

April 25, 2016

The Honorable Chris Smith
Chair
Congressional-Executive Commission
on China
243 Ford House Office Building
Washington, D.C. 20515

The Honorable Marco Rubio
Co-Chair
Congressional-Executive Commission
on China
243 Ford House Office Building
Washington, D.C. 20515

Dear Representative Smith and Senator Rubio:

We are writing in response to your April 19, 2016 letter inquiring about the report that the American Bar Association (ABA) rescinded a proposal to publish a book proposed by Chinese human rights lawyer Teng Biao.

Let us begin by stating unequivocally that the publication decision was in no way related to ABA programs or operations in China by the ABA Rule of Law Initiative (ABA ROLI) or other ABA entities. The decision not to proceed with publication of the book was a business decision made by the ABA Publishing Services Group after an assessment of projected book sales, including advice from the ABA's retail distribution partner. None of the ABA ROLI staff knew about the Teng book proposal until the ABA was contacted by the media earlier this month, some fifteen months after the decision was made. ABA ROLI had no knowledge that the book was considered for publication and ABA ROLI did not participate in any discussions about possible publication. Moreover, there have never been any communications with the Chinese government about the decision to publish this or any other book published or considered for publication by the ABA. There would be absolutely no reason to do so.

Our responses to your specific questions follow:

- “Did the ABA receive any indication from the Chinese government or any other individuals that the programs it facilitates in China would be jeopardized if, in fact, this book project was pursued?” ANSWER: *None at all.*
- “Do such calculations routinely enter in to ABA publishing decisions, either overtly, or indirectly?” ANSWER: *They do not.*
- “Was the ABA’s decision regarding Mr. Teng’s book influenced by concerns over the security and safety of ABA ROLI staff in China or potential retaliation

against the partnerships and work of its commissions and individual members?”
ANSWER: *It was not.*

- “Did the ABA receive updated marketing information between December 2014, when the book was commissioned, and January 2015 when Teng Biao was notified of the offer being withdrawn?” ANSWER: *The ABA never commissioned the book or engaged in contract negotiations. No additional marketing information was received after the end of November 2014.*

Before the end of November 2014, the ABA Publishing Services Group consulted with its retail distribution partner about the viability of publishing Mr. Teng’s book on the mass market. The distributor projected that only 10% of the books would be sold and recommended against publication of the book. Before receiving this reply, the ABA Publishing Services Group had not finalized its decision on publishing the book but was disinclined to do so. The concerns voiced by the ABA’s retail distribution partner solidified the Publishing Group’s decision to reject publication.

An ABA employee’s initial communication to Mr. Teng of an offer to publish his book and that employee’s subsequent communication regarding the reasons for withdrawing that offer were misguided as well as erroneous. The decision not to proceed with publication of Mr. Teng’s book was made for purely economic reasons; the reasons for the ABA’s decision were unfortunately miscommunicated to Mr. Teng.

The director of the ABA Publishing Services Group has publicly expressed his apologies for this unfortunate miscommunication to Mr. Teng. We emphasize that discussions between Mr. Teng and the Publications staff never reached the point of contract discussions, much less a signed commitment. Further, Mr. Teng has certainly been free to pursue any and all other publication venues for his book.

Your letter refers to “the inadequate statement made by the ABA last August in the wake of a major Chinese government crackdown on dozens of human rights lawyers.” We want to make certain you are aware of several important actions the ABA has taken in support of the rule of law and human rights in China.

On April 12, 2016, President Brown issued a call “for the Chinese government to protect human rights under its own law and international law, heed the United Nations Basic Principles on the Role of Lawyers, and observe fair trial and due process standards.” This was the fourth public statement of concern by an ABA President since last August. Last June, the ABA also submitted detailed technical comments to the Chinese government on its Draft NGO Management Law.

In addition to these public statements, the ABA continues to be engaged in significant long-term efforts in China. The ABA has worked tirelessly on the ground with Chinese NGOs, public interest lawyers, universities, courts, and others to promote the rule of law and the protection of basic rights for all citizens, including in the areas of LGBT rights, environmental rights, indigent criminal defense, and protection of victims of domestic

violence. Through these and other efforts, the ABA has strongly supported initiatives that encourage the government of China to comply with its own laws and policies protecting rights, to develop such laws and policies where they do not exist, and to comply with international standards for the protection of human rights.

When visiting China in November 2015, President Brown emphasized the importance of the independence of the legal profession and the ability of lawyers to represent their clients without fear of reprisal. She raised this issue in private meetings and a public speech involving government officials and private sector lawyers. She also stressed the ABA's desire to expand its engagement in China to advance equal rights and the rule of law.

We are proud of our work in China and around the world to promote the rule of law and protect individual rights, and we appreciate the interest of the Congressional-Executive Commission on China in our efforts. Please feel free to add this letter to the record of your upcoming CECC hearing.

Sincerely,



Paulette Brown
President



Jack L. Rives
Executive Director

Original via U.S. Mail
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Scott.flipse@mail.house.gov