

Opinion

Gabe Bokor's Statement to the Board of Directors of ATA Board Meeting, October 16, 2004, Toronto ATA's policy on nonintervention between member commercial disputes

First of all, I would like to thank ATA President Scott Brennan for affording me this opportunity to address the Board, and all of you for your willingness to stay on beyond your scheduled time for this meeting.

I would like to speak about ATA's published policy on nonintervention in members' commercial disputes. I voiced my disagreement with this policy in a Letter to the Editor published in the *Chronicle* some years ago, when the policy was still under discussion. To my regret, it was adopted then, and it has been in effect ever since. I understand this policy was formulated in the wake of the investigation of ATA by the Federal Trade Commission in the 1980s, which resulted in \$200,000 in legal costs for ATA. Since that time, the association has been paralyzed with a morbid fear of lawsuits, where the mere mention of legal action is sufficient for ATA to even change established policies.

During the years following those events, in conversations with many ATA members, I became even more convinced that help in commercial disputes is an issue many freelance translators have high on their list of priorities among the services to be provided by ATA. I'm also convinced that ATA can help its members by enforcing its Code of Professional Conduct and Business Practices without exposing the association to legal liability or an excessive financial burden.

Let me point out that this is not a rampant problem. Only a handful of translation buyers (agencies or direct clients) engage in questionable practices, and the number of cases is relatively small.

Let me remind the Board how

commercial disputes were handled during my term as Ethics Committee chair and during the terms of my predecessors. We would receive complaints from members, which had to be duly documented; otherwise, the complaint would not be accepted. The Ethics Committee chair would then send a letter to the accused party, on ATA letterhead, informing him of the complaint and asking for his or her side of the story. In 90% of the cases, this would be sufficient for the accused party to settle the matter with the translator.

As far as I know, during all those years when this practice was in place, no legal costs were incurred, and there was only one case where the Ethics Committee was forced to apply sanctions, and ultimately decided to expel the party found guilty. This happened after my term as committee chair, but I was still serving on the Ethics Committee. The committee decided that the case was one of obvious fraud, where the agency ordered tens of thousands of dollars' worth of translation just days before it filed for bankruptcy protection, leaving all those translators holding the bag while the agency's owner continued to draw a generous salary from his bankrupt company. The Ethics Committee unanimously adopted a resolution recommending the expulsion of that member, and the Board accepted the committee's recommendation. However, threatened with a lawsuit by the guilty party and pressured by the then president, the Board rescinded the resolution.

Some years ago, Kevin Hendzel, who is present in this room, told me what the difference was between working with a so-so attorney and a

really good one. In the first case, you ask your attorney: "May I do this?" (and he'll probably tell you "no," just to be on the safe side). In the second case, you tell him: "I want or have to do this. How do I do it?" I'm firmly convinced that ATA can and should protect its members against unscrupulous translation buyers without exposing itself to legal risk, and that it can do so at a reasonable cost. We should, first and foremost, encourage an amicable resolution of any conflict. Failing that, we should have mediation and/or arbitration procedures in place to help the parties reach an agreement. As a last resort, our bylaws authorize us to apply sanctions up to and including expulsion from the association for "demonstrable and serious violation of ATA's Code of Professional Conduct."

I urge the Board to revise its policy and meet ATA members' expectation of help in the event of commercial disputes.

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ATA Board of Directors on Dispute Resolutions

That the Board of Directors examine procedures and institutions for resolving business disputes between members, including but not limited to external arbitration services and conflict resolution procedures, preliminary results to be reported at a future [Board] meeting.
Motion passed.

—October 17, 2004