually all clothing purchased for writing conferences or speaking engagements would be non-deductible.

Miscellaneous Expenses. Other expenses the IRS has deemed non-deductible as inherently personal include the cost of a gym membership for a firefighter who wanted to stay strong and fit and the cost of cable television for a painter who claimed to watch the weather channel for purposes of planning his outdoor painting jobs.

Bottom Line. If an expense has only an indirect benefit to your writing business, has a significant element of personal enjoyment, or relates to your appearance, it’s likely not deductible.

For further tax tips, check out the “Tax Tidbits” page on Diane’s website, <http://www.dianekelly.com>. Got a tax question for Diane? Email her at Diane@dianekelly.com. Your question might be addressed in an upcoming issue.

Business Briefs

LibreDigital brings out SkyShelf

The digital distributor LibreDigital is partnering with Starbucks and Yahoo! to present SkyShelf, an HTML reader. This wireless offering will supply e-book content to Starbucks Digital Network, a multimedia service that provides books, music, newspapers, and movies to Starbuck customers. This is a competitor for Google Editions. It debuted in 6,800 stores in October. While delivering free in-store digital material from online channels in subject areas like New and Wellness, it will also preview and excerpt bestsellers. E-books can be read from any web browser device. Wi-fi access is made available to 30 million Starbucks’ customers monthly.

Interesting Retail Bedfellows for Nook

In late October Walmart began selling Barnes & Noble’s Nook in 2,500 stores as well as online at Walmart.com. There will also be e-reading areas for customers to demo the devices.

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