

CASE ID: 36024675

On June 21, 2008, you provided the following information:

(The consumer indicated he/she DID NOT accept the response from the business.)

To answer your question, no, I am not satisfied. Although your email says that "The company has made a new offer with the goal of resolving this matter," I see nothing new in PublishAmerica's response of June 17th. In my previous response, I pointed out that PublishAmerica does not promote or market their books to the general public, but instead focuses their efforts on selling to their own authors and the authors' friends and family members. I hope you noticed that PublishAmerica's latest response does not say that my contention is in any way false, inaccurate, or misleading. Instead, they say only that they have no contractual obligation to promote or market their books to the public, and that they have done all that the contract requires them to do. Now that argument might be persuasive if I were alleging a breach of contract—which, at least for now, I am not. But it is a very poor argument indeed when the allegation is fraud. Please consider the following example. Suppose I sold you lottery tickets by telling you that you "might" win \$1 million. If I have no intention of ever paying anyone \$1 million, then I have induced you to buy those lottery tickets through fraud. The fact that I never promised that you would win \$1 million is irrelevant, because I sold you the tickets based on the representation that winning \$1 million was at least a possibility. That representation was false, and therefore fraudulent. Similarly, when PublishAmerica includes language in their standard contract which implies that they market and promote at least some of the books they publish, when in fact they do nothing of the kind, that is fraud.

In addition, PublishAmerica's response completely ignores the fraudulent implications of their slogan, "We treat authors the old-fashioned way—we pay them," or of the prominent statement on their web site that, "We want your book, not your money." Since the author is their target customer, that last statement is simply false. They want your book and your money.

PublishAmerica also claims to be a "traditional publisher"—both on their web site and in their response of June 17th. Unfortunately, they have a very limited view of what a "traditional publisher" is. Most of what they describe as "traditional" publishing is no more than producing a book—something that any "vanity" publisher can do quite as easily, and from what I hear, less expensively. Traditional publishers, unlike PublishAmerica, sell their books primarily to the public, and for this purpose they must also promote and market those books. In contrast, PublishAmerica's customer base consists of their own authors. Also, the fact that PublishAmerica makes its books "available" to bookstores and other distribution channels does not make them a "traditional publisher." No one will buy a book merely because it is "available"—they must also know that it is available and be convinced that it is worth buying.

Finally, I am not, and was not, "surprised" that PublishAmerica would offer to sell me copies of my own book. What surprised me is that they don't try to sell it to anyone else. I am their target customer. I would not have signed a contract with PublishAmerica if I had known that, and I suggest that few authors would—a fact that PublishAmerica must be well aware of, since they go to great lengths to hide and disguise it on their web site. In this regard, please consider this. On May 30, 2008, I used PublishAmerica's web site to send them a "Testimonial" that read as follows: "If you allow PublishAmerica to publish your book, you should understand that you are going to have to promote and market your book yourself. PublishAmerica does not promote your book to the general public. They are content to sell your book to you and your family and friends." That testimonial, although entirely accurate and politely worded, did not get posted on their web site. Of course, other, more flattering testimonials did get posted. I think we can all figure out why PublishAmerica would not their potential customers to know that PublishAmerica does not promote or market their books to the general public. It is a truth they would prefer to hide, and they do so through fraud and deception.

I am hoping the Better Business Bureau will help publicize the truth about PublishAmerica, because they certainly won't.

May God bless,
Don Davidson