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From: "Better Business Bureau" <baltimore.rw@bureauidata.com>
To: "Don Davidson"
Subject: BBB Complaint Case#36024675(Ref#85-32010985-36024675-10-4100)
Date: Thu, 19 Jun 2008 13:01:14 -0600 (MDT)

Complaint ID#: 36024675
Business Name: Publish America, LLLP

The Better Business Bureau has received a rebuttal response from the business in the above referenced complaint case. The company has made a new offer with the goal of resolving this matter.

Please review their response to your original complaint and advise us of your position in the matter. Respond by {b June 26, 2008}. If we do not hear back from you, the BBB will assume you are satisfied and will close your complaint.

You can access the details of the complaint and view the business' reply at the following website address:
<http://app.greatermd.bbb.org/complaint/view/36024675/c/jur7kp>.

Please be sure to indicate whether the business' response is satisfactory or not and how you would like to proceed in this matter.

Sincerely,
Riecie Warren/BE
Trade Practices Specialist & Ad Review Coordinator
Dispute Resolution Department
410 347-3990 ext 3007
benders@greatermd.bbb.org

BBB CASE#: 36024675

Complaint filed by:	Don Davidson (More)
Complaint filed against:	Publish America, LLLP (More)
Complaint status:	Send Business' Rebuttal Response to Consumer (More)
Case Description:	I feel that I was defrauded into signing a contract that gives PublishAmerica exclusive rights for 7 years to "publish"... (More)
Category:	Contract Issues
Case opened date:	05/30/2008
Case closed date:	
Desired Resolution:	I would just like to cancel the contract and get back the rights to my book, since they are going... (More)

Download a copy of this complaint so you can print it for your records

*** You need to respond to this complaint before it can be processed further. Please see below for instructions. ***

On June 17, 2008, the business provided the following information:

There is nothing deceptive about PublishAmerica's contract. First, PublishAmerica makes it perfectly clear that its promotional obligations are discretionary:

In paragraph 5, Mr. Davidson agreed "that all the copies of the said literary work that MAY be used for review and/or publicity purposes . . . shall not be subject to any payment to the Author." Similarly, in paragraph 6, Mr. Davidson agreed that he would be owed no money "on any copies of the said literary work that the Publisher MAY distribute for advertising and/or sales promotion purposes." Since both of these paragraphs indicate that distribution of books for publicity and advertising purposes was at PublishAmerica's discretion, they do not support Mr. Davidson's fraud claims.

The discretionary nature of PublishAmerica's marketing obligations is also described in Paragraph 9 of the contract, which provides that distribution of review copies was at PublishAmerica's "discretion." This is reinforced by paragraph 17, which again indicates that promotional activities were at PublishAmerica's "discretion".

Furthermore, it is unclear why Mr. Davidson is surprised by the fact that PublishAmerica occasionally offers to sell him copies of his book. In fact, the contract itself specifically identifies the price at which PublishAmerica would normally sell Mr. Davidson copies of his book. Since the contract covers sales between Mr. Davidson and PublishAmerica, it is unclear how he can be surprised that such sales were offered to him after the contract was signed.

Finally, PublishAmerica fully lives up to its billing as a traditional publisher. As fully explained on PublishAmerica's website, traditional publishing includes: "Full availability to all bookstores, through the best possible distribution channels (Ingram, Baker&Taylor, etc.), top quality books, first rate art design, individual author support and attention, and of course no author fees at any time, ever." PublishAmerica fully provides such efforts and Mr. Davidson does not deny this.

Response

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