

LEVIN, KREIS, RUSKIN & GYORY
55 LIBERTY STREET
NEW YORK, N.Y. 10005

LESTER M. LEVIN
HERBERT B. RUSKIN
RICHARD GYORY

TELEPHONE
(212) 964-8711
CABLES "QUADRANT"
ROBERT R. KREIS
COUNSEL

February 26, 1973

Allan R. Rosenberg, Esq.
Putnam, Bell & Russell
53 State Street
Boston, Massachusetts 02109

Re: Weisberg v. A & A Distributors, Inc.

Dear Allan:

This will acknowledge the copy of the letter from Harold Weisberg.

In order for Weisberg to intelligently proceed with any claim he has to use the usual clause in a publisher's contract which gives the author the right to examine the books and records of the publisher, which is as follows:

"The Author or his authorized representative shall have the right, upon written request, to examine the books of account of (the publisher) insofar as they relate to the said Work, which examination shall be at the cost of the Author unless errors of accounting amounting to 5% or more of the total sums paid to the Author shall be found to his disadvantage, in which case the cost shall be paid by (the publisher)."

Normally, this means a detailed examination of the printing records, the shipment records, the royalty statements, etc. It can best be done with accounting experience although a layman can do it. As you can guess, it is a time-consuming job and not really for a lawyer at the initial stages. Under my circumstances, I do not feel I can take on this type of action as I am having a hard enough time keeping ahead of my unusually heavy load at this time.

My recommendation to Harold Weisberg, in view of his shortage of money, is to do the job himself and if he comes up with sufficient improper withholding by the publisher, he can probably get some sort of offer of settlement. If he doesn't then it is time to go to a lawyer with the facts and start an action.

I have been through a number of these disputes and there

LEVIN, KREIS, RUSKIN & GYORY

Allan R. Rosenberg, Esq.

-2-

2-26-73

is usually some theory claimed in support of the position taken by the publisher. Publishers, and particularly small ones, have taken advantage of authors but it is necessary first to establish what the publisher's records show and then if it is suspected that they are not accurate to establish some facts which will support the author's position.

It is not unusual for a publishing contract to have an arbitration clause. If that is so, it would be possible for Harold Weisberg to reduce his costs.

Thanks much for your letter and if I can be of any help other than taking on the case, please let me know.

My love to Erna. Regards.

Sincerely,

LEVIN, KREIS, RUSKIN & GYORY


Lester M. Levin

LML:ss