

O'DWYER'S PR SERVICES

Vol. 9, No. 2

REPORT

February 1995

PRSA fights charges of illegal copying

Twelve authors, finding PRSA had been copying their articles and even entire chapters of books without their permission and selling them in packets at prices of \$18 and \$55 (non-members), hired a law firm in 1994 to seek restitution.

PRSA spent more than \$70,000 via its law firm, Moses & Singer, arguing that it was only "lending" copies of the articles and was charging a "loan fee," not selling them.

The authors collected evidence that PRSA rarely asked for the loan packets back and was sending out 3,600 packets a year. PRSA netted about \$200,000

from sale of the packets in the mid-1990s, according to its own records. But PRSA argued profits were eaten up by administrative costs.

It apologized to the authors for the unauthorized copying but refused to pay them any money. The claims expired because of the three-year statute of limitations.

Nevertheless, the authors contend that, morally, PRSA still owes them the money. The Authors Guild called the PRSA legal arguments "absurd." The authors also noted that the gross profit on each packet was large since most consisted of 50-75 pages of copied materials for which \$18 was charged plus \$3 postage/handling.

O'Dwyer articles found in PRSA info packets; fair use claimed

Fifty-two articles from this magazine and its sister publication, *Jack O'Dwyer's Newsletter*, were found to have been copied for 11 information "loan packets" that were obtained from Public Relations Society of America's Information Center.

Publisher Jack O'Dwyer said PRSA had never been given permission to make and sell photocopies of O'Dwyer Co. articles.

Besides the O'Dwyer publications, the packets had copied articles from about 50 publications ranging from *Advertising Age*, *Adweek*, *Broadcasting* and *BusinessWeek*, to the *New York Times*, *TV Guide*, *Wall Street Journal* and *USA Today*.

Three copies of one study were obtained at the same time.

'Fair Use' claimed

John Beardsley, President of PRSA, asked for a comment on the matter in January, provided this sentence: "PRSA has operated within the privileges of fair use and has not in-

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O'Dwyer articles found in PRSA info packets

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fringed on anyone's copyright."

Joseph Vecchione, 1994 President of PRSA, had made a similar comment on the copying issue in a letter Dec. 8, 1994 to some 300 leaders of the Society.



Beardsley

"We do not believe we are in violation of the copyright laws nor have we caused Mr. O'Dwyer any financial

harm," he told the leadership.

Vecchione wrote that a complaint the O'Dwyer Co. made to PRSA concerns an "18-year-old practice" of the Information Center in which "loan packets" are sent to those requesting information.

Return 'diligently' sought

"Our loan packets are in fact just that—loaned to members for a small fee (\$20.00)," said the letter, adding: "We diligently follow up for the return of

'PRSA has operated within the privileges of fair use and has not infringed on anyone's copyright.' —John Beardsley,

PRSA President

our loan packets."

The Information Center was described as a service to members and the profession and not a "profit center." On a "fully loaded basis," the Center is a loss operation, the letter added.

Citing legal counsel, Vecchione further wrote that no settlement offer would be made as requested by the O'Dwyer Co.

The letter announced that PRSA has joined the Copyright Clearance Center, which collects royalties to distribute to publishers in order to allow participants to copy materials without potential liability.

As a result, prices of the packets were raised from \$20 to \$41 for members and from \$55 to \$76 for non-members.

The additional \$21, the letter said, will go to the CCC, which represents 8,500 publishers with 1.5 million titles.

O'Dwyer Co. materials have been removed from all packets, PRSA said.

PRSA materials used

The packets purchased by the O'Dwyer Co. were chosen from the Information Center's list of 205 "Quick-Access Topics." They were found to contain

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Some of the copied materials found in PRSA information 'packets.'

THE WALL STREET JOURNAL TUESDAY, APRIL 12, 1994

MARKETSCAN

Food Firms Concoct Dino Nuggets, Gaudy Yogurt

By YUMIKO OHNO
Staff Reporter of THE WALL STREET JOURNAL
Marketing has become child's play for many of the nation's food companies. Cereal makers have long catered to children—and their sweet teeth—but food makers of all stripes are now rolling out dozens of juvenile versions of other food products. There are kiddie cheeses, french fries, graham crackers, turkey sausages and oatmeal. M.A. Gedney Co. in Chaska, Minn., has even launched dinosaur-size pickles ("Minnesota pickles of prehistoric

AT THE CHECKOUT			
Kid Stuff			
Based on supermarket sales of selected food products for kids during the 52 weeks ended Jan 30.			
	MANUFACTURER	SALES (\$ millions)	% CHANGE FROM YEAR EARLIER
Dannon Sprink'Ins yogurt	BSN Groupe	\$43.9	126.7%
Betty Crocker Dunkaroos	General Mills	31.3	417.0
			36.5
			264.1
			10.2
			81.0

The publisher is a liaison between the organization that employs him or her and the media. Effectiveness in the long run depends on the ability to represent one to the other, while meeting the needs of the other. In many ways the publicist is somewhat like a catalyst that changes both of the elements it deals with while remaining unaltered by either.

and salad dressings are Dressing on his ylor. ritionists ar

stant's

Ad campaigns multiply at big accounting firms

AD AGE
By Gary Levin
10/11/93
known for flash or crazily turning using an ad to widening array of Until recently, I have shunned ad ing the ranks of suc fessionals as lawyer "You didn't go y your own horn, p self, for fear it wo professional natur were doing," said F director of comm KPMG Peat Marwic But the past tw seen the emergent \$50 million that was practical until the late 1980s. This year alone, C brand and KPMG I began multimillion-d image TV campaigns, business magazines, pages from those and holidays. Still others targeted advertising a clic industries or loca

Advertising

Peat Marwick, in its first campaign, aims to market a globa

KPMG PEAT M/ globalization is In its first a page, Peat Marwic practice of the world and professional se is selling what tel chals and print adve offer companies as nationally. "Go global!" the "But not without being, of course, i vice from Peat I labeled "the glo rit worldwide fr among the Big 5 (Domestically, I their Anderson, I The campaign

GO GLOBAL

PLEASE RETURN TO:
THE INFORMATION CENTER
100 WALL STREET, N.Y. 10038

WHY EDITORS HATE YOU

Editors complain about PR people the way Bob Dole complains about Bill Clinton—but they still have to work together. These tips from the editorial trenches tell what it takes to build solid relationships. By Bromwyn Fryer

O'DWYER'S

PR SERVICES REPORT

Vol. 7, No. 3

Food PR satisfies hunger for health/fitness data

By Kevin McCauley

The basketfull of nutritional claims made by food companies to meet the public's growing concern with fitness and health has made food PR one of the

Press Relations

21 Relations with Publicity Media

Lesly's Handbook of Public Relations and Communications Fourth Edition

Philip Lesly

1991

PLEASE RETURN TO:
THE INFORMATION CENTER
100 WALL STREET, N.Y. 10038

33 IRVING PLACE, N.Y. 10003

PRSA INFO: 33 IRVING PLACE

28 Marketing Commu-

about 1,000 photocopied pages of articles and other materials.

Some of the materials are articles from the former monthly *PR Journal* of PRSA; Silver Anvil Award winners as well as non-winning entries; member company monographs on press relations and other topics, certain publications that are not copyrighted such as *The Ragan Report*, and some PR trade publications.

Ray Gaulke, COO of PRSA, said several PR trade publications had given the Society permission to copy their articles.

Permission blurbs absent

However, copied articles from such major media as Ad Age, the New York Times, etc. do not carry the statement, "Reprinted with Permission of...." All the major publications contacted by this magazine said that anyone given permission to copy one of their articles must use such a statement on the copied articles.

Joseph Cappo, Senior VP-Publishing Director of Ad Age and Crain's Group Publisher in charge of licensing, said neither Ad Age nor Crain's had given PRSA permission to copy its articles and that the matter has been turned over to company lawyers.

PRQ heavily copied



Hudson

The most copied medium after O'Dwyer Co. publications was *PR Quarterly*, published by Howard Hudson.

The group of 11 packets had 19 articles from PRQ totaling about 50 pages.

PRQ was copied more than *PR Journal*, from which 18 articles were used.

Hudson also publishes "The Newsletter on Newsletters," whose Dec. 24, 1994 issue noted that PRSA had not been given permission to make any copies of PRQ articles.

PRSA is currently preparing a new publication called *PR Strategist*, a quarterly that will be a competitor to PRQ.

Hudson, in his Dec. 24 NL, noted that Vecchione's letter to PRSA leaders said PRSA does not believe it has "caused

Mr. O'Dwyer any financial harm."

Commented the NL on NLs: "Many newsletter publishers would beg to differ."

Ad Age and parent Crain publications were the next most copied--15 articles found in the 11 packets.

Nine articles were found from the *Wall Street Journal* and five from the *New York Times*.

Book chapters copied

Nine complete chapters of various PR books were found among the 11 packets.

These included two chapters totaling 31 pages from *Lesly's Handbook on PR and Communications* (Probus); 40 pages from *Shenson on Consulting* (John Wiley & Sons); 13 pages from *Power and Influence* by Robert Dilenschneider (Prentice-Hall), and ten pages from *Experts in Action* by Bill Cantor (Longman).



Lesly

Lesly, who was awarded the Gold Anvil

of PRSA in 1979, said he had not given PRSA permission to copy anything from the Handbook.

James McNeil, an executive at Probus, also said permission had not been given and said the company does everything it can to protect its copyright.

Lesly report held up

Lesly became involved in a flap with PRSA in 1992 when it refused to publish a 50-page report he did for the Task Force on the Stature and Role of PR.

The report had statements on several controversial topics including the role of women in PR, accreditation, and whether there can be a "body of PR knowledge."

PRSA's board issued a statement saying the report was "seriously deficient" and that it did not provide "an accurate view of the profession."

Lesly said he spent \$20,000 of his time on the report and had double-checked all statements with the 32-person committee.

The report was later made available

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Copyright Clearance Center represents 8,500 publishers

The Copyright Clearance Center, which PRSA said it "recently" joined, performs a royalty collection service for 8,500 publishers with 1.5 million titles.

The CCC, founded in 1978 and based in Danvers, Mass., has three types of contracts for organizations wishing to copy articles of publishers it represents.

PRSA is in the "Transactional Reporting Service," the strictest and most expensive service (from a user's viewpoint).

The Society must pay a royalty for each sale of an article to a single customer.

Prices for the articles are set by the publishers and can range anywhere from a few dollars to \$500 and more for a onetime use.

Students pay less

A second type of CCC service is meant for the "coursepacks" of current articles purchased by college students.

CCC said lower rates are charged for these since non-employed students are the buyers and education is the aim.

CCC said PRSA is in the most expensive system since the articles are being used for professional and financial gain.

A third type of service allows unlimited copying for use only by employees of an organization.

Copiers keep track of copies they make and they are monitored by CCC field inspectors. Thus far, only three newspapers are members of CCC--*The Wall Street Journal*, *New York Times*, and *Washington Post*.

Forbes and *BusinessWeek* participate but not Time, Inc. publications.

Courts have held that publishers who participate in the CCC have shown a willingness to help copiers abide by copyright laws by making it easy for them to make proper payments. CCC membership strengthens a publisher's hand in the event legal steps are taken. #

O'Dwyer articles found

Continued from page 47

to members and non-members of PRSA.

Copied from the Lesly book was a 20-page chapter titled, "Relations with Publicity Media," and an 11-page chapter on "The Organization and Function of the Corporate PR Department."

Cantor, head of The Cantor Concern, New York, executive search firm, said he had not given PRSA permission to copy his book, Experts in Action.

Laura McCormick, executive at Addison Wesley & Longman, publishers of the book, also said that permission had not been given.

'Originals' specified

Each packet that had been sent out by PRSA carried a statement that the PRSA Information Center "operates as a lending facility, so that we are precluded from making copies of this original material for you."

Users of the packets, often containing 100 pages or more of articles and newsclips, are asked to return the loan packet "within three weeks."

Buyers are also told: "If you have material in your files that would be useful to your fellow members we would welcome your sharing it with us."

The 11 packets obtained by the O'Dwyer Co. in the spring and summer of 1994 had photocopies of articles but no originals.

No further request was ever made for the return of ten of the packets, which were paid for by credit card at the time of the order. One packet was not paid for and a request to return the packet and pay the bill was received from PRSA.

One study was ordered three times within a few days. The study, consisting of the same copied materials, was in the possession of three different people at the same time.

IABC system differs

The International Assn. of Business Communicators, which has about 12,000 members, sells "Communication Bank Handbooks" at prices that average about \$35 (\$10 more for non-members).

Buyers keep the handbooks, which run to hundreds of pages of copied articles.

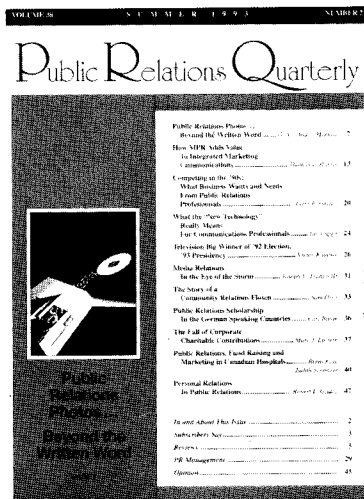
We are pleased to provide the enclosed material in response to your request. The PRSA Information Center operates as a lending facility, so that we are precluded from making copies of this original material for you. Please return this loan packet within three weeks. Should you have any questions regarding this material please contact us at (212) 460-1459. If you have material in your files that would be useful to your fellow members we would welcome your sharing it with us.

The Information Center provides the fastest service possible. All material is sent out within 24 hours. To help us maintain these standards please remit the following amount:

LOAN PACKET FEE	\$70.00
FIRST CLASS POSTAGE/HANDLING	Billed to your Federal Express/Messenger
TOTAL REMITTANCE DUE	\$70.00

PLEASE RETURN ENCLOSED MATERIAL, INVOICE FORM, AND LOAN FEE TO:

RETURN OF "ORIGINALS" was sought under PRSA's 18-year-old Information Center practice. Note on invoices said PRSA was "precluded" from making photocopies of the enclosed "original material." "Fastest service possible" was promised--"All material is sent out within 24 hours."



SECOND MOST COPIED PUBLICATION (after O'Dwyer Co. publications) was PR Quarterly, whose publisher is Howard Penn Hudson. The 11 PRSA information packets purchased by the O'Dwyer Co. had copies of 19 articles from PRQ totaling about 50 pages.

IABC said only articles for which copying permission has been obtained are used.

The handbooks contain articles from IABC's own magazine, *Communication World*; winning as well as losing entries in the group's "Gold Quill" awards contest; monographs supplied by companies, and other materials.

A 348-page IABC handbook on "Crisis Communication" included a 118-page Esso crisis communication plan, among other items. There were no articles from business media such as *Ad Age*, *Adweek*, *BusinessWeek*, or *Forbes*.

IABC grossed \$257,000 on sales of 7,000 Handbooks in 1994. But the group said it "breaks even" on the service because of costs associated with it.

IABC handbooks are wirebound.

PRSA's packets are customarily stapled articles and chapters of books bound by an elastic.

\$108,000 Gross in 1991

PRSA does not usually break out the income of its Information Center.

However, an interim report dated Sept. 30, 1991, said that Center income was budgeted at \$108,000 for the calendar year and direct expense at \$50,800. Net was projected at \$58,220.

PRSA, in reply to a question by this magazine two years ago, said it sent out 3,400 information packets in 1992, including 127 to non-members. Visitors to the Information Center in 1992 totaled 323, including 109 non-members.

While the Society's financial reports do not break out Information Center income figures (they're part of an overall figure for "professional services"), IC costs are broken out.

In the 1993 calendar year, these costs included \$132,101 for salaries and fringe benefits; \$49,801 for rent, utilities; \$8,419 for printing; \$13,164 for supplies; \$4,083 for marketing; \$15,544 for general office, and \$71,237 for overhead allocation. The total was \$297,369.

Professional services income totaled \$402,485 in 1993.

Other professional services costs included \$430,703 for membership services; \$107,219 for program support; \$54,516 for the professional service tax fund; \$396,469 for sections support, and \$75,614 for other program services.

The IABC report for the year ended Sept. 30, 1993 (latest year available) showed \$305,436 in Communication Bank income and \$293,711 in CB expenses. #