# WHAT ARE CONSEQUENCES OF PROFESSORS SELLING THE SAMPLE TEXTBOOKS THEY RECEIVE?

- 1. Those professors help to conserve paper, which helps to conserve timber and forests.
- 2. Those professors help to provide used textbookds to students. (Used books are usually 25% cheaper than new books. Most sample textbooks must be sold as used.)
- 3. Those professors who sell books to a book buyer allow the book buyer's company to provide competition to the publisher. Without this pressure the publisher could charge the students any price it wished, and the student would have no choice except to pay that price.

### IS SELLING SAMPLE TEXTBOOKS LEGAL?

Yes. According to the Federal Postal Reorganization Act (P. L. 91-375, paragraph 3009), anything anyone receives unsolicited through the mail may be disposed of in any manner the recipient wishes.

Found on a Professor's Door (Next to the "I Don't Sell My Professional Review Copy" sticker)

Ed. Note: It is TAA's position that the comp copy problem can never be solved until publishers quit giving away unsolicited copies. They have been urged to set up a mechanism to handle requests that does not require a signature from professors individually, but could be handled by a president or provost of an institution. The publishers have refused to even investigate the feasibility of this approach!

the prevailing party in the Collaboration Agreement. An attorney's fee clause is a strong disincentive to the bringing of meritless or marginal suits. A party will think twice before risking the payment of two sets of attorney's fees. Consequently, an attorney's fees clause provides incentives to all parties to settle. Lastly, an attorney's fee clause is an empowering provision. With such a clause, one need not be intimidated from bringing a meritorious case for fear the attorney's fees will exceed the amount in controversy.

As an aside, this empowering aspect is precisely why you have never seen an attorney's fee clause in an Author-Publisher contract. Publishers can easily afford to hire an attorney. Knowing that you can't allows publishers to be far more cavalier in their treatment of authors.

Of course with or without an attorney's fee clause, you are always better off settling your dispute with some compromise, and thus

face saving, on both sides. A settlement normally results in both financial and emotional savings.

#### Conclusion

There exist many situations where a Collaboration Agreement is important, and on occasion even vital. In addition the process of defining your goals and respective duties can in and of itself be a worthwhile exercise. While we have not had in-depth discussion in this article regarding the effect of your Author-Publisher contract on your Collaboration Agreement, and vice versa, it is important to coordinate the provisions of the two agreements to avoid contradictory provisions.

#### 1992 CONVENTION

Las Vegas

June 11-14

## Collaborative Writing continued from page 5

- Once you find a potential coauthor, ask to see some of the writer's published work and meet the person.
- Check to be sure that your points of view on crucial issues are enough like yours that you can work together compatibly.
- Talk about your work habits and writing styles. Look at the writer's personality and enthusiasm for this project.

A Collaboration Agreement should spell out financial arrangements, including:

- Advance—the writer should get all or most, since this will constitute all or nearly all of the writer's income during the time of working on the book. On my projects, I have received from 75 to 100% of the up-front money, with the professional person catching up later.
- Royalty Split—this can vary, depending on who needs whom more, how much clout either author may have, how much of a contribution each one will make to the project, how badly you want to do the book and how much you think it will earn. On all my coauthored projects, I've received half the royalties.
- Fee For Proposal—if a proposal needs to be written, the usual practice is to pay the writer to prepare one. Then once a publisher agrees to publish the book, that amount will be deducted from the writer's share of the royalties.
- Reimbursement of Expenses—there should be some agreement as to how anticipated expenses will be reimbursed before any royalties are distributed.
- Byline-Whose name goes first, whether type size will be the same for both.
- Who Does What, And How-What the academic will do, what the writer will do.

How the information will be transmitted to the writer (in well-organized notes or tapes--not in bundles of papers)

continued