

RATIONALE FOR CREATING A BOOKSTORE OVERSIGHT COMMITTEE

Background

March 7, 2018

To Academic Senate

Submitted by Michael McNellis, co-lead of FCDC Task Force

PART I

09/08/2017

FCDC discussed bookstore issues. David and I were appointed as co-leaders of bookstore investigative task-force.

09/11/2017

David and I sent email out to chairs to seek input from their departments regarding bookstore issues or commendations.

11/06/2017

Ralph Burnette sends email to David and I (and two other faculty members) to inform us that he will no longer be ordering from the publisher from whom we ordered our books because Don Chrusciel, Somaly Boles, and Tom Moran told him not to order based on “documentation” that Ralph provided them. This was a company that publishes David Moton and Gloria Dumler’s national textbook.

Ralph Burnette (B&N Management) provided two main reasons for requesting blacklisting a publisher:

1) Ralph claimed that he paid for material that the publisher did not send.

Publisher’s written response: Publisher provided the bookstore with the tracking number, a date, a time and a signature from the bookstore and the bookstore claimed “shipment was received” but they could not find the order and so had to reorder, which they did.

2) Ralph claimed that some book orders arrived two weeks into the semester “due to shipping delays” by the publisher.

Publisher’s written response: Simply put, publisher replied that Ralph Burnette paid up to 6 weeks late and actually blocked the payment to the publisher after he placed the order, which caused delay and distrust. Publisher stated they have written confirmation of this from the B&N Headquarters.

11/21/2017

Publisher submits reply to Ralph’s allegations against the publisher, making it clear that the decision to block them as a publisher was on false allegations and was shocked that the decision was not made by verifying any of the information given by Ralph Burnette, B&N management. See some of the publishers’ responses in red. A copy of both Ralph’s and the publisher’s emails are available for review.

11/30/2017

In reply to Ralph Burnette’s additional claims that the publisher had minimums and a no refund policy.

Publisher’s written response to Ralph’s allegations: 1) Publisher mentioned they told Ralph many times that should he need to adjust minimums all he need to do is ask. Ralph asked only one time and was accommodated. 2) Publisher mentioned that they did have a refund policy and it made no sense that he was going around claiming they do not. Also the one time he asked for a refund for his MLA overstock, they provided him with a 50% return. He never asked again to return any of his overstock.

12/1/2017

Publisher was unblocked. Meeting led by Nan Gomez-Heitzeberg took place to address understanding the need to provide students access to instructional materials. Nan, Don Chrusciel, Tom Moran, Michael McNellis, Gloria Dumler, Erin Miller, David Moton, and Stephen Tavoni were present. **All agreed that there was failed communication processes and one way to address this was to create a more formal Bookstore Committee through the Academic Senate.**

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11/06/2017 –Present

- *Repeated requests have been made to Ralph Burnette, Don Chrusciel and Tom Moran for the “documentation” that Ralph provided that was used in order to block a publisher - and to date, NO EVIDENCE OR DOCUMENTION has been provided by Barnes and Noble Management*
- *At no point during this process was there an apology to the impacted faculty members or the publisher*
- *Requests for time of the two secret meetings where the decision took place has been met with resistance. We still don't have the specific dates and content of the meeting between Don, Tom & Ralph.*

PART II

Since David and I started our investigation last semester, here are a few items that we have discovered.

- Bookstore does not order enough books –
 - E.g, bookstore ordered 20 books when the faculty member was teaching 240 students.
- Bookstore marked up textbooks above 33% allowed by contract - sometimes up to 44%
- Bookstore claimed books were on “backorder” when in fact the bookstore did not order them – which in effect puts blame on publisher.
- Issues with online ordering:
 - Bookstore sells used copies of books to students but then turns around and charges for a new copy
 - Bookstore orders are placed, and in some cases, they are backordered and then canceled weeks apart, leaving students without books well into the third and sometimes 6th week of class.
 - Books get canceled.
 - Bookstore does not identify if books are in stock.
- Bookstore orders only partial orders –
 - Faculty requested three books but only one was ordered, which led to a revising of the syllabus during the first week of classes.
- I placed an online book order for two classes on Feb 17, 2018. I have not received my books. I have heard nothing from the bookstore as to the status of my order. Imagine if I was a student waiting for my books that I needed to pass my class.

In short, creating a bookstore committee with members of all constituents, faculty, administration, staff, students and an ex officio bookstore rep makes sense and creates the possibility for open and transparent dialogue to help solve the problems identified here.

**Email from Barnes and Noble Manager, Ralph Burnette,
& Publisher's Response to Ralph's Claims**

RALPH BURNETTE'S EMAIL BLOCKING A PUBLISHER

From: SM8014 [SM8014@bncollege.com]
Sent: Monday, November 06, 2017 12:02 PM
To: Michael McNellis; David Moton; Gloria Dumler; Erin Miller
Subject: Onzieme orders

Hi everyone,

I had two meetings with Dr. Chrusciel, Somaly Boles and Dr. Moran to discuss this vendor and was told to let you all know that we can no longer place orders with them. If any of you want to meet to discuss this further and see the documentation that I provided to the college please let me know.

The major issues that prevent us from ordering from Onzieme are that we have paid for course materials that we never received or in some cases, received weeks into the semester. We ordered the materials for your fall classes in April and we still have not received some of them and many of them arrived at the very end of the second week of the semester (after being told throughout the summer that they had already been shipped and received). Erin, as you know, the bookstore ended up placing a second order for your materials just to get them rushed into the store for fall and we never received the original order. We have decided to just write off the cost of those materials.

Michael, in your case the good news is that we have a huge amount of stock of the materials that you have been adopting from Oznieme, so if you want to stick to the same ISBNs that you adopted for the fall, we should have enough to cover your students for some time. We only sold about 10% of what was requested last semester due to shipping delays by the vendor.

Also, I know that Onzieme offers all of these materials online in digital format or a direct-to-student purchase, so if any of you want to continue using them as a vendor, you should be able to direct your students there for purchase.

If you have any questions or want to meet to discuss further, please let me know.

Thank you,

Ralph Burnette | General Manager, KCCD
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Barnes & Noble College
Bringing You What's Next

**Email from Barnes and Noble Manager, Ralph Burnette,
& Publisher's Response to Ralph's Claims**

PUBLISHER'S RESPONSE TO RALPH BURNETTE

From: Katar Esghir [katar@onziemeditation.com]
Sent: Tuesday, November 21, 2017 8:32 AM
To: Sonya Christian; Nan Gomez-Heitzeberg
Cc: Donald Chrusciel; Gloria Dumler; Erin Miller; David Moton; Michael McNellis
Subject: Response to Bakersfield College Bookstore allegations

November 21, 2017

Dear President Sonya Christian, Vice President Nan Gomez-Heitzeberg, Vice President of Finance Don Chrusciel, & impacted faculty members,

Thank you for your patience while I further investigated the account our company has with the Barnes & Noble/Bakersfield College Bookstore. I am Katar Esghir, currently a Partner and Vice President of Finance and Operations for our publishing company, after a recent promotion from being Senior Account Executive. I do have degrees in accounting, criminal justice and finance, including an MBA. My experience also includes executive management positions in fraud, risk-management, financing, accounting, and operational strategy departments. Please know that I have been a strong advocate for reducing the cost of textbooks in the industry and the decision by the Bookstore and Bakersfield College to block our company based only on Mr. Ralph Burnette's claims also shocks me. It's a sad day when a small publisher gets attacked like this from a big company because we now have to spend a lot of money to defend ourselves and to provide damage control, taking us away from creating affordable books for students and helping faculty members create traditional and custom material for their classrooms.

Knowing very well that I am not perfect, I wanted to be certain of the facts before I responded to Mr. Burnette's allegations against our company. So, after a week of auditing and reviewing this account like an outsider, i.e., going through emails, orders, etc., I made sure that my following statements are fair and well researched, backed by specific evidence. Moreover, after all my years of experience in different companies, divisions and departments and levels, I am shocked that someone would make these allegations in an email. I have never seen this at the management level. When I read Mr. Burnette's email, I was also surprised by two things: 1) the level of arrogance and lack of empathy that Mr. Burnette took in addressing faculty members, one of the bookstore's main constituents; and 2) the total disregard of what impact this would have on both of the bookstore's main constituents, namely students and faculty members. Our company works with many college and university bookstores and has always had positive experiences and relationships with them. My experience with your bookstore, however, has been different.

Let's now turn to my response.

My Response to Mr. Ralph Burnette's Allegations and Claims

Our legal team has identified many allegations made against our company in Mr. Burnette's email and more in other contexts. As the Vice President of Finance and Operations and Partner of the company, I can assure each of you that **each and every one of the allegations and claims against our company made by Mr. Ralph Burnette, and by extension Barnes and Noble and Bakersfield College, are outright false.** I want to make it clear that at no point did anyone from the Bookstore contact me to constructively discuss or attempt to negotiate any of the issues raised in Mr. Burnette's email. In my experience, I find this

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unusual and highlights the lack of responsibility and experience of the management team, leading me to also believe that there might be an alternative motive.

In fact, the last conversation I had with Mr. Burnette was in May regarding the bookstore's unpaid balance for the fall order, and with **Mrs. Angela Medina (formerly Lopez)**, Assistant Manager, in August when she was clearly upset that Mr. McNellis kept his fall order and she said to me "We are Barnes & Noble and do not have to order from you and I will not order for Michael; I will not order anymore from the English Department either and I will not order the *Unlocking MLA Code* anymore! They are difficult and Gloria [Dumler] is impossible..." This was the last time I talked with the Bookstore.

Importantly, after this conversation with Mrs. Medina, I called Mr. Burnette directly two times and left messages regarding the conduct and comments of Mrs. Medina. He never returned my call. And the bookstore never called or ordered again from our company.

As it turns out the bookstore submitted a special PO for the prison, one involving Dumler and Moton's book, just weeks before that conversation with Mrs. Medina, in which she states the Bookstore "will not order [MLA] anymore." But even after our company printed those books for that PO, the Bookstore never paid and subsequently never submitted another order from our company since. Thus, we were stuck with that order because the books were made special for the prison. *Unlocking the MLA Code* is a national book authored by Mrs. Gloria Dumler and Mr. David Moton. In short, the bookstore clearly had an agenda to block Mrs. Gloria Dumler (and by proximity, Mr. David Moton), Mr. Michael McNellis, and the English Department from ordering books through us, because "they [the faculty members and the English Department] are difficult." The Bookstore clearly made the decision to not order our materials on the phone that day when Mrs. Medina made those decisive comments to me. There is obviously more to this story involving slandering, discriminating, and steering of the Bookstore against our company, but that will be dealt with in another venue.

Getting back to Mr. Burnette's email: After doing a review of the BC Bookstore's account, **I have realized that the sweeping claims made against our company, really, in the end, are a matter concerning two orders, which I will show below are orders that were either a) misplaced by the bookstore (Ms. Miller's order) or b) late due to Mr. Burnette's decision to obstruct payment (Mr. McNellis's order).** Thus, the allegations made against us are actually a result of actions and decisions made by Mr. Ralph Burnette and Mrs. Angela Medina (formerly Lopez), which were backed by Bakersfield College.

It appears to me that Mr. Burnette has chosen to place blame of the overstocked inventory on our company in order to deflect the blame from his own mismanagement. Also, I'm curious to know if the BC Bookstore applies the same set of standards that was used to discriminate and censure us to all the other vendors that they use. Moreover, I do feel that the reasons for blacklisting our company are due not entirely for the reasons Mr. Burnette states, as most of his claims are proved or disproved by analyzing simple accounting activities. I wonder if the Bakersfield College committee of Don Chrusciel, Tom Moran or Somaly Boles asked for this accounting evidence, because I can tell you, I have examined this account and its accounting activities and therein rests majority of the proof that Mr. Ralph Burnette's allegations are false. **So I am left wondering why was our company singled out from the others based not on any real investigation into false claims Mr. Burnette brought to Dr. Chrusciel, Tom Moran, and Somaly Boles,** which caused and continues to cause us immediate and long-term damages to our company and authors.

Our company can and will provide hard evidence to these points. But due to the advice of my legal team, I cannot share any confidential information such as emails, tracking information, confirmations, signatures, and other evidence directly to this committee. All evidence will be sent, along with our

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statement, to Barnes & Noble executives at Headquarters for legal purposes. We will also be calling for an investigation into the bookstores practices and management. **I strongly feel that our company, our authors, and myself personally have been wrongly discriminated against by Barnes & Noble Bookstore at Bakersfield College and Bakersfield College itself. Damages have already been done and are continuing to be done to our company, our authors, and me personally by the actions and words of Mr. Ralph Burnette and Mrs. Angela Medina (formerly Angela Lopez) and the hasty and ill-informed decisions by the College, including Dr. Don Chrusciel, Mr. Tom Moran and Mrs. Somaly Boles.**

We want to apologize to Ms. Erin Miller, who was unprofessionally shamed and disrespected by Mr. Burnette in his email. We can assure you, Ms. Miller, that all your orders were shipped by us and received by the BC Bookstore. In fact, Ms. Bernadette Quintero, BC Bookstore Textbook Manager, who was kind and enjoyable to talk to, contacted me to say "Our system shows that the books are received but we cannot find them?" We provided tracking information to her at that time and she said, "Well, we cannot find the order here and will have to reorder." *This does make me question where all those books went.* Should the order not have been marked as received, we certainly would have been more than accommodating and happy to refill that order at that time for no payment.

To Mr. McNellis, "the good news" is that the late arrival of your book order was not your fault. Your order was directly obstructed by Mr. Burnette who stopped payment on your order and Mrs. Angela Medina who mislead me on the date of payment, leading to your order arriving after the start of the semester. **Payment for your order was 6 weeks late – not paid in April** – and as a result, your custom books were delayed in the production process, leading to your book arriving in the bookstore two weeks into the fall semester. We contacted you and Mr. Burnette via email stating that your books would not arrive by first day of class – we just didn't tell you at the time that the reason was because Mr. Burnette held up paying for your order. Had Mr. Burnette not obstructed the payment, your books would have arrived before the start of the semester. Moreover, we have evidence that the bookstore did two additional things that contributed to the low sales of your books after they were received by the bookstore: 1) they waited several weeks to put your books on the shelves and 2) they still turned away students, telling them the books were on backorder when they had already received them.

In addition, the workbook Mr. McNellis ordered through us was a custom one and was not available anywhere but through the BC Bookstore – it was NOT available online or in digital format or direct-to-student sale, making Mr. Burnette's claim that ALL of our material is offered online in digital format or direct-to-student purchase a false one.

It's very interesting to note that Mr. Burnette's email addresses only Ms. Miller and Mr. McNellis, but nothing is mentioned about our authors, Gloria Dumler and David Moton. Their book, *Unlocking the MLA Code*, is a national seller and used by many professors in the English department in three of your colleges, Bakersfield College, Porterville College, and Cerro Coso College, including the prison. The decision to block this book from being sold has already cost both our authors and our company damages, both financial and in reputation. Moreover, we know that your bookstore chose not to place all order requests, partially or fully, for the *Unlocking MLA Code* for the fall 2017, which negatively impacted students, faculty members, our authors and our company.

Finally, we want to deeply apologize to Ms. Miller, Mrs. Dumler, Mr. Moton, and Mr. McNellis for the disruption in your classes and departments that this has already caused and is causing. We will certainly find a solution for you, students and other faculty members – with a hope that the solution will include the BC Bookstore. *And I do want to reiterate that, curiously, at no point did anyone at the BC Bookstore contact our company to inform us that the bookstore paid for orders that they did not receive.* That's very unusual. I would have been happy to work with them should that have occurred.

Email from Barnes and Noble Manager, Ralph Burnette, & Publisher's Response to Ralph's Claims

While this is my immediate response to the discriminatory decision of Mr. Ralph Burnette, Mrs. Angela Medina, Dr. Don Chrusciel, Mr. Tom Moran and Mrs. Somaly Boles, please allow me to provide further context to the broader issues that lay behind this act of censorship.

Further Context

During my tenure as the Senior Account Executive who managed the BC account, I would like to personally provide more insight into the difficult time that I, personally, have had working with Mr. Burnette and Mrs. Angela Medina (formerly Lopez). Since my promotion to Vice President of Finance and Operations, I have asked to continue to manage this account because of its many unorthodox challenges.

From the beginning, **Mr. Burnette**, though he was charming, he was arrogant, condescending, and inflexible, making it very clear that he would not work with me, and yet I can account for the many times when I accommodated the Bookstore by modifying our policies to their benefit. There are two stories I'd like to share.

Story One: In January 2017, during one of our first few conversations, I explained to Mr. Burnette that we need to be paid first before we process and ship orders just like when your students come into your store they have to pay first before leaving with the merchandise. This upset Mr. Burnette and he addressed me in a condescending tone and said to me, "You reps come and go and you try to manipulate the way we do business. We are Barnes & Noble." He continued, "And most reps are guys" and I said "What did you mean by that." He didn't say anything. I felt two things during this conversation: 1) I felt my gender was a problem for Mr. Burnette and 2) I could not believe he condescended to me, trying to belittle me, knowing nothing about my background or business experience. I was shocked. Little did he know what I do and what experience I have.

Story Two: In January 2017 again, during one of our conversations, I asked Mr. Burnette about the 33% markup of our books and why all books in the store are not marked up the same percentage. His response was that our college was a "small publisher, that the College gets 12% and that there are people who come into the bookstore questioning your books." He stated in particular that "**Steven Holmes** of Political Science comes here every day and he is annoying. But he had a problem with your books being priced to high." I challenged Mr. Burnette by saying "so because we are a small publisher and that Steven Holmes said we are ridiculously priced we are set apart from other publishers and get a 33% markup?" Mr. Burnette said "I am the one who makes the price and that's it. If you want to sell your books online, there is not much I can do." I asked "if there is anything we can do to avoid the 33% markup" and he said. "there is nothing you can do; if you don't like it, you can sell your books online." I ended the conversation saying "this is discrimination, because we are a small publisher."

Also, after learning from Mr. Burnette that Mr. Steven Holmes has a book himself, I did a little research and learned that Mr. Holmes' book is a supplemental guide and is priced twice the cost of most of our books. So Mr. Burnette's comment about Mr. Holmes didn't make any sense. I was puzzled why would Mr. Steven Holmes in Political Science whose book is twice as expensive as our workbooks have to do with a 33% markup of our company's books.

Furthermore, working with **Mrs. Angela Medina (formerly Lopez)** was difficult from the beginning, as she was not charming, but rude and confrontational. She also took a hard stance with me in that she said to me, "We are Barnes & Noble, and that's how we do things." This was a repeated mantra of sorts that both Mr. Burnette and Mrs. Medina used often. Moreover, she did make a threat of banning our material toward our authors and our company. I am sympathetic for other small publishers, who have employees with less experience and education than I do, that have to work with Mr. Burnette and Mrs. Medina. While they may or may not be nice in the face of faculty members, they were not friendly or helpful to our

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company, especially on the phone, or what they had to say about some faculty members and an entire department like English.

We will also be sharing some disturbing emails sent to me by Mr. Burnette that I believe indicate an attempt to undermine our company and me personally, or at least suggests that Mr. Burnette engaged in a personal vendetta against our company and me personally.

At this point, there is more to this story. I just wanted to give you a little insight into the broader issues and would prefer at this point to work toward solutions.

Our Solution to Help Faculty Members and Access for Students

I do want you to know that our company was built on solving problems in the textbook industry, creating positive relationships with many college and university bookstores across the nation, and reducing costs for students. Our company was also founded on supporting faculty members and students in many ways, including providing free copies of our material to students in need. As we all know, the allegations raised by Mr. Burnette and Bakersfield College are serious. However, we will not solve these issues overnight. So in the interests of our company, our authors and impacted students, I would like to provide an immediate solution to persuade those who have the authority to make a decision to once again encourage the Barnes & Noble/Bakersfield College Bookstore to order course materials from us.

Solution: *BC bookstore continues to order our materials for our authors, other faculty members, and impacted students. In return, I would be happy to provide 100% return as credits on all future orders placed by the BC Bookstore.*

The preceding account of events is not intended as an exhaustive list of instances of and responses to the allegations and conduct of the Barnes & Noble/Bakersfield College Bookstore and Bakersfield College itself. It does, however, illustrate a pattern of conduct and decisions made that I have found suspect. The intent of this letter is to provide the committee with a detailed but not exhaustive response to the allegations and to offer a solution so that the BC Bookstore may again start ordering our books for the benefit of students and our authors and other faculty members not listed here but who use our books. I do find it curious as to why Mr. Burnette's email was not also addressed to all other English or other faculty members using our books. Nevertheless, I hope my account helps balance the perspective of the issues in order to help Bakersfield College reconsider their decision to blacklist our company, seeing that Mr. Ralph Burnette and Mrs. Angela Medina (formerly Lopez) already have made their decision long ago.

Very truly yours,

Katar Esghir
Vice President of Finance and Operations
Office: 213.808.7098
Email: katar@onziemeditation.com

BC Bookstore – Ordering Course Materials

Minutes to 12/1/2017 Meeting

Admin Bldg., Room A5

Present: Nan Gomez-Heitzeberg, Don Chrusciel, Tom Moran, Ralph Burnette, Gloria Dumler, Michael McNellis, Erin Miller, David Moton, Stephen Tavoni

Not Present: Somaly Boles

Agenda/Minutes

Issue: *Ordering Course Materials from Onzième Edition Publishing Company*

Action 1: Nan brilliantly suggested that we approach today’s meeting using an interest-based approach, where each of us would get a few moments to articulate our individual interests. Nan started two lists, one with the heading of *Interests* and another with the heading of *Process*. Each member had an opportunity to speak (see below for *Snapshot of Comments*) and Nan listed the interests and process suggestions on the board, an activity that resulted in the chart of sorts that is included below.

Action 2: Don mentioned he would contact the IT again to see if we can get a simple BC email address for the bookstore, something like “bookstore@bakersfieldcollege.edu.” However, this has been requested many times in the past, and there are reasons why that may not be possible. Ralph mentioned he would ask Barnes & Noble again as well, but similarly these requests have been unsuccessful for other reasons.

Action 3: Regarding process, Nan reiterated that we will focus on making the process clearer by increasing representation, and providing better feedback pathways, and Michael is already working with Academic Senate to create a committee there. Michael agreed and he will get this on the Academic Senate agenda and Nan mentioned she will bring it to the attention of FCDC.

Action 4: Concluding, Nan approved that we will order books through the publisher as long as we are given confirmation that there will no longer be minimums and we are given a guarantee from Onzième that the bookstore can return as credit 100% of orders going forward, to which Don and Ralph agreed. Don mentioned he will contact the publisher’s representative, Katar, with this news and include all other members in his correspondence with Katar.

Results of Action 1 (maintain as close as possible as it was written on board, including lines, etc.): See attached .pdf for picture of the actual board

| Interests | Process |
|---|--|
| <ul style="list-style-type: none"> ✓✓ 1. bookstore vouchers ✓✓✓ 2. <u>Choice by faculty</u>/instructional materials <li style="margin-left: 20px;">Academic freedom <li style="margin-left: 20px;">FAIR TREATMENT 3. _____ ✓ 4. Clear communication <ul style="list-style-type: none"> • Timely: BOOKORDERS • Book authors ✓✓ 5. Trust in bookstore & process <ul style="list-style-type: none"> Accurate information <li style="border: 1px solid black; padding: 2px;">Problem solving late adjunct hires 6. accountability 7. Accurate info to students | <ul style="list-style-type: none"> x what is the process? How to deal with the ‘image’ of the bookstore BC collegial relationships Professional communication —what committee —HIGH VISIBILITY Increased rep. <ul style="list-style-type: none"> *feedback to faculty —how are issues communicated —who—any order are impacted by decision process —when early not late <div style="border: 1px solid black; padding: 5px; margin-top: 10px; width: fit-content;"> Can we get an email that is bookstore specific? </div> |