

Plagiarism, the Latest Craze

BY ELAINE P. ENGLISH, ATTORNEY AND AGENT

Hardly a week goes by without a report of some new allegation of plagiarism. The latest was a *Washington Post* article about a now-deceased London pianist who apparently had plagiarized recorded performances with CDs sold under her name. Authors of such stature and success as Doris Kearns Goodwin, Stephen Ambrose, Ian McEwan, and Dan Brown have all been accused of plagiarism. First-time author Kaavya Viswanathan was the talk of the town last year until Little, Brown cancelled her book after the *Harvard Crimson* reported on plagiarized passages.

Computer technology is increasingly used to uncover plagiarism, as was the case with the pianist. In that instance, comparisons apparently found an amazingly perfect (and otherwise unexplainable) match of each track to recordings by other artists. Certainly modern technology may well account for this new wave of interest in plagiarism. Computer software now makes comparisons quick and easy. Colleges have been using programs such as Turnitin for many years to verify student papers, and high schools now use these programs as well. Just imagine

what could happen if Turnitin's database merged with, say, Google Library? Also, we now live in such an immediate world where the Internet is a marvelously effective medium for not only disseminating but *creating* the buzz about all the latest allegations.

In addition to its notoriety, plagiarism is a serious charge. It carries grave moral overtones that will readily (and some might say, rightly) harm the professional reputation of any creative person so charged. However, to most people, even writers, plagiarism is a somewhat amorphous concept. Many writers think it applies only to nonfiction. However, ask Dan Brown and he'll sadly show you how much he's spent on legal fees defending his fiction.

Often writers think that it has to be an exact copy of both words and ideas before it can be called plagiarism. I'd say check with Ms. Viswanathan or her packager; they apparently "borrowed" from multiple sources in creating *How Opal Mehta Got Kissed, Got Wild, and Got a Life*. Some believe if you're not doing research, you're protected, or if you are, all you have to do is acknowledge your sources and there's no plagiarism. Certainly many top authors who came to the defense of Ian McEwan thought so since he acknowledged, albeit briefly, Lucilla Andrews' autobiography as a source for *Atonement*.

With the frequent tossing about of the term today, it's important for all writers to have a good understanding of what plagiarism really means. Plagiarism and copyright infringement (the better known claim) are not synonymous. You can certainly have one without the other. Copyright protects only the expression of an idea as fixed in some tangible form. If too much of that expression is copied or closely paraphrased it can lead to a legal claim for damages.

Plagiarism, by contrast, covers ideas, themes, research discoveries, scenes, *Continued on page 5* ▶

INSIDE

<i>President's Voice</i>	3
<i>The Radio Gig</i>	6
<i>Members-Only: Roster</i>	Center
<i>Off the Beaten Path: Small Press Mysteries</i> ...	7
<i>In the First Person: Patricia Bray</i>	9
<i>Writing Is Taxing: Don't Be Grabbed</i>	11

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If you have questions regarding Novelists, Inc., please contact a member of the Board of Directors.

2007 Board of Directors

President: Pat McLaughlin

3506 N. Dickerson St.
Arlington VA 22207-2908
703-237-2543
pmclinn@aol.com

President-Elect: Laura Resnick

9250 Deercross Parkway, Apt. 2-D
Cincinnati OH 45236
513-793-2987
laresnick@aol.com

Secretary: Linda Madl

4804 Rockridge Court
Manhattan KS 66503-7750
785-770-9363
linda@lindamadl.com

Treasurer: Beverly Brandt

1931 Kentucky Ave NE
St. Petersburg FL 33703-5551
Unlisted
beverly@beverlybrandt.com

Newsletter Editor: Lorraine Heath

2305 Stacia Dr.
Plano TX 75025
972-359-7027
lorraine-heath@sbcglobal.net

Advisory Council Representative:

Pat Rice
15222 Strollways Dr.
Chesterfield MO 63017-7756
636-778-0075
price100@aol.com

Central Coordinator:

Tonya Wilkerson, Varney and Assoc.
Novelists, Inc.
P.O. Box 2037
Manhattan KS 66505
Fax: 785-537-1877
ninc@varney.com

Website: <http://www.ninc.com>

Address changes may be made on the website.
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Introducing

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 Membership Chair Holly Jacobs at P.O. Box 11102, Erie PA 16514-1102 or email holly@hollysbooks.com.

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Nancy Holder, San Diego CA
Keri Arthur Wallan, Victoria Australia
Sheila Finch, Long Beach CA
Shirley Kennett, Eureka MO
Renee Luke, Antelope CA
Libby Sternberg, Lancaster PA

New Members:

HelenKay Dimon, San Diego CA
Brenda Williamson, Eclectic AL
Renee Luke, Antelope CA
Pat Van Wie, North Grafton MA
Julie Anne Long, San Francisco CA
Jennifer Crusie, New Richmond OH
Julie Caille, Spring TX

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recommend membership
to your colleagues.
Prospective members
may apply online
at ninc.com.**

**You can refer members at
Ninc.com. Go to Members
Only, "Member Services"
and click "Refer a
New Member to Ninc."**

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Two Big Questions What Are Your Answers?

By the time you read this, Ninc's 2007 conference in San Diego will be in the past. I am fully confident, however, that the conversations that start there will be far from done.

Topics arising from the lineup of fabulous speakers and the mix of our members will be addressed by *NINK* editor Lorraine Heath in the May issue, but there are two issues that I want to raise here, because they are specific to Ninc, and they will have a great impact on our organization's future.

Conferences

A look at the raw numbers shows that the San Diego conference drew fewer members than most recent conferences, and certainly fewer than we had hoped for or expected, based on many members expressing their desire for a West Coast conference. We did draw a number of first-time conference attendees and even new members from the West Coast, which is a definite plus.

However, the trend consistently shows that Ninc conferences in New York are relatively well-attended, while Ninc conferences away from New York are not.

Our next conference, in spring 2008, is already scheduled for New York, and President-Elect Laura Resnick and 2008 Conference Chair Lynn Miller are working hard and smart toward making that a fabulous gathering.

The question for future Boards, then, is what should happen beyond 2008.

Does Ninc continue with two-years-out-of-three conferences away from New York and swallow the lower attendance (and frequently losses)? Do we do every other year in New York with the non-NY year rotating around the continent? Do we keep these non-NY conferences to small, retreat-type events with limited attendance to maximize the chance that they will at least break even?

Do we get more creative and do conferences every 18 months, say with a spring conference in

New York, then 18 months later a fall conference elsewhere? Doing the "elsewheres" in the fall opens much more of the continent to potential sites, since we can envision being in Chicago or Toronto or Denver in September into October, but not in March or even April. An 18-month schedule would be easier on Ninc's volunteer corps, but it could mean a lower profile for the group. And it would mean changing Ninc's bylaws, which require an annual conference.

We have some time to consider this issue, but not limitless time. Because come January 1, 2008, when your new Board steps in, the new president-elect will need to hit the ground running for the 2009 conference...wherever that might be.

Membership Requirements

The conference question is important, but this one is vital, because it's about who we are as an organization and who we will become. What the Board and the Membership Chair are seeing is that our current standards for membership are not adequate for dealing with the rapidly changing landscape of publishing. It's like trying to deal with a butterfly while wearing a baseball glove—you can smash that butterfly flat, but good luck catching it alive.

Okay, here's what we have now:

The Policies and Procedures Manual says that to be accepted for membership an applicant must have two full-length novels published within the five years prior to application, the **primary distribution** must be paper-published and bound, and it must be **readily available** to the **general public**.

It adds that vanity press and electronically published-only book authors do not qualify. If the author must make a financial investment in the publication or distribution of the novel the applicant does not qualify.

In case you can't tell from the bold italics ▶

President's Voice

- ▶ there are some issues that arise from this:

What is "readily available"? Do the books have to be available in brick-and-mortar stores? Then what about publishers who specialize in selling to libraries? That makes books available to the general public, right? Or must books be readily available for *sale* to the general public? In that case, wouldn't online-only sales qualify as "readily available"? You can see why the Membership Chair is asking for clarification.

What is "primary distribution"? Are we saying paper has to represent a specific percentage? How would we even quantify—and then assess—this? And if we could, what happens to an author who sells several thousand copies in paper, but tens of thousands in electronic format? If that author sold only the paper copies that would qualify him/her for membership, but because of additional sales in electronic format, the person would no longer qualify, because the primary distribution would no longer be paper.

"Vanity press" not qualifying is unlikely to bother many Ninc members, but what about "electronically published-only"? With the changes in technology, do we risk shutting out authors whose interests match our own by emphasizing the medium?

Along with these specific phrases that need clarification, the Board also contemplated a broader approach:

Could the requirements for membership be defined in a way that maintains the tone of Novelists, Inc.'s membership while allowing us the flexibility to adapt to changes in publishing (new media might be the biggest, but not the only one).

Is paper necessarily the best bellwether for an applicant matching the tone of Ninc's membership? We're encountering more instances of publishers bringing out works in paper, but with "royalty" structures that leave the author bearing the load of the book's production. At the same time, some e-publishers are creating a platform for authors to build careers by writing popular fiction. Those authors' books can qualify on every other standard except the medium, and the authors' interests and concerns would be largely in sync with more traditionally published authors.

The Board believes this topic needs time and room to develop. Our hope is to let the discussion range freely for several months, aiming toward a consensus on broad outlines toward the end of the year, with a target of making whatever official changes are required by the AGM in New York in 2008.

So, those are the questions we started asking in

Be sure to read the important notice on the back page regarding selection of next year's officers and Nominating Committee... it's your participation that makes Ninc work.

San Diego. Now, it's your turn. Write letters to the *NINK* editor, explore your thoughts on Ninclink, contact Board members. Let the discussing and brainstorming continue, not committing yet to any stance, but keeping our options open as we explore these issues.

—Pat McLaughlin

Ninc Online

For the latest agent and editor directory, log onto the Members' Only area at ninc.com.

Send additions or corrections for the databases to Ginger Chambers, gingerchambers@sbcglobal.net.

For never-ending e-conversation—for members only—join Ninclink. If you have questions, email moderator Brenda Hiatt Barber at BrendaHB@aol.com

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Plagiarism

Continued from page 1 ▶ phrases, characters, and other intangible aspects. Even a work that has fallen into the public domain and has lost all copyright protection can be plagiarized. Plagiarism is not, in fact, a legal claim *per se*; although it can be the basis for legal claims of fraud, misrepresentation, or violations of moral rights, and in a publishing context, almost always is a breach of contract (the warranty of originality).

As esteemed judge Richard A. Posner on the Seventh Circuit Court of Appeals has written, “Concealment is at the heart of plagiarism.” Or as Nora Roberts succinctly stated in a recent interview, “it’s theft ... calling it your own is stealing.” The *Concise Oxford Dictionary of Literary Terms* defines plagiarism as “the theft of ideas ... or ... passages or works, where these are passed off as one’s own work.” The chief elements of plagiarism are copying another’s work and passing it off as your own with an intention to mislead the reader into believing that it is an original work.

Concealment is not simply a failure to credit the source. It is an act of deceit, intending to mislead the intended readers into thinking that the work is original when it is not. As Judge Posner explains quite eloquently in *The Little Book of Plagiarism* [Pantheon, 2007] (a resource I heartily recommend), the reader has to care about being deceived in order for the deceit to become fraud, *i.e.*, plagiarism. Parody isn’t plagiarism, because there is no concealment. In order for the parody to succeed, the author must be aware of the underlying work that is being parodied, and the reader must *know* that it’s not written by the original author. Similarly with fan fiction, the readers *know* they are not reading the work of the original author, so there’s no deception, and, thus, no plagiarism.

I recently emailed several published authors asking for their thoughts on the subject. I inquired if it was considered plagiarism to use archetypal characters and classic myths. Uniformly the response was “no,” but *only* if the author brings sufficient originality to those characters and plots to make them her own. As multi-published author and Novelists, Inc., board member Linda Madl noted, “an archetype requires a lot of creativity to develop into a truly engaging and memorable character—easier said than done.” *The Wind Done Gone* and the newly released *Finn* focus on a similar question. Can you take someone else’s character and spin off your own story? Certainly if you took the original author’s character and developed him or her in the same manner in the same settings as the original tale and tried to say that your work

was original, it would be plagiarism. However, to take the outline of that character and mold it in a way that makes it your own in order to tell a new and different aspect of the story in your own voice, that’s good craft.

I admit to being a bit taken aback recently when I read in the newsletter of the Mystery Writers of America about a writing teacher who encourages students to take a novel and follow it through scene by scene and chapter by chapter as a recipe to learn how to write. He recommends modeling the development of characters, dialogue, pacing, action, rhythms, etc. on this one published work. He claims that when he did this, by chapter seven he was so overtaken by his own story that he stopped paying “nearly as much attention” to his model. In fairness, by the end of his article, he made it clear that he wasn’t advocating stealing, but rather digesting the material so thoroughly that you have made it your own. But for an inexperienced, struggling author, I think his method of patterning a single work could be dangerous. Also, he is silent about the marketability of said work. (I’d be very cautious.)

Linda Madl noted that sometimes authors may feel pressure because of the tight marketplace to create a specific work for a specific readership. Linda didn’t suggest this, but I think perhaps Ms. Viswanathan was trying to do just that when she got into her troubles. Suggestions like the ones from the writing instructor could be misconstrued as permission to copy for a lazy or frantic author.

Is it automatically plagiarism if two authors come up with the same plot ideas, characters, or even character names at the same time? As *New York Times* bestselling author Mary Jo Putney pointed out, “we’re all drawing from the same creative unconsciousness,” so similarities are likely. I know I’m constantly amazed at the waves of similar ideas I see as submissions. It’s as though, in a given week, everyone decides to focus on stories about fairies who meet one-eyed trolls; another week it’s disabled heroines. No plagiarism is involved, unless someone actually saw the other’s submission and decided to steal that plot by passing it off as his/her own.

Can plagiarism ever be inadvertent? Here my small sample of authors split. I’ve certainly heard authors argue that it can be inadvertent, particularly those who claim to have photographic memories. (However, if your memory really is photographic, wouldn’t you also have a photographic memory of where you got the material and that it wasn’t yours?) Certainly most authors I know are avid readers. I can’t imagine that things like phrases, characters, or scenes don’t float around in their heads from things they’ve encountered in others’ books. But each author I interviewed said she has to re-process that information to make it her own before it is of any value to her. That’s just part of her writing process—the same way she would process an event she observed or a bit of conversation she overheard. ▶

Plagiarism

▶ ▶ ▶ At least one of the authors I interviewed, multi-published Diane Whiteside who writes both historical and paranormal romances, said that early on in her outlining of a new book she specifically does a review with her well-read critique partners focusing on whether or not her characters and plots might be too similar to that of others. She said that when she's doing world-building for paranormal stories she's particularly cautious.

Because plagiarism doesn't involve the unintentional similarity but only intentional deception, it's hard to imagine how it could be inadvertent. Nora Roberts who several years ago had a number of her

novels plagiarized, probably said it best, "I don't understand how anyone can claim [he] copied by accident. When it's possible to put whole passages of the original side by side with the copy and the phrasing, the words—dialogue, narrative, description—often even the rhythm is the same, you can't ask me to believe it was an accident." She went on to suggest that if you're a writer, you should have your own voice and style and pride in your work. I'd say if you focus on developing those, you should never have to worry about plagiarism.

Based in Washington, DC, Elaine English is a literary agent representing commercial fiction and an attorney whose practice focuses heavily on publishing and media law.

The Radio Gig

BY CANDACE HAVENS

So you've been asked to do a short interview on air and now you're in a panic. What should you say? How should you talk? And if you're going into the station, what should you wear?

First, before you begin speaking, take a couple of deep breaths. It's also good to sing or do some voice exercises to help get the nerves out. Here are some more tips just for you:

- Speak in your normal voice, but with energy. Listeners love it when you are excited and passionate about whatever it is you are talking about.

- Remember to listen; you can often play off of something they've said and they love it when you do that.

- Speak clearly. Give short, concise answers. It's radio. There isn't much time between those commercial breaks.

- If you are doing a phone interview, hold the phone a couple of inches away from your mouth to avoid too many breathy sounds.

- Be prepared to talk about other things besides your books.

- That said, have some prepared things ready for your book. Just bullet points. Reading on air is a big no-no. Write down some plot points or character names you want to remember and leave it at that.

- Don't be afraid to play along with whatever joke is going on. If they seem a bit snippy, turn it to your advantage by laughing at yourself. They love that.

- If you are visiting in person, bring food. Most disc jockeys are binge eaters and crave sweets. As

far as dress, professional casual is fine. Our guys and girls run around in shorts and Hawaiian shirts most of the year.

- If you are doing a booksigning in town and they forget to mention it, throw in, "I'd love to meet you all, come see me at..." at the very end.

- Kill them with kindness. No matter what happens. The audience will see them as they really are, and you will come off looking professional and intelligent.

I'd like to share a quote from our producer and show co-host, Rebecca Carrell, who does the Dorsey Gang morning show on 96.3. When I asked her what was most important about being a good guest, she said: "I would tell the guests to do a little research on their hosts...it's easy to do it; they've posted pictures or bio's on the website. We love it when a guest has a little fun with us, and knows some 'inside' info on us, and it makes it sound like we all know each other. Also, don't ramble. Jot down the points you want to make, and make them in a clear, concise statement. Listeners are more likely to check out an author or another guest if [he's] interesting and funny, rather than someone who just rattles off facts."

Remember, be confident and when all else fails, pretend like you know what you are talking about.

Candace Havens is an entertainment critic for the Dorsey Gang on 96.3 KSCS, which broadcasts in the Dallas/Fort Worth area, and the Managing Editor of FYI Television Features. Her next release, Charmed and Deadly, will be available in June.



OFF the BEATEN PATH: Small Press Mysteries

BY CINDI MYERS

One of the fastest growing segments of publishing, if not *the* fastest, is small press. With the increased sophistication of Print on Demand technology and the success of Internet marketing, smaller publishers are able to produce books more economically and reach an audience of readers without extravagant marketing campaigns. A 2004 Book Industry Study Group survey showed that publishers with annual sales of \$1 million or less made up 94% of the total population of publishers and generated around 10% of total publishing sales.

Small press houses offer authors the advantage of more input on things like covers. Authors can develop a personal relationship with the staff of the publishing house, which might be only one or two other people. Conversely, getting books into stores and into the hands of readers can be challenging with smaller publishers. Few have the nationwide sales force to call on big chain accounts. And a large portion of the responsibility for marketing the book falls to the author of a small-press produced book.

Small presses often focus on niche markets, and small press-produced mysteries have been particularly successful at finding an audience. Here's a look at some promising small presses that publish mystery, suspense, and crime fiction.

ArcheBooks Publishing (archebooks.com)

In 2003 friends Robert Gelinias and Ralph Wolf founded Archebooks Publishing. Unusual among small presses, ArcheBooks accepts submissions only from literary agents. "We're always on the lookout for exciting new talent—emphasis on talent—not just desire," says Robert Gelinias. "As the industry has evolved in recent years to reduce its risk by gravitating towards writers who bring preexisting

audiences to the table, at ArcheBooks we've endeavored to stay true to our original vision of creating viable new publishing opportunities for creative new voices."

In addition to mystery and suspense, ArcheBooks also publishes science fiction and fantasy, horror, romance, historical fiction and nonfiction, and young adult books. ArcheBooks publishes one to three books each month, in both hardcover and ebook formats. The editors are looking for series mystery and authors who are prolific enough to produce one to two books a year. Authors must be willing to promote their own work. "The fresh new authors that are distinguishing themselves from the crowd and not getting lost in all the noise of so much competition these days are those who are learning to harness the new communications mediums of the 21st century," Gelinias says. "For any new author, doing a booksigning at a bookstore may reach a few dozen at a time, which is wonderful, but interactive websites, blogs, podcasts, multimedia, and the like are what are successfully penetrating thousands and thousands at a time. Audiences are evolving, and the means and modes to communicate with them are, too. The wise authors are then ones who recognize that and adapt to it accordingly."

Five Star Press (gale.com/fivestar/)

Five Star publishes genre fiction in hardcover library editions. Five Star is a division of Thompson Gale, which also produces large print reprints of books released by other publishers. Books are sold on a subscription basis to libraries and are available through online retailers and through special order at brick and mortar bookstores.

Five Star editorial is overseen by book packager Tekno Books. Editor John Helfers will consider romance, women's fiction, mystery, and science fiction and fantasy between 65,000 and 95,000 words. Any subgenre of mystery—cozy, hard-boiled/private eye, police procedural, suspense, thriller, historical, etc., is welcome at Five Star. Helfers prefers ▶

Small Press Mysteries

► email submissions to tekno@new.rr.com. Submit a synopsis, bio, publishing history, and at least the first three chapters, if not the entire manuscript. Email manuscripts should be forwarded in one complete attached file, preferably in either Microsoft Word or Rich Text Format (RTF). Five Star does not accept simultaneous submissions. Complete guidelines are available at gale.com/pdf/imprints/fivestar/06SubmissionsGuidelines.doc

Keene Publishing (keenebooks.com)

Keene Publishing was founded in 2002 by Diane Tinney. She also oversees Moo Press, which publishes children's books. Keene publishes one book a month—mystery/suspense, women's fiction, and some nonfiction. She will begin considering titles for Keene's 2008 catalog in the summer of 2007. "We are looking for a suspense/mystery that tackles a key issue in society today, and in addition to being a great page turner true to its genre, illuminates the lives of readers—gives them something to think about, raises their awareness to a new level."

Authors are asked to promote their book "on a weekly basis during the launch year." Tinney says, "As a small press, we need authors who are willing to, able to, and comfortable doing self/book promotion. Not everyone is comfortable going into book stores, libraries, schools, etc. to offer [his] services as a presenter in return for being able to feature [his] books. But, without the author in the public eye at least once a week, fiction never gets out of the warehouse, let alone off the shelf."

Midnight Ink (midnightinkbooks.com)

Midnight Ink is the mystery arm of Llewellyn Books, a successful publisher of metaphysical-themed titles. Based in Minnesota, Midnight Ink launched in 2005 and hit the ground running. It has an impressive catalog of mystery fiction, mostly cozy or amateur detective series mystery, with an emphasis on female protagonists or "girls with guns."

"Midnight Ink began by offering a little bit of everything," says editor Barbara Moore. "As we've progressed, the personality of the line has developed. We seem to have the right touch with cozies and girls with guns, so we are pursuing those titles most actively and mostly passing on darker mysteries, police procedurals, and hard-boiled."

The focus at Midnight Ink is on mystery, not

suspense. Moore is looking for "sparkling writing, interesting characters, and a strong story." The company publishes "a very few" stand alone titles but is mainly interested in series. Moore is also interested in acquiring some stories with metaphysical aspects. "We've been actively pursuing such manuscripts but haven't found very many," she says.

Current plans at Midnight Ink call for strengthening existing series before expanding, but Moore is open to new submissions. Guidelines are available at midnightinkbooks.com/submission_guidelines.php

Poisoned Pen Press (poisonedpenpress.com)

Barbara Peters and her husband, Robert Rosenwald, founded Poisoned Pen Press in 1996 as an outgrowth of their successful mystery bookstore in Scottsdale, Arizona. They began with reprints of classic mysteries, but soon branched into original titles. They publish three or four titles a month, and 65% of their sales are to libraries, the balance to mostly independent bookstores.

Poisoned Pen Press considers manuscripts between 65,000 and 90,000 words. They accept electronic submissions only. Send a one-page query letter, a two-page synopsis, and the first 30 pages of the manuscript. Detailed submission guidelines, including a list of things Peters does not want to see, can be found at poisonedpenpress.com/submission-guidelines/guidelines/. (Please note that at the moment, Poisoned Pen is closed to submissions, but hopes to open again soon.)

Peters says, "We are always looking for good, well executed writing, new voices, and books that are not copying New York. So that means we are largely excluding thrillers and high concept books in favor of detective fiction keyed to region, historical period, or genre tropes."

She sees a bright future for her company and other small mystery publishers. "I see nothing but opportunity ahead as big publishers move mysteries mainstream and focus on breaking out, not building, an author," she says. "It gives us a terrific chance to work in the margins, do things they aren't flexible enough to do, and work with authors in ways unimaginable five years ago. This may be a bad time for publishing in the conventional sense, but it is the best of all times to be a small press."

Cindi Myers writes romance and women's fiction, magazine articles, and short stories. She also produces a free weekly market newsletter. Subscription info is available on her website CindiMyers.com.

Like A Virgin—How I Broke Into the Business Twice

No one says, “I want to grow up to write 75,000 word historical romance novels set in the Regency era.” We start by thinking of ourselves as writers, people who have stories to tell. We begin with a universe of possibilities, gradually narrowing them down as we choose which story we’re going to tell first. Will it be a romance? A mystery? An epic space opera? When we choose which story to tell, we’re also choosing the genre that will shape our career.

Fourteen years ago I made the conscious decision to become a published author. Over the years I’d dabbled a bit, but never finished anything longer than a short story. But this time it would be different. A local writers’ group was forming, and I was going to be part of it. I’d put my butt in a chair and write an entire novel.

And I was going to write a romance.

There were several reasons why I chose romance, not the least of which was that the writers’ group I joined was a collection of budding romance authors. Another factor in my decision was the widely held perception that it was easier for an unknown author to break into romance fiction than it was to get started in other genres.

I wrote my first Regency romance, which was politely rejected by everyone. And a second, which eventually sold to Zebra, much to my delight. I’d achieved my dream of seeing my name in print. And then I sold a second novel, and then another.

Before I knew it, I was building a career writing Regency romances.

The first few books were fun. But by the time I’d written my fourth Regency, I longed to stretch my wings. After a talk with my agent, I put together a proposal for a historical romance set in the Regency era. The proposal was rejected by my editor, and then unsuccessfully shopped around to other publishers. There were nice comments, but the proposal was “too Patrick O’Brian” for the romance houses, and “too much romance” for the straight historical fiction houses.

In the meantime, I’d signed a contract to write two more Regencies for Zebra. My new editor had

informed me that they wanted light-hearted, comedy of manners stories and that’s just what I’d sold them.

But these weren’t the stories I wanted to write. I wanted to tackle bigger stories, darker themes, and the kinds of complex plots that can’t be squeezed into a 75K novel. The career which had started off as the fulfillment of my dreams now began to feel like a straitjacket.

Like many writers, I was feeling the pressure to produce more of the same. The conventional wisdom was that this was how you built your readership, and grew your career. And I had no reason to doubt that advice—I knew a number of successful authors who had followed this path.

But I wasn’t happy. I took a long, hard look at myself and realized that I needed to make a change. A big change. Not merely moving to a different type of romance but leaving the romance genre entirely.

It wasn’t the first time I’d considered this. A few years before, I’d sent my agent the first three chapters of a fantasy novel. She’d liked it, but advised that it would be easier to sell if I had a complete novel. So I stole time in between the two contracted Regency novels to write *Devlin’s Luck*.

For the first time in a long time I looked forward to sitting down at the computer to write. When it was finished, I sent it off to my agent, then wrote what would turn out to be the last of my contracted Regencies.

When my agent called to say that Bantam Spectra wanted *Devlin’s Luck*, as well as the next two novels of the trilogy, I said, “Yes!” and I haven’t looked back.

Changing genres meant a whole new set of challenges and opportunities. I was willing to take a pseudonym if it meant I wouldn’t be burdened by the sales numbers from the Regency-sized print runs, but fortunately it wasn’t necessary. By making the switch from romance to fantasy it was as if I were a first-time author all over again.

Few of my Regency readers could be expected to follow me, so I needed to learn how to market myself to an entirely different type of reader. I designed a new website, started going to science fiction conventions, and joined SFWA. ▶

First Person: Patricia Bray

▶ One of the keys to my being able to change genres was my agent, Jennifer Jackson. Jennifer's diverse client list was one of the reasons I had signed with her—I knew I wanted an agent who could market science fiction as well as romance. I was open with Jennifer right from the beginning of our relationship, as part of our long-term career planning. She knew I planned to write in more than one genre and encouraged me when I was ready to make the change.

I'd made the switch for creative reasons, but it proved to be financially rewarding as well. When the market for traditional Regency romances collapsed, many of my friends were orphaned, scrambling to reinvent themselves. Those who had already broadened their career beyond Regencies were in a far better position to survive the market downturn.

Genre switching doesn't have to be a radical change. Sometimes it's a shift in emphasis—consider those authors who have branched out from traditional romance into romantic suspense. These authors often take a substantial portion of their fan base with them, while attracting new readers. In other cases, where an author is writing in widely divergent genres, he/she may choose to have separate identities in order to manage reader (and book-seller) expectations. A classic example is Nora Rob-

erts, who maintains a separate identity as J.D. Robb for her futuristic mysteries.

If you're thinking about changing genres, or writing in more than one genre, it's never too soon to begin planning. Discuss your plans with your agent—if she's not supportive then you'll need to think about finding a new agent who can help launch your new career. Look closely at the contracts you are signing today—multi-book contracts may have exclusivity clauses or other language that could bar you from writing for another publisher until you've completed the contract.

Consider whether you want to make an outright switch, or try to juggle multiple genres at the same time. Ideally, I'd like a career where I was publishing in more than one genre, preferably with multiple publishers. There's a comfort level in not having all your eggs in one basket, and I know many Nine members are successfully doing just that. But realistically, as long as I have the day job, I'm going to be on a pace of one book every nine months, and that's not enough to keep multiple career tracks going.

For now, I'm in my second fantasy trilogy for Bantam. I still enjoy what I'm doing, but I know this is only another phase of my career. Eventually I'll branch out again—whether driven by creative urges, market forces, or a combination of the two. Making the change can be scary, but at the same time it's a wonderful opportunity to reinvent myself.

The one thing that won't change is that I'm a writer. ▲

Business Briefs

U.S. Census Reports Retail Sales Decline: Although overall retail sales were up in 2006, bookstores performed 2.9% below 2005 figures. December sales were very bad. No figures are available for alternate markets.

Random House Signs a Book Deal and Controlling Interest in Virgin Books: Just how many publishers sign an author and buy 90% of his publishing company? That's exactly what RH did when they signed a five book deal with Sir Richard Branson and bought out 90% of Virgin Books worldwide. They will have control of the U.S. Division.

Harlequin Is Still Down, Maybe: Harlequin still points to a stronger Canadian dollar and difficulties with its direct-to-consumer trade for a 9.6% decline in 2006. The decline includes downsizing staff by 4%. Torstar did do a comparison with 2005, without the currency fluctuations, and found retail sales in North America up C\$9.9 million and direct sales declining by C\$5.7 million. The retail sales gain was credited to single title sales plus improved series sales. Direct sales problems included bankruptcy by a supplier that contributed to lower shipments. Sales were up in the U.K. and Nordic markets but down in Germany.

Changes Afoot at Borders: On March 22, Borders Group reported that it will close nearly half of its Waldenbooks outlets, cutting the number of stores to approximately 300 by the end of 2008. FMI: usatoday.com/money/industries/retail/2007-03-22-borders_N.htm#

Teens Buying Books Faster Than Ever: Teen book sales are booming, up by a quarter between 1999 and 2005. Approximately 30 million teens have disposable income, and they're spending much of it on books. In addition, teen fiction at libraries is circulating at a higher rate than adult fiction. FMI: seattlepi.nwsource.com/books/306531_teenlit08.html

— ***"Briefs" compiled by Sally Hawkes***



WRITING is TAXING

BY DIANE O'BRIEN KELLY

Jaws. Freddy Krueger. Hannibal Lecter. The IRS. All strike fear in the hearts of man. But lurking in the shadows, waiting to pounce and devour, are 50 lesser-known evils with just as much power to make our lives a living hell. Who are these cruel, sadistic monsters? The state tax departments.

Ugh. As if worrying about our federal taxes isn't enough to have us reaching for the Jack Daniels and Preparation H, now we have to worry about complying with 50 different sets of state tax laws, not only on our income, but also on our book sales. And let's not forget those that apply to the District of Columbia. Where will this madness end?

Even if you don't live in a particular state—whether you are a U.S. citizen or foreign national—your mere presence at a booksigning, speaking engagement, or conference is sufficient to create a “nexus” or connection, giving the state the legal right to tax you on all income derived within that state. If you fail to report your income or sales, you may find yourself facing a hefty state tax bill, as well as interest and—*gasp!*—penalties.

So whaddya do?

For income taxes, find out if you have a filing requirement in the states in which you've earned revenue. Most states require a non-resident to file a state income tax return only if the gross revenues earned in the state exceed a specified threshold amount which, of course, varies drastically from state to state and year to year. Under current law in Oklahoma, for instance, a non-resident must file an income tax return if he earned a mere \$1,000 in gross revenues in the state. Be sure to file a return or you might get blown away when that wind comes sweeping down the plain. In California, as another example, a non-resident is required to file a California income tax return if he has any amount of California-source income and also has a gross income of over \$13,713 if single, \$27,426 if married filing a joint return.

Don't Be Grabbed by the Long Arm of the Law

Remember, the filing requirements are based on gross revenues, not net profits. Even if you may show a loss for your earnings in the state once you deduct the applicable expenses, you may still have to file a return. If you operate as an LLC or corporation, the rules are often even more complicated.

Think you can run and hide? Don't try it. State tax departments are experts at hide-and-seek. Organizations that pay you \$600 or more are required to file Form 1099 with both the IRS and state tax department to report the payments made to you. Thus, you will be on record with the state tax department, and they'll hunt you down if you don't file a return. Better to play it safe and report if required rather than risk being grabbed—and choked—by the long arm of the law.

Now that we've got income taxes out of the way, you can relax, right? No! Not if you—rather than a bookseller or another party—are handling the sales of the books and collecting the money for yourself. In that case, you've got sales tax to worry about. Again, the sales tax rules vary wildly from state to state. In Texas, for example, a person selling taxable items—such as her novels—is not taxed on “occasional sales,” which is defined as two or fewer sales in a one-year period. Thus, you can sell two books in Texas without having to pay any sales tax. Yee-ha! But let's hope your booksignings go much better than that. Once you sell that third book in the Lone Star State, you must pay sales tax. *Don't that put a burr in your britches!*

Many other states are even less generous, taxing a single sale in the state. What's more, you may be required to obtain a sales tax permit before making taxable sales in the state. Keep in mind, too, that even if you are selling your books at cost and not making a profit on them, sales tax is based on sales price, not net profit, so sales tax may still be owed.

Sheez! What's a novelist to do?

The best thing to do is prepare yourself by Googling the state tax departments, reading ▶

WRITING is TAXING

▶ through the information available online, then contacting the agency with any questions.

Let's end with a bit of good news. Generally, state income tax that you pay is deductible for individuals as an itemized deduction on your federal income tax return. The sales tax you pay is deductible as a business expense on your schedule C. So even though you may owe a bit to a state or two, you'll owe a little less to Uncle Sam. If that's not

enough to cheer you up, try sneezing on your tax forms before you mail them in.

Got a tax issue? Email your question to Author @BlarneyBabe.com.

Diane O'Brien Kelly is a Certified Public Accountant, tax attorney, and humor writer from Texas. Visit her at BlarneyBabe.com.

Member to Member

Here's Your Chance!

If you've ever wished that Ninc would take on certain issues, offer its members a great new service, or just do something the way you think it should be done, have we got fabulous news for you! The 2007 Nominating Committee is just about to start its search for candidates for the 2008 Board—the people who will lead Ninc into whatever glorious future you've envisioned. And you, yes, YOU can be a part of this great adventure! I can personally attest to the fact that serving on the Board is a great way to make friends and to learn all kinds of cool things about Ninc and about the publishing industry. If you're

at all interested in serving as President-elect (to become President in 2009), Secretary, Treasurer, or in serving on next year's Nominating Committee (we need nine people for the slate), or if you know of someone you think would be ideal for any of those roles, please contact a member of the current Nominating Committee by May 1.

— **Brenda Hiatt Barber**

Brenda Hiatt Barberbrendahb@aol.com
Toni Blaketoni@toniblake.com
Ken Casperlittleoaks@juno.com
Dee Davis..... ddavis@nyc.rr.com
Roz Fox.....rdfox@worldnet.att.net
Kayla Perrinkaywriter1@aol.com
Gina Wilkins.....gcwilkins@centurytel.net

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