

oikos Case Writing Competition 2015

Corporate Sustainability Track

Finalist

Succession at Berrett-Koehler Publishers: Institutionalizing the “BK Way” and Protecting BK Values for Future Success

Free Online Copy

Murray Silverman and Sally Baack (San Francisco State
University)

This is a free online copy. This work is licensed under the Creative Commons Attribution-NoDerivs 3.0 Unported License. To view a copy of this license, visit

<http://creativecommons.org/licenses/by-nd/3.0/> 

This case is accompanied by a teaching note, available to faculty only. Please send your request to freecase@oikosinternational.org. The authors are thankful for any feedback and suggestions to further develop this case to sbaack@sfsu.edu and msilver@sfsu.edu.

Copyright © 2015 by the authors. This case was prepared as a basis for class discussion rather than to illustrate the effective or ineffective handling of an administrative situation.

oikos free case collection

<http://www.oikos-international.org/cases>

Planned Succession at Berrett-Koehler Publishers: Institutionalizing the “BK Way” and Protecting BK Values for Future Success

Case Abstract

Many for-profit enterprises with a strong social or environmental mission, as well as businesses with a strong commitment to corporate social responsibility, struggle with the issue of keeping their social or environmental mission alive as the companies grow larger, bring in new investors, deal with mergers and acquisitions, and change leadership. There have been many failures chronicled as various founders dealt with this issue. Unfortunately, there is a gap in the case materials that speaks to this issue. This case helps to address that gap.

The Berrett-Koehler (BK) case highlights the efforts of a competitively successful, mission-driven, socially responsible publishing company to preserve its values, culture and practices while ensuring continued future success. BK’s stated mission is “Creating a World that Works for All.” In pursuit of this mission, BK published 35-40 titles per year, each of which focused on fundamental transformation at the individual, organizational or societal level. The wide array of efforts pursued in protecting its mission include innovative approaches, such as consideration of Benefit Corporation status and adoption of a constitution. The case provides an opportunity to cover corporate governance topics such as: ownership structures, shareholder relations, CEO and organizational succession planning, and board roles and responsibilities.

This case takes place just prior to and immediately following Berrett-Koehler’s July 2012 Annual Shareholder Meeting and 20th Anniversary celebration. The case highlights BK CEO, Steve Piersanti, and the Board of Directors in their efforts to institutionalize the “BK Way” through a variety of legal and operational methods. BK is a socially responsible and mission-driven business working to protect the values, practices and culture it considers to be a critical component of its fundamental success. BK has outperformed rivals from a financial standpoint in the intensely competitive publishing industry, and is well-known for its integrity and unique procedures. Specifically, CEO Steve Piersanti and the BK board consider several specific and different options for embedding the BK values in the organization’s operating and ownership structures.

Key words: Protecting the social mission, Stakeholders management, Corporate governance, Benefit Corporation

Planned Succession at Berrett-Koehler Publishers: Institutionalizing the “BK Way” and Protecting BK Values for Future Success

The Berrett-Koehler (BK) conference room was packed with 29 people sitting around the board-room style table and the perimeter of the room. Everyone had assembled for BK’s signature Author Day lunch, which occurred for all of the 35 or so new books published every year. It was May 30, 2012 and the featured authors were Rob Dietz and Dan O’Neill, co-authors of Enough is Enough. The participants in the room, employees and guests, were all focused on the authors, as there were no laptops or smartphone devices present. The authors were formally introduced and warmly welcomed by a BK employee, who shared what the book meant to him by stating, “What I want to tell you from my heart is this book has changed me.” With that, the authors took the floor and introduced their book, highlighting what BK called the “Big Idea” and the “Take Aways”. Author Day at BK was a special long-standing tradition as it provided authors the opportunity to become more connected to the BK community and allowed the staff to become connected to another BK publication and author.

In March of 2012, Publishers Weekly named BK a “Small Publishing Standout” as the fifth fastest-growing small publisher. BK was currently in the strongest financial position of their history; its revenues continued to rise – both in print and in digital, it outperformed the publishing industry as a whole, and its profits were healthy. BK attributed its success in significant part to its social mission (“to create a world that works for all”) and unusual business and operational practices, of which Author’s Day was one example.

BK’s founder and CEO, Steve Piersanti, sat quietly throughout Rob Dietz and Dan O’Neill’s presentation as others asked questions. As usual, the BK community – both employees and guests – were actively engaged in the Q&A. This ownership of the process was characteristic of the democratic nature and participatory process of Author Day and permeated all of BK’s practices. Steve knew there was something special here about the way BK had managed to craft its culture and impact the world. As he looked around the room, he found himself reflecting on a question he often asked himself: “Has BK done everything it needs to in order to preserve and protect its essence while ensuring its long-term success”?

BK’s concern about preserving its mission was not unique. Many for-profit enterprises with a strong social or environmental mission, as well as businesses with a strong commitment to corporate social responsibility, struggled with the issue of keeping their social or environmental mission alive as the companies grew larger, brought in new investors and changed leadership. There had been many failures chronicled as various founders dealt with this issue. Seventh Generation, founded by Jeffrey Hollender, is one example. Seventh Generation was founded in 1988 and grew to become a \$150 million a year business selling sustainability oriented cleaning and personal care products. Hollender was committed to embracing “a model of deeper business purpose, where economic growth is merged with social justice”. In 2010, his board of directors brought in new leadership and pushed him out. In a public appearance in June 2011, Hollender stated that he failed to establish the right ownership structure: “I didn’t institutionalize values in the corporate structure, took too much money from the wrong people. I failed to give enough of the company to the employees who would have protected what we’d built.”¹ Another example is Ben & Jerry’s. Its board felt pressured by legal precedent to sell to the highest bidder, Unilever, rather than a prospective buyer that might have been better aligned with Ben & Jerry’s values. Larger corporations purchased other mission-driven businesses and were not obligated to preserve the mission and culture created by those organizations’ founders. Aveda was sold to Est’ee Lauder, Tom’s of Maine to Colgate, Burt’s Bees to Clorox and Odwalla

to Coca Cola. The founder of Odwalla, Greg Steltenpohl said, “ I used to be in the business of making great juice; now I am in the business of making money.”ⁱⁱ

While many businesses with a strong social mission had focused on institutionalizing the culture that emerged after the founding, Steve believed that the pathway to the goal of long-term preservation was fraught with challenges that went beyond building and institutionalizing the culture. These challenges included being able to establish a strong level of shareholder support for the mission, building creative legal protections that went beyond shareholder primacy, and ensuring leadership succession in support of the mission. Steve wondered whether BK could successfully navigate these challenges in preserving and protecting its essence. Steve’s concern was not just a reflection of his own intention to preserve BK’s essence. Annual surveys of BK’s shareholders showed strong support for “staying steadfast in being guided by BK’s mission” and “staying true to BK’s values.”

The Founding of BK – Vision, Mission, Values

Steve Piersanti had a long tenure in the publishing industry. He began his 13 year career at Jossey-Bass Publishers in 1977 as a promotional copywriter and eventually moved up in ranks as marketing director, editorial director, and executive vice president and then president. He was fired from Jossey-Bass after being ordered by the corporate parent, Macmillan, to lay off 10% of Jossey-Bass’s employees. The request was inconsistent with Jossey-Bass’s philosophy of treating employees fairly, and besides, Jossey-Bass was growing and profitable. He refused and was asked to leave.

Steve saw an opportunity to work with others to create a different type of publisher, a for-profit venture with a social mission. In his original public letter introducing BK Publishers in 1992, on the inside cover of the first BK catalog, Steve highlighted the following: “If I were to choose one word to describe our vision, it would be stewardship.”

By this I mean a deep sense of responsibility to administer the publishing company for the benefit of all of our “stakeholders’ groups – authors, customers, employees, suppliers and subcontractors, owners, and the societal and environmental communities in which we live and work.”ⁱⁱⁱ

As the San Francisco company reached its 20th Anniversary in 2012, BK continued to articulate its founding mission as “Creating a World that Works for All.” In pursuit of this mission, BK published 35-40 titles per year, each of which focused on fundamental transformation at the individual, organizational or societal level, reflecting the three BK divisions: BK Life, BK Business, and BK Currents. BK’s books were intended to advance new ideas and approaches that challenged traditional mindsets.

In celebration of its 20th anniversary, BK hosted a two-day community-building event, bringing together over 200 of their stakeholders, including BK staff, shareholders, authors, customers and many other individuals connected to BK. The relaxed and friendly atmosphere reflected the connectedness of the various groups. There were presentations by BK staffers and break out exercises that provided this broad array of stakeholders an opportunity to participate in exploring BK’s future. Steve made a presentation at the event in which he highlighted the impact of BK’s books, sharing a number of examples based on highly successful books BK had published.

The fundamental transformation here is that the traditional, dominant ways of changing organizations, communities, and nations were themselves the problem that made most change efforts fail and often made things worse. New change approaches were needed that were inclusive, participatory, whole-system, real-time, dynamic, and effective. And BK books and authors have led the world in developing and popularizing these new methods. The impact has been huge. Tens of thousands of organizations and communities have been improved by these change methods, affecting hundreds of millions of people.

The point is that the more you drill down...., the more powerful examples you find of how the ideas in BK books are helping bring about profound changes to help create a world that works for all.....I would suggest that BK books and the BK community are having a positive impact in the world equivalent to an organization thousands of times our size.^{iv}

BK authors included Peter Block (Stewardship), John Perkins (Confessions of an Economic Hit Man), and Ken Blanchard (Empowerment Takes More Than a Minute). The ten best -selling BK books are listed in Exhibit 1: BK's 10 Best Selling Books.

Stakeholders and the 'BK Way'

Insofar as an organization's culture can be defined as "the specific collection of values and norms that are shared by people and groups in an organization and that control the way they interact with each other and with stakeholders outside the organization",^v BK had a well-defined and cohesive culture. The elements of that culture, sometimes referred to by stakeholders as the 'BK Way', were living demonstrations of many of the ideas contained in BK's published books, starting with their first publication, Stewardship by Peter Block. The fundamental shared values can be characterized as a commitment to BK's mission, a belief and adherence to democratic principles, and a valuing of all stakeholders. These values were practiced and lived every day in BK, supporting a culture based on transparency, inclusion and participation in decision-making, and authentic interpersonal communication. The 'BK Way' could be clearly seen in engagement with all stakeholders, and was exemplified by its relationships with authors, employees and stockholders.

Relationship with Authors

BK had a unique view of the author-publisher relationship. "We believe that handcuffing authors is not necessary; if we do our job well, authors will eagerly publish with us, without compulsion."^{vi} BK's vision of this relationship was that of a conversation between author, editor and publisher, rather than merely a transaction. To that end at BK, authors collaborated on the entire development, publishing and marketing efforts of each book as partners alongside the BK team. As a symbol of BK's distinct view of author relations, it had created an author's "Bill of Rights", which outlined the commitments of Berrett-Koehler to its BK authors as well as spelling out author's responsibilities (See Exhibit 2: Authors Rights). This document contained both substantive and symbolic commitments and responsibilities, such as "transparency, citizenship and community" that signaled that working with BK would be something much more meaningful and involved than a more typical publishing industry transaction. As a result, BK had a notably higher "author referral" rate of 55%, as compared to the publishing industry overall of just 5% (Table 1). This was a clear indication of authors' deep satisfaction with, and respect for, the experience with BK.

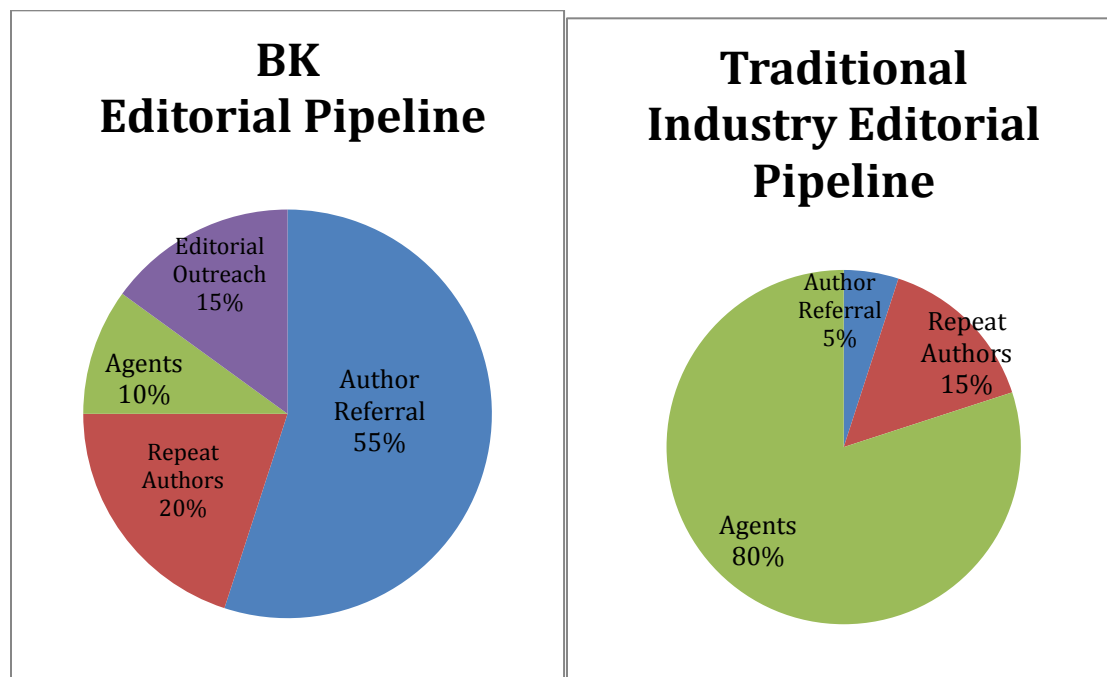
BK is the single best publishing company on the planet. I have published with many publishing firms and invariably, their relationships with the individuals, the professionalism of the staff, the way they handle the book project from development to marketing is unparalleled. It's a spectacular company. I feel grateful to be part of this family. (BK Author Kim Cameron)^{vii}

In addition to the fundamental difference in how BK envisioned this key relationship, there were also differences in the operating practices that shaped the publishing process. Author contracts differed significantly from industry standards. No advances were given and authors could terminate their BK publication agreement “if, for any reason, the Author is not satisfied, in the Author’s sole judgment, with any aspect of the relationship with the Publisher or with the Publisher’s performance in any aspect of publishing and selling the Work”. Authors preferred working with BK because of the respectful relationship and their alignment with BK’s mission and vision.

One unique feature of BK’s author community was its signature BK Author Day, whose purpose was to bring the authors deeper into the BK community.

They really do practice what they preach. They are all about community, changing the world and making a difference. I’ve been working with BK for 10 years and every one of my interactions is about those things. They bring everyone together, give everyone an equal say. There is never thought about cost cutting in order to make more money. They are all about putting out the best idea, the best product and getting the best people involved. (BK Author Mark Levy)^{viii}

I love BK because of one word – integrity. From the moment it was founded until the present moment, that has been their primary characteristic. Therefore, we trust them and they deliver. There aren’t many publishing companies you can say that about. (BK Author Bob Quinn)^{ix}

Table 1: Comparing BK with the Traditional Industry Editorial Pipeline

The success of BK's unique approach to author inclusion (partnering with authors) could be easily seen in the creation of what was called the BK Authors Cooperative. The cooperative offered opportunities to collaborate, exchange ideas and share marketing tips. According to its website, the BK Authors Cooperative was created "because we long for a more connected community; a desire to join together for support, learning, and collective action that can bring forth that world we want." The Authors Co-op acknowledged on its webpage that it was something special to be a BK author. Over time the BK Authors Co-op had evolved from an informal, small group, to a more formal organization with an extensive and impressive membership that had applied for official 501C3 status. In addition to the original Authors Retreat, which was the main activity of the group when it first started, the Authors Co-op created a very valued annual Marketing Workshop that had become so popular even non-BK authors attended. The Co-op also provided new members a formal mentoring relationship, including a New Member introduction, which paired a new member with an existing member to provide a smooth transition into the community. According to Jamie Showkeir, BK author and 2012 President of the Authors Co-op, the Authors Co-op created value for authors in a variety of ways.

Some of the tangible benefits to authors include learning key marketing skills through the marketing workshop and having other members actively help market one another's books. In addition, there are great intangible benefits of the Authors Co-op, such as knowing you have a values match with the whole group, and having the types of interactions which really cement a large number of personal relationships in which you can ask questions and get ideas – from other authors you often consider to be brighter than yourself. ^x

Employees

It was not surprising, given the circumstances surrounding its founding that BK placed considerable importance on the value and role of employees. BK employee and management practices were very inclusive and democratic. Annual pay increases and changes in benefit plans were decided democratically and with complete transparency. Each of the 30 or so employees knew what every other employee was earning. The traditional class system whereby executive and employee compensation were separate scales was not used; under that approach, the idea was to keep staff wages as low as possible and to pay executives handsomely. In contrast, at BK everyone participated in the same incentive compensation system, and the salary differential between the highest and lowest paid employee was less than 4 to 1, compared to the 325 to 1 ratio between U.S. CEOs and their average workers.^{xi} BK had established a formal approach to determine who should be involved in significant decision, which required that “before making a decision having significant impact on others, BK employees shall obtain the common consent of all those affected. This meant that even though one may not agree with it and might decide differently if they were making the decision, they could see sufficient reasonableness and thoughtfulness in the decision to accept it.” As an example, rather than making layoffs during the economic crisis of 2008, the BK staff instead unanimously agreed to a salary decrease of 10% (except for the lowest paid employees). BK’s turnover statistics reflected the strength of employee’s connection to the publisher. The average BK tenure was 9 years for staff and 10 years for managers.

BK practiced what it learned from the books it published. Many of its compensation practices emanated from Peter Block’s book Stewardship, and consistent with the book Abolishing Performance Appraisals, BK did not conduct performance appraisals. BK’s Publicity Manager, Katie Sheehan, in response to the question, “what is it like to work at BK”? stated:

There is no hierarchy, everyone’s voice is heard, and we are very much encouraged to follow a path that is interesting to us, to work independently and create our own work flow and job description.^{xii}

BK’s management practices attracted high-level talent whose values aligned with the organization’s mission. In his application letter for a job at BK, Editorial Director, Neal Maillet, wrote:

As a business and leadership editor whose titles frequently competed for shelf space with BK, I can only express my deep sense of admiration and, to be honest, envy, for the consistent sense of mission and values that BK titles communicate. BK books are for people who are determined to improve themselves and their organizations—not just to rely on corporate-speak or easy answers.

I’m excited by the prospect of serving a publishing program that fights in every book for humane communities and responsible business practices. BK books are so powerful because readers know the BK brand is not an empty promise—there is no sunlight between the message of the books and the practices of the publisher.^{xiii}

Democratic practices permeated BK, reflected in the once-per-month staff meetings attended by all employees at BK. The philosophy was that everyone should be well informed about initiatives and financial results throughout the business in order to constructively participate in important decisions. Staff meetings were highly interactive and the facilitator role was rotated each meeting to a different employee.

Employees believed that BK's success was in large part predicated on the 'BK Way', including its approach to stakeholders, especially through its positive impact on employee morale and productivity, the way it attracted authors and won their loyalty, and attracted investors that supported its mission.

Stockholders

The 20th anniversary event also served as the annual shareholders' meeting. BK had approximately 240 stockholders, comprised primarily of authors, employees and individuals attracted to supporting its social mission. Prior to the event, a survey of shareholders was conducted to learn more about why they purchased the stock and their expectations regarding financial returns. The results of the survey were presented, and they reflected the large extent to which shareholder values aligned with BK's mission. When asked why they purchased BK stock, 68% said that it was very important that they supported a company they believed in and 64% said that they wanted to help BK make a positive impact on the world. Sixty-eight percent said it was very unimportant to make a large profit on their investment. In fact, a number of shareholders invested to support the organizational role model that BK represented, and were not concerned about recouping their investment or any return.

Of course, other stakeholders besides authors, employees and stockholders experienced the same sense of partnership and engagement with BK. The company stayed closely connected to its readers through its web-site and newsletters. Its reader mailing list was extensive, reflecting its large number of followers, most of whom had an affinity for BK books and perhaps their favorite authors. BK's unique relationship with its stakeholders was also reflected in its printers. When BK was experiencing cash flow issues during the economic downturn of 2009 their printers did not hesitate to extend a much larger credit line in BK's time of need.

BK's Performance

From its beginning in 1992, BK had navigated a very competitive and dynamic industry to produce profits and growth. The industry had experienced many changes and shifts, but perhaps the most important and impactful was the emergence of digital and online publishing. Specific technological changes resulted in e-books, printing on demand, and accessible printing. The fact that Amazon.com had emerged as a distributor, and then as a competitor to this industry was another example of the enormity of the change confronting the industry. The need for publishing companies to adapt and adjust to these changes meant that there had been a fair amount of industry consolidation. All of this combined to produce a very challenging competitive environment for BK to operate in, and one that caused BK to consider whether its current size, structure, approach and eventual existence were viable and sustainable.

As BK approached its 20th Anniversary, its financial and overall performance record was impressive. From a production standpoint, BK had published over 480 new books since 1992; over 450 of those books were still in print in 2012; Over 400 were available in digital format. From a sales perspective, over 160 of BK's books had sold over 20,000 copies; over 40 books had sold over 100,000 copies; and 3 books had sold over 1 million copies. In terms of financial performance, BK had increased its revenues in the last 10 years, from \$5.3 million in 2003 to \$7.6 million in 2011, producing growth in revenues during a very tough economic recession in the United States. BK had outperformed the publishing industry as a whole, in terms of overall

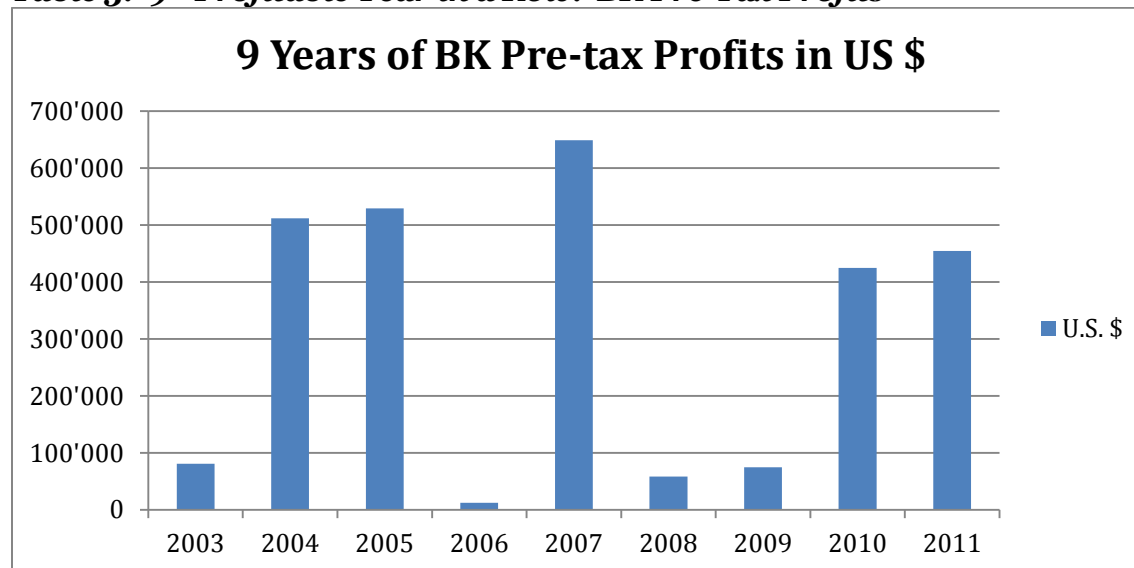
revenue growth in 2011 (See Table 2). From 2003 to 2011, it had produced nine profitable years in a row (pre-tax profits in Table 3).

Table 2: BK Outperformed the Publishing Industry 2011:

	BK	Industry
Total Revenues	8%	-6%
Print Sales	1%	-17%
Digital Revenues	85%	117%
Subsidiary Rights Revenues	17%	

Source: Association of American Publishers (Publishers Weekly, March 5, 2012)

Table 3: 9th Profitable Year in a Row: BK Pre-Tax Profits



BK was currently in the strongest financial position of the company's history, having increased total assets 53% and decreased total liabilities 34% from 2002 to 2011. It had just compiled data indicating it had outperformed the publishing industry again in 2012, based on 11% Print Sales in the first 6 months, versus -14% U.S. overall, in adult nonfiction.^{xiv} It had strong indications that it had effectively managed the transition into the digital era, with 20% of revenues coming from Digital Income. Looking to the future, BK identified its key financial challenges: 1) Reduce debt and build financial reserves; 2) Increase profitability of business structure; 3) Get capital to fund growth and new businesses; 4) Create capital structure that supports BK's continued independence

With all that BK had to be proud of, it was noteworthy that Steve Piersanti responded as follows, when asked about key indicators of BK's success that he was most proud of. "That we have succeeded in walking our talk; Being true to our values. We've tried to practice what we preach, and we've done that through thick and thin."^{xv}

Planned Succession at BK

When BK surveyed shareholders in preparation for the 2007 Annual Shareholders Meeting asking them what topics they would like to see covered, a major message was that many

shareholders were concerned about Berrett-Koehler's succession plans. One shareholder wrote: "Considering the importance of Steve to BK, I would like to understand what succession plans you have in place?" At the time Steve was 54 years old. Subsequent surveys continued to raise the question: "who will replace Steve"?

While the shareholders comments were expressed in terms of leadership succession, Steve's view of succession planning was much broader. Even though BK had made significant progress in the process of institutionalizing its social mission and democratic processes, Steve's perspective was as follows:

I want to go about this very differently than the normal approach, which is primarily focused on developing and/or finding persons to fill positions. Instead, I want to focus first on creating the structures and commitments that will allow Berrett-Koehler to stay true to its mission and vision before turning attention to who would fill what roles.^{xvi} ...my concern is that unless BK's distinctive mission, values, commitments, systems, policies, and practices are institutionalized, most would stand little chance of surviving for very long after the transition to new leadership.^{xvii}

In contrast to Steve's perspective, BK's CFO, Bob Liss, was concerned that there was too much focus on the social mission, which could ultimately detract from the firm's competitiveness in the publishing industry. In a Management Group meeting, he stated: "I love what this company is, but I am afraid that if we put our mission in front of the company, we will lose the company".^{xviii} He frequently raised the question as to whether BK was a company trying to "create a world that works for all" or simply a socially responsible publisher?

The development of a plan to ensure the long-term viability of BK languished until July 2011, when the topic came up at a Board meeting, and the Board pushed on the issue and a board level committee was formed to address it. (Exhibit 3 includes short bio's of the BK Board members). What emerged from the work of the committee was a Succession Planning Framework (SPF) that included task descriptions, assigned responsibility, target dates and completion dates. The SPF addressed the critical areas that would have to be tackled in attempting to preserve BK's distinctive mission, values, commitments, systems, policies, and practices:

- Embedding the 'BK Way'
- Legal protections
- Creating a supportive capital structure
- Board and leadership succession

Embedding the 'BK' Way'

BK had already developed a culture that was in alignment with its mission and values. Aspects of the culture had been formalized, such as institutionalizing the Author Day event and the implementation of a formal decision making model that specified the extent of employee participation that should be associated with important decisions. However, the SPF included two additional mechanisms that would further institutionalize the 'BK Way': B Corp certification and the adoption of a BK constitution.

Certification by B Lab

Jay Coen Gilbert, Bart Houlahan and Andrew Kassoy were successful entrepreneurs who co-founded and eventually sold *And 1*, a \$250 million footwear and apparel company. *And 1* had its Chinese factories certified by a monitoring group, donated 5% of profits to charity and paid its U.S. workers well. Jay, Bart and Andrew believed in the viability and importance of social ventures with a profit motive, and in the idea of protecting *And 1*'s social mission long-term. Following the new owner's rejection of *And 1*'s commitment to social responsibility, this sparked Jay, Bart and Andrew to co-found B Lab, a non-profit organization in 2006 designed to use "the power of business to solve social and environmental problems."^{xix} 'B' stands for 'benefit', as in benefitting society, the local community, employees and the natural environment. They created an assessment instrument that could be used to certify a business as one that uses "the power of business to solve social and environmental problems." The third party certification is not a legal designation. B Lab certifies businesses the same way TransFair certifies Fair Trade Coffee or the US Green Building Council certifies LEED buildings. B Lab wanted to create a standard that would be recognized as the measure of the extent to which a business could say it was benefitting society in the economic, social and environmental realms. The certification communicated that the firm met transparent social and environmental performance standards. By 2012, B Lab had certified close to 900 businesses in over 30 countries.

BK certified through B Lab in 2011. For BK, the assessment instrument contributed to the institutionalization of social and environmental values by providing a template that made explicit the actions being taken by BK that supported those values. BK intended to use the instrument to identify additional areas where greater social and environmental impact could be achieved. BK was incorporated in California, which was not a "constituency statute" state, so BK was unable to amend its by-laws to give consideration to all stakeholders. Companies wishing to be certified submit a 230-item assessment instrument, covering everything from audits of overseas factories to charitable giving, to carbon footprints. The basic categories were Governance, Workers, Community and Environment. B Lab processed the completed assessment instrument, reviewed documentation and staged periodic follow-up audits. In 2012, only 18% of those who completed the audits qualified for certification. BK's 'Areas of Excellence' in the B Lab framework were Governance and Workers. Highlights from these areas included: Stakeholders have representation on board and 15% owned by minority populations and for Workers: Offers 30+ days paid leave annually, extensive health insurance, over 75% of workers own stocks and 75% are female workers. These were only a small representation of BK's impacts. In the environmental category, BK paid close attention to impacts in their offices. They had office wide recovery and recycling programs for all waste streams and they used chemical reduction programs for janitorial products, paper and inks.

Development of a BK Constitution

Another idea that Steve had for institutionalizing the 'BK Way' was to create a BK Constitution. The firm had published a book by Marjorie Kelly titled Owning Our Future, which explored the ways in which the ownership structure of a business might restrict its ability to maintain its mission when the business was sold or the founder left. The author's description of the John Lewis Partnership, a chain of upper-market department stores in England that had 36 stores and 76,000 employees had inspired Steve.

John Lewis began to introduce novel practices into the family store he ran in 1914. He provided shortened work days and additional paid holidays. By 1930 he had created a profit-sharing

framework, a staff council and the John Lewis Partnership's Constitution. He began to turn his ownership over to employees and by 1950, he had relinquished his entire interest.

The John Lewis partnership was structured solely for the benefit of those who worked in it and was 100% owned by its employees (referred to as partners). According to the first of seven codified principles in the Constitution, "the Partnership's ultimate purpose is the happiness of all its members, through their worthwhile and satisfying employment in a successful business". The Constitution was a 30 page document delineating the company's principles, rules relating to governance, partners' rights and responsibilities and responsibilities to others (stakeholders).^{xx}

The idea of a constitution intrigued Steve. In an email to the Board, he stated his intention to create a constitution for BK:

"By constitution, I mean a legally binding document that enshrines BK's mission, purposes, values, commitments to its stakeholders, roles and responsibilities of its different stakeholders, relationships between the stakeholders, decision making rules and structures, governance structures, and many other elements to keep BK on course going forward. This constitution would take the place of or be a major section of our current by-laws. It would be modeled in form (although not specific provisions) after the constitution of the John Lewis Partnership..."^{xxi}

In a July 2012 memo, Steve circulated a draft outline of topics he thought should be covered in the constitution (Exhibit 4: Proposed Outline for a BK Constitution) and recommended that the items be developed one at a time as the Board of Directors and others were able to focus on them. According to the current draft of the SPF, completion of the constitution was targeted for December 2013. If a BK Constitution was developed, it would provide a detailed map that outlined the dimensions of the 'BK Way'.

Legal Approaches to Preserving BK's Essence

In the U.S. and European legal systems, shareholder primacy plays a dominant role, although some laws provide for consideration of other stakeholders. There were 30 states in the U.S. that had "constituency statutes" that permitted corporations to amend their by-laws to consider the impact of decisions not only on shareholders but on all stakeholders. BK was incorporated in California, which was not a "constituency statute" state, so BK was unable to amend its by-laws to give consideration to all stakeholders. Therefore, BK's SPF included the task of exploring a conversion to a new legal form of incorporation, called a Benefit Corporation.

Benefit Corporations

For Jay, Bart and Andrew, their creation of B Lab and its certification process was just a first step. B Lab required that a business they certified in states with "constituency statutes" amend its by-laws to provide legal cover for board members to give consideration to stakeholders other than shareholders. (Exhibit 5 includes the full statement that B Lab requires certified businesses in those states to include in their by-laws). While this approach was thought to be legally tight, whether a shareholder lawsuit would be successful in challenging the use of by-laws to diminish shareholder rights had not been fully tested in the courts. For example, in cases where an organization with by-laws supporting broad stakeholder consideration was sold or acquired, courts had reverted to supporting the doctrine of shareholder primacy, which required

maximizing shareholder return. And in states without a “constituency statute”, legal cover was not readily available through revision of by-laws.

The need to protect the social mission of organizations over the long-term led the B Lab co-founders to support the movement to create a new legal form of incorporation, the Benefit Corporation. They felt it was important to go beyond the limits of certification and create the widespread societal legitimacy of a legislatively mandated Benefit Corporation. Businesses wishing to incorporate or change their corporate status would have a new option alongside traditional C-Corporations, S-Corporations and LLC’s. Since businesses incorporated on a state-by-state basis, legislation to create Benefit Corporations also had to occur one state at a time. By July 2012, eight states had enacted laws that allowed for the creation of Benefit Corporations and seven others were in process.

Besides creating economic value, the new laws required that a Benefit Corporation conform to the following areas:

- Purpose: create a material positive impact on society.
- Accountability: in addition to profits, must consider environmental and social actors in actions and operations.
- Transparency: report annually on environmental and social performance using independent standards.^{xxii}

California created Benefit Corporation status in January of 2012. Benefit Corporation status provided the legal framework being sought by BK as well as owners and founders of other social enterprises and sustainable businesses. Legal protection was provided that protected the mission and stated values of their organizations. Tradeoffs could be made between profits, environment and social concerns, and directors had a legal mandate to support a multi-stakeholder approach. BK’s SPF targeted a process beginning in May of 2013 to consider Benefit Corporation status.

Creating a Supportive Capital Structure

In addition to concerns about legal structure, the Board and Steve were not satisfied with BK’s capital structure. A primary concern was the lack of liquidity for investors. This was a concern for a number of reasons. If BK valued all of its stakeholders then it would only be fair to shareholders that they could easily liquidate their investment. Another important reason was BK’s interest in pursuing Benefit Corporation status.

There were 905,929 shares of The Berret-Koehler Group, Inc. stock. Steve had the largest holdings representing 53% of the shares. The remainder were owned by approximately 240 shareholders, a majority of whom were authors, former or current employees and customers who invested in BK because they saw themselves supporting BK’s mission to ‘create a world that works for all’. However, there was no active trading of BK shares, so investors were not able to liquidate their shares. While many investors were ‘social investors’, who were by definition more interested in supporting BK’s mission and were not pushing to sell their shares, there were shareholders who needed to cash out for personal reasons or as part of managing their finances. There were approximately 26 shareholders (owners of about 90,000 shares) who wished to cash out.

A board member’s memo in October 2011 stated that:

Equity is treated as essentially a cost-free source of capital at BK because historically BK hasn't provided any return to its shareholders. This violates all assumptions of corporate finance as well as breaks the BK promise that the company should be run for the benefit of all its stakeholders.^{xxiii}

The Board of Directors Capital Structure Committee subsequently outlined the objectives for the Capital Structure Project. (see BOX below)

OBJECTIVES FOR CAPITAL STRUCTURE PROJECT^{xxiv}

1. Create an ecosystem that provides increased ongoing funding and an expanding customer base to help BK grow and carry out its mission by bringing in thousands more investors over coming years who become supportive members of the BK community and active customers of BK's publications.
2. Create a capital structure that maximizes the ability of BK to stay independent, master of its own fate, and true to its mission, values, commitments, and foundational practices; among other things, this will require liquidity options for shareholders other than BK being sold to another company or investment group.
3. Create a capital structure that is financially sound and fiscally wise, that is functional administratively, and that meets BK's ongoing operational needs.
4. Create a capital structure that enables BK to provide fair recompense to all of its stakeholder groups – including employees, authors, shareholders, customers, suppliers, service providers, sales partners, and community supporters – commensurate with the contributions they make to BK's success. Give particular attention to providing the means for BK shareholders to receive a positive and fair return on their investments over a reasonable time, with responsiveness to the differing needs and interests of different shareholders, from those who just want to see their investment generate a good social return to those who need investment income or investment growth.

BK was pursuing a number of initiatives that addressed liquidity. These proposed actions included (a) improving the annual ESOP Stock Buyback Plan, (b) selling BK corporate bonds and (c) selling Series B Preferred Stock. These three actions, if successful, could provide for up to 25 percent of BK's existing stock to be either sold or converted into income generating investments. Other actions would be required to address the other 75 percent of the shares. If BK continued to be very profitable, and the bond and preferred stock offerings were successful perhaps another 25 percent of the shares might be converted. Solving any remaining liquidity gap could be

“a ticking time-bomb, providing the greatest ongoing challenge to BK's independence and ability to stay true to its mission, values, and publishing practices.”^{xxv}

If BK wanted to become a legal Benefit Corporation in California, it would require the approval of a two-thirds vote of its stockholder's shares. However, the law also required BK to purchase any minority voted shares if the shareholder so requested. Thus, solving the liquidity issue was paramount to moving ahead on the Benefit Corporation path.

Board and Leadership Succession

The SPF also dealt with the issue of board and leadership succession. The SPF aimed to define the critical skills required for these various roles, to identify gaps that needed to be addressed and the leadership development approaches that could be implemented. An issue of particular concern to the board, shareholders and employees was the question as to what would happen if Steve left or even worse, if Steve had a sudden accident (a 'hit by the bus' scenario) and could no longer serve as president?

When asked what would happen at BK if something suddenly happened to Steve, BK Board member Marilyn McConnell responded

If that happened right now, it would be chaotic. Chaotic in the short term. That's because the industry itself is chaotic, and also because the SPF issues have been identified, but the effort has not yet been completed.^{xxvi}

In that chaos, it might be difficult to find the leadership best suited to protect BK's essence. In addition to dealing with succession planning, the organization might also have to deal with the loss of some employees and authors not wanting to stick around if Steve was not there. Furthermore, when considering the future prospects of BK without Steve at the helm, McConnell expressed dual possibilities.

When I read BK books and read the author statements about the amazing help they received from BK that transformed and shaped their books, there are so many different names throughout the BK organization that are mentioned. So, maybe we don't need to worry as much as some people think, because the variety of names called out means that the principles of the organization have been ingrained in the employees. But, I don't know if there is another visionary... a visionary the way Steve is.^{xxvii}

While the SPF was a comprehensive document, there was also some recognition at the Board level that there were challenges in terms of implementing it, and even then, whether the actions contemplated in the SPF would protect BK's essence in the long-term. There were external and internal challenges. Externally, they were in an industry undergoing seismic shifts that might require rapid growth or a merger. Internally, maintaining the culture, establishing legal bulwarks and ensuring leadership succession were critical. The SPF reflected an ambitious agenda, so Steve and the board knew they had their work cut out for them in navigating these challenges.

Exhibit 1: BK's 10 Best Selling Books

Title	Copies sold translations	
Confessions of an Economic Hit Man	950,000+	29
Eat That Frog!	850,000+	35
Leadership and Self-Deception	850,000+	26
Love 'Em or Lose 'Em	550,000+	21
Repacking Your Bags	460,000+	17
Empowerment Takes More Than a Minute	375,000+	14
Leadership and the New Science	350,000+	18
A Peacock in the Land of Penguins	350,000+	21
The Secret	350,000+	22
Goals!	280,000+	24

Source: Berrett-Koehler (2011)

Exhibit 2: Author's Bill of Rights



**Berrett-KoeHLer
Publishers**

A community dedicated to creating
a world that works for all

Bill of Rights and Responsibilities for BK Authors

Commitments of Berrett-KoeHLer to BK Authors

1. **Integrity.** Do what we say we will do. Carry out all promised editorial, production, and marketing efforts for each publication. Fully honor all publication agreement terms.
2. **Partnership.** Involve authors in planning and decision making for key aspects of the publication process, from titling and cover design to sales and marketing strategies, as spelled out in our publication agreement. Operate from the view that BK is a steward accountable to authors and other stakeholders and that authors are partners not nuisances.
3. **Communication.** Provide helpful and timely information to authors at all stages of the publication process. Make it easy for authors to contact BK staff members and to get needed information. Exhibit courtesy, respect, and civility in all dealings.
4. **Transparency.** Be open and honest in all areas, including sales and marketing of authors' publications, the realities of the marketplace and publishing process, and what's going on at BK.
5. **Community.** Give authors many means and opportunities for connecting with other BK authors as well as with BK customers, service providers, and other BK community members who may support and help publicize the authors' work.
6. **Editorial Value Added.** Add extensive editorial value to each publication through individualized editorial guidance and coaching to the author, through manuscript reviews by prospective users of publications, and through professional copyediting.
7. **Professional Design and Production.** Enhance the appearance, readability, and market appeal of each publication through high quality design, production, and packaging by experienced professionals.
8. **Multi-Channel Marketing and Sales.** Market and sell each publication through many channels including, as appropriate, distributors around the world, internet sites, bookstores, direct marketing to target audiences, publicity to media contacts, BK's own website and newsletters, special sales, subsidiary rights sales, and other means. Also help authors leverage their own marketing resources by sharing useful information, providing training and coaching, and giving authors promotional materials to use in marketing.
9. **Environmental Responsibility.** Use environmentally friendly materials and processes for manufacturing, distributing, and marketing publications. Be well ahead of industry norms in innovating and adopting environmentally friendly practices.
10. **Long-Term Commitment.** Keep books available for sale for a minimum of five years—and usually much longer—and provide prospective customers with easy access to informative descriptions of all BK publications, both new and old. Bring out new editions of publications that find strong ongoing sales in the marketplace.

Responsibilities of BK Authors

1. **Collaboration.** Be a collaborative partner with Berrett-KoeHLer through each step of the publication process. Faithfully perform your responsibilities while showing courtesy and respect to BK staff and service providers as they perform their responsibilities.
2. **Community.** Be an active part of the BK community in one or more ways, such as connecting with other BK authors or participating in BK community activities that interest you (such as online surveys and forums, the BK Authors Cooperative, BK Authors Retreats, and community gatherings).
3. **Citizenship.** Actively support BK in achieving its mission of "Creating a World That Works for All" through your own publication(s) as well as through such means as helping publicize publications that you consider important, referring quality prospective authors to BK, and mentoring or assisting BK authors whose work resonates with your views.
4. **Communication.** Keep appropriate BK staff informed of your writing progress, speaking and publicity plans, marketing initiatives, sales opportunities, and so on.
5. **Professionalism.** Perform your responsibilities in the publication process in a professional and timely way, including following BK's guidelines for preparing the final manuscript, reviewing copyediting and page proofs, providing marketing information, and offering collaborative but not controlling input into cover design and interior design.
6. **Quality.** Fully engage BK's editorial process—including working with your sponsoring editor in framing and shaping your manuscript, revising the manuscript in response to the outside reviews, and being responsive to professional copyediting—in order to make the content of your publication as high in quality as possible.
7. **Scholarship.** Be accurate in all facts and accounts in your publication. Follow publishing standards in crediting all sources of information, obtaining permission to use any material for which permission is needed, and avoiding any plagiarism or libel.
8. **Marketing Campaign.** Plan and carry out your own marketing campaign for your publication by reaching out to your professional and personal contacts, leveraging your media and community connections, speaking to audiences, and utilizing your other personal and organizational resources.
9. **Advocacy.** Be an active advocate and spokesperson for the ideas in your publication through a variety of media in addition to the publication itself, such as presentations at conferences, writing articles, working with supportive organizations, and using online media. The publication is only one means of getting your message out.
10. **Training.** Seek out the training and coaching you need from professional specialists, other authors, and BK staff to be an effective advocate, spokesperson, and marketer.

Exhibit 3: BK Board Member Bios

Praveen Madan is one of the leading independent booksellers and literary event producers in the SF Bay Area. He is the co-owner of Booksmith and Berkeley Arts & Letters, and leader of the Kepler's 2020 initiative which is pioneering a new open-sourced model for building the community bookstore of the future.

Steven Piersanti is president and publisher of Berrett-Koehler Publishers. Before founding Berrett-Koehler in 1992, Steve served as president and CEO of Jossey-Bass Publishers in San Francisco after previous service as copywriter, marketing director, editor, editorial director, and executive vice president.

Bill Upton is vice president of operations for Edwards Brothers Malloy, which is one of the leading book printers in the U.S. and one of BK's two principal book printers. Bill is a past president of the Book Manufacturers' Institute, and he is an active member of the Book Industry Environmental Council

Marilyn McConnell is president, CEO, and owner of American International Distribution Corporation (AIDC), which handles warehousing, customer service, order processing, shipping, and collections for all of BK's nontrade print book business in the U.S. -- including BK's direct mail, website, special sales, and author sales business — and for all shipments to our foreign distributors. AIDC also maintains and services our websites as part of their suite of services for BK. AIDC is one of BK's principal service providers, and BK is one of AIDC's principal clients.

Julie O'Mara represents a BK customer perspective and has been a frequent purchaser of BK books since BK's founding in 1992. Julie is president of an organization development consulting firm specializing in leadership, facilitation, and managing diversity. Julie is former national president of the American Society for Training and Development (ASTD).

Jamie Showkeir is past president of the Board of Directors of the BK Authors Cooperative (which is legally and administratively separate from Berrett-Koehler Publishers although closely aligned) and he represents the Co-op in particular and BK authors generally on the BK Board. He is author with his wife and business partner Maren of two Berrett-Koehler books, *Authentic Conversations* (2008) and *Yoga Wisdom at Work* (2013).

Diane Blattner Kresal is associate director of operations at Berrett-Koehler Publishers. Diane joined Berrett-Koehler as operations manager in 2004. Diane is the BK staff representative on the board. She previously held positions in project management with Nashua Corporation and inventory management at Williams-Sonoma.

Mal Warwick Mal is a leading advocate for socially and environmentally responsible business practices who has founded and led several successful companies in over three decades in business. He is one of the world's leading experts on direct response marketing and fundraising for mission-focused organizations. Mal is a BK author, shareholder, and reviewer. He has written a total of 20 books, two of them for BK.

Matt McGraw is founder and CEO of Rocket Science Consulting Corp, a leading nationwide Design + Technology firm, which has been BK's chief provider of information technology services since 2002. He currently serves as a Member of the Apple Consultants Advisory Board for Apple Computer, and Member of the Entrepreneurship@Cornell Advisory Council for Cornell University.

Source: Adapted from Berrett-Koehler web-site.

Exhibit 4: Constitution Outline

MISSION AND PURPOSES

VALUES AND ETHICS

COMMITMENTS OF COMPANY TO STAKEHOLDERS

- Authors
- Employees
- Shareholders
- Customers
- Sales Partners
- Service Providers
- Suppliers
- Natural Environment
- Local Communities
- Publishing and Bookselling Communities

RESPONSIBILITIES OF STAKEHOLDERS TO WHOLE AND TO EACH OTHER

- Authors
- Employees
- Shareholders
- Customers
- Sales Partners
- Service Providers
- Suppliers

RELATIONSHIP TO AFFILIATED ORGANIZATIONS

- The BK Authors Cooperative
- A possible BK nonprofit organization and/or BK customer organization

AUDITS OF COMPANY'S PERFORMANCE IN MEETING COMMITMENTS

- Financial Performance
- Social, Organizational, and Environmental Performance
- Commitments to Stakeholders

BOARD GOVERNANCE

- Membership
- Selection
- Roles and Responsibilities
- Operation and Committees
- Board Development and Evaluation of Board Performance

STAFF ORGANIZATION

- Leadership
- Leadership Development and Succession
- Compensation Structures

DECISION MAKING PROCESS

- Board of Directors
- Staff
- Management Team
- Publication Board
- Who Is Involved at What Levels for Which Types of Decisions

GRIEVANCES AND APPEALS
AMENDMENT AND INTERPRETATION

Source: Berrett-Koehler internal document.

Exhibit 5: B Lab Language to Amend By-Laws:

In discharging his or her duties, and in determining what is in the best interests of the corporation (the "Company") a Directors shall not be required to regard any interest, or the interests of any particular group affected by such action, as a dominant or controlling interest or factor.

He or she shall give due consideration to the following factors, including, but not limited to, the long-term prospects and interests of the Company and its members, and the social, economic, legal, or other effects of any action on the current and retired employees, the suppliers and customers of the Company or its subsidiaries, and the communities and society in which the Company or its subsidiaries operate, (collectively, with the members, the "Stakeholders"), together with the short-term, as well as long-term, interests of its members and the effect of the Company's operations (and its subsidiaries' operations) on the environment and the economy of the state, the region and the nation.

Nothing in this Article express or implied, is intended to create or shall create or grant any right in or for any person or any cause of action by or for any person.

Notwithstanding the foregoing, any Director is entitled to rely upon the definition of "best interests" as set forth above in enforcing his or her rights hereunder, and under state law and such reliance shall not, absent another breach, be construed as a breach of a Director's fiduciary duty of care, even in the context of a Change in Control Transaction where, as a result of weighing other Stakeholders' interests, a Director determines to accept an offer, between two competing offers, with a lower price per share.

Source: B Lab web-site.

Endnotes

- ⁱ Kelly, Marjorie, “Owning Our Future: The Emerging Ownership Revolution”, Berrett-Koehler, San Francisco, 2012, p.157.
- ⁱⁱ Ibid, p.157.
- ⁱⁱⁱ Initial Berrett-Koehler catalog, 1992.
- ^{iv} “20 Ways BK Books Help Create a World that Works for All. Presentation by Steve Piersanti at the ‘BK 20th Anniversary Celebration’, July 19, 2012 (document distributed at event).
- ^v Schein, E.H., Organization Culture and Leadership, Jossey-Bass Publishers, San Francisco, 1985.
- ^{vi} BK publicity piece, Berrett-Koehler Publishers to Celebrate 20 years in Publishing”, 2012.
- ^{vii} <http://www.youtube.com/user/jynsva>, accessed March 2013.
- ^{viii} Ibid
- ^{ix} Ibid
- ^x Case researcher interview with Jamie Showkeir, 1/9/2013.
- ^{xi} Lawrence, Anne and Weber, James, *Business & Society*, 14th ed., McGraw-Hill Irwin, 2014, p.319.
- ^{xii} Case researcher interview with Katie Sheehan, 11/28/12.
- ^{xiii} Letter from Neal Mallet to Berrett-Koehler, dated 4/27/2007. (letter forwarded to us by Steve Piersanti).
- ^{xiv} BookScan Report, Publishers Weekly, July 2, 2012.
- ^{xv} Case researcher interview with Steve Piersanti, 9/19/2012.
- ^{xvi} July 24, 2007 email from Steve to BK shareholders.
- ^{xvii} Steve email to board of directors 1/25/12.
- ^{xviii} Case researcher recording at BK Management Group meeting on 8/23/12.
- ^{xix} www.bcorporation.net/what-are-bcorps/the-non-profit-behind-b-corps, accessed 6/15/2013.
- ^{xx} Kelly, Marjorie, “Owning Our Future: The Emerging Ownership Revolution”, Berrett-Koehler, San Francisco, 2012, p.167-175.
- ^{xxi} Steve Piersanti email to the board, 5/22/12.
- ^{xxii} Powerpoint Presentation: Benefit Corporations-A New Model for Sustainable Capitalism, presented by Jonathan Storper, Hanson-Bridghett LLP, August, 2012.
- ^{xxiii} Memo to other board members from Praveen Madan, October 3, 2011.
- ^{xxiv} Steve Piersanti email attachment to case researchers 5/30/12.
- ^{xxv} Steve Piersanti memo to the BK Board, April 20, 2012.
- ^{xxvi} Case researcher interview with Marilyn McConnell, 1/9/2013.
- ^{xxvii} Ibid.