**[Jess McCuan](http://www.inc.com/author/jess-mccuan)**

Nov 1, 2008

**A Cold Call, a Blog, and a $20 Million Lawsuit**

A North Carolina entrepreneur blogs a warning to her industry -- and gets sued for her troubles.

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Jeff McCullough

In January, Leslie Richard got a call from a man from Vision Media Television. The Boca Raton, Florida, TV production company wanted to know if Richard would agree to be interviewed for a documentary on eco-fashion. According to Richard, the caller implied that the film might air on PBS or possibly on CNN.

"I was nervous, but I was totally, like, Yeah -- I'll do it," says Richard. A TV appearance promised to be a huge PR boost for her two-year-old Asheville, North Carolina, company, The Oko Box, which sells clothing made of organic cotton, hemp, and bamboo.

As talks progressed, however, Richard, 31, grew increasingly skeptical about the documentary. She says another Vision Media employee told her that Oko Box would be charged $22,900 to cover some production expenses, plus $3,000 for travel costs. Feeling "creeped out," Richard called the Better Business Bureau and posted a message about her experience on her company's blog. "Look alive small eco business owners," she wrote, " 'cause there is a new scam targeting us. [U]sing television lingo, an entire team of people, a website, video footage, and [a] whole bag of lies to cover their scheme."

As cathartic as this blog post may have been, it put Richard's business at risk. Anything posted on a CEO's blog -- including reader comments -- can be construed as carrying the weight of a company's endorsement, says Marc Zwillinger, an attorney in the Washington, D.C., office of Sonnenschein Nath & Rosenthal. "Blogging is a cheap and scalable way to talk to interested people," adds Seth Godin, an avid blogger and the author of 10 books on marketing. "But understand that while you advocate for your company, you are also walking a tightrope from a legal and business point of view."

Initially, Richard says, her blog elicited responses from more than 50 business owners who said they had dealt with Vision Media and shared her concerns. One person sent Richard a statement found on PBS's website from 2004 that said the network was "not associated with and does not endorse" a list of companies that included Vision Media. When the production company threatened to sue Richard if she didn't take down her blog, she wrote: "Um, yeah VMT your scam is being posted & has already been reported, and your imaginary lawyers can't do anything about it."

In July, Vision Media made good on its threat and filed a lawsuit in Florida against Richard and her company, asserting that the comments on Oko Box's blog (which Richard reposted in a members-only chat room maintained by a group for social entrepreneurs) had directly resulted in $5 million in lost business. The suit also asked the court to award Vision Media $15 million in punitive damages.

Mark Miller, an executive producer at Vision Media, denies that his company claimed to work with PBS. He also says Vision Media has a good rating with the Better Business Bureau, contrary to a post published in the comments section of Richard's website. "We've lost a lot of business as a result of her blog," Miller says.

After the initial shock wore off, Richard found a lawyer in Florida who was willing to work with her pro bono. At presstime in late September, Richard was close to a settlement with Vision Media, and she said she was prepared to take down the blog posts.

Richard says the nine-month standoff could have been avoided if Vision Media had just said, "We're a video company that does advertorials; you can use it however you want, and this is how much it costs." Miller asserts that his company does, as a policy, mention fees in the first phone call and that Richard misunderstood the pitch. "Our presentation is crystal clear," he says. (PBS declined to elaborate on its statement concerning Vision Media.)

As CEO blogs proliferate, so will the legal issues. "My sense is that she could have written her warning post in a more careful way," Godin says. "I want to push CEOs to be authentic on their blogs and to be selfless in trying to help readers. But they also have to understand that their words will be out there and widely seen. So they owe it to their stakeholders to act responsibly."

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