

SHARP
DECLARATION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE ASSOCIATION OF AMERICAN :
UNIVERSITY PRESSES, INC.; THE :
PROFESSIONAL/SCHOLARLY PUBLISHING :
DIVISION OF THE ASSOCIATION OF :
AMERICAN PUBLISHERS, INC.; :
PEN AMERICAN CENTER, INC.; and :
ARCADE PUBLISHING, INC., :
 :
 : Plaintiffs, :
 :
 : - against - :
 :
THE OFFICE OF FOREIGN ASSETS :
CONTROL OF THE DEPARTMENT OF THE :
TREASURY; JOHN W. SNOW, SECRETARY :
OF THE TREASURY, in his official capacity; :
and R. RICHARD NEWCOMB, DIRECTOR, :
OFFICE OF FOREIGN ASSETS CONTROL, :
in his official capacity, :
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 : Defendants. :
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**DECLARATION OF
W. EDWIN SHARP**

1. I am the Editor-in-Chief of *Mathematical Geology*, a journal published eight times a year by the International Association for Mathematical Geology (“IAMG”). I submit this declaration in connection with the application of the plaintiffs in this action for declaratory and injunctive relief invalidating certain regulations administered by the Office of Foreign Assets Control (“OFAC”) of the United States Department of the Treasury (the “OFAC Information Regulations”) that restrict and, in many cases, prohibit the publication in the United States of works by authors in certain countries subject to U.S. trade sanctions.

2. An article authored by Iranian geologists was withdrawn from a recent issue of *Mathematical Geology* and not published because of the OFAC Information Regulations.

Mathematical Geology

3. *Mathematical Geology* publishes papers on the application and use of mathematics, statistics and computers to the earth sciences. We publish case studies, theoretical papers and teaching materials, and we welcome contributions from scientists and scholars all over the world.

The Paper from Iran

4. In December 2001, we received a manuscript from Ahmad Zamani, a professor of geophysics at Shiraz University in Iran, and his co-author Naser Hashemi, also of the Department of Geology at Shiraz. Their paper described an innovative method for automating the interpretation of geological mapping data used to monitor geotectonic developments. The title of the paper was “Computer-based self-organized tectonic zoning: A tentative pattern recognition for Iran.”

5. Seismic activity is common in Iran, as the devastating earthquake in the southeastern part of the country in December 2003 made clear. The paper described a novel methodology to facilitate the geophysical interpretation of mapping data. We thought it could provide useful information for scientists concerned with earthquake prediction and geological research, and we sent it to two peer referees for review.

6. Our peer reviewers agreed that the paper would make a valuable contribution to the field. As referees are asked to do, they raised questions for the author and suggested revisions to make the methodology more robust and understandable.

7. I transmitted the referees’ comments to the authors in Iran and also edited the manuscript myself, primarily to clarify technical issues and provide context for the authors’ description of their methodology so that readers could readily understand how the methodology

was being applied.

8. I corresponded with the principal author about all the questions and proposed changes, exchanging multiple drafts that I marked extensively with various additions, changes and questions.

9. The referees, the authors and I all reworked the manuscript. The changes we made were substantive, not linguistic. They altered and enhanced the manuscript.

10. We prepare most of the papers for publication in *Mathematical Geology* in this way. Rigorous review and joint reworking are an important part of the scientific process and a primary function of scientific publishing, helping scientists and scholars test papers that present research results and ultimately helping us build upon one another's work.

11. After the revisions to the article were completed, in June 2003, we scheduled the article for publication in the February 2004 issue of *Mathematical Geology* (volume 36, number 2). Proofs were prepared and corrected, and the issue was laid out and ready to be printed.

The Decision Not to Publish

12. In late March, I received a letter from the company that provides production and distribution services for *Mathematical Geology* for IAMS, informing me that "this article from Iran must be pulled...from this issue and the issue will be repaginated" to be printed without it. The letter explained, "This is an unfortunate consequence of a trade embargo.... We can no longer accept manuscripts from the following countries: Cuba, Iran, Iraq, Libya and Sudan."

13. I had learned of the OFAC Information Regulations and OFAC's interpretations of them a short time earlier through an article in *Physics Today*. I had not previously been aware that U.S. trade embargoes could affect publishing.

14. I do not believe that trade embargoes should prevent the publication of scientific

papers or other works in the United States. However, I was informed that significant civil and criminal penalties apply for violations of the OFAC Information Regulations.

15. IAMG is responsible for the editorial content of *Mathematical Geology* and is too small a society to afford the financial cost of challenging the regulations or defending itself in the event of civil or criminal proceedings. We had to allow the article to be removed from the issue.

Applying for Permission to Publish

16. I was informed at the time that OFAC would consider authorizing individual publishing projects on a case-by-case basis through the issuance of specific licenses.

17. The February 2004 issue of *Mathematical Geology* had already been delayed because of the OFAC Information Regulations, and I was informed that the process of seeking permission from OFAC would take months. Timely publication is important to our readers. We could not hold the issue for an indefinite period and therefore decided that it would be published without the article from Iran.

18. I do not believe journals should have to apply to the government for permission to publish articles by authors in particular countries. That is not consistent with the law as I understand it, and it is certainly not consistent with the standards of international scholarship and scientific exchange.

19. My own research, which has focused on exploration mineralogy, geological sampling design, ancient metallurgy and the geology of climate-sensitive areas, has relied on access to materials and information from many parts of the world, including Norway, Pakistan, Turkey and most recently Ghana. I have co-authored articles with scientists in several other countries.

20. In my career of more than forty years as a geologist, I have published more than 50 scientific papers in peer-reviewed journals. I am also the co-author (with Cornelius S. Hurlbut) of a standard text, *Dana's Minerals and How to Study Them*. I am currently Distinguished Professor Emeritus of Exploration Mineralogy at the University of South Carolina, and I have been the editor of *Mathematical Geology* for two years.

21. The free exchange of information among scientists and scholars in all nations is essential to the progress of our understanding of our environment. Publishing decisions should be based on scientific merit, not the nationalities of authors.

Future Publications

22. *Mathematical Geology* would like to publish suitable works by authors from any country, including each of the countries affected by the OFAC ban. We dare not do so until the OFAC Information Regulations are rescinded.

23. I have been informed that OFAC has advised one publisher, the Institute of Electrical and Electronics Engineers ("IEEE"), that certain peer review processes IEEE described to OFAC would not violate the OFAC Information Regulations because they do not result in the "substantive or artistic alteration or enhancement" of manuscripts submitted by authors.

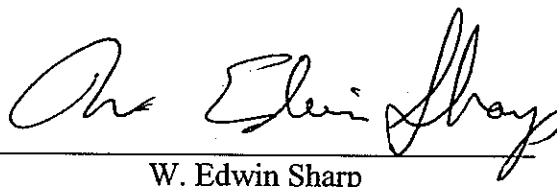
24. However, as I described it above, the standard editorial process for *Mathematical Geology* results in the substantive alteration and enhancement of most of the manuscripts we publish, which the OFAC Information Regulations forbid. We would not publish a manuscript from one of the embargoed nations without subjecting it to the same process through which our other articles are improved and made ready for use by the scientific community. As a result, we cannot publish works by authors in those nations.

25. There are geologists in Iran, Cuba and Sudan with information and with

ideas that are of interest to scientists in the United States and around the world. American authors will not be able to collaborate with them, and *Mathematical Geology* will not be able to publish their work, as long as the OFAC Information Regulations stand. Other scientific journals have made the same decision we have made not to publish any article by authors in those countries until the threat of civil and criminal penalties is ended.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true, to the best of my information and belief.

Dated: September 3, 2004

A handwritten signature in cursive script, reading "W. Edwin Sharp". The signature is written in black ink and is positioned above a horizontal line.

W. Edwin Sharp