

ADULT INDUSTRY UPDATE

By: Lawrence G. Walters

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I guess adult entertainment can be hazardous to your job. You may have heard about George and Tracy Miller, the Arizona couple who were fired from their jobs as nurses with a Scottsdale, Arizona hospital, because they ran an adult web site. The Millers have become clients of our firm and we intend to get them their job back or, at least teach the Hospital a lesson by hitting them in their bank account. To see what all the fuss is about, access their site at www.touchable.com. Or consider the case of the teachers who attended a sex club in South Florida and were later fired from their teaching positions because of their extra-curricular activities. Are we getting to the point where our choice of entertainment activities on our off time has a direct impact on our job security? Will employers begin requiring us to reveal which movies we have watched or magazines we have read? Historically, the First Amendment has protected free expression of a sexual nature, and the right to privacy has protected adult, consensual, sexual activity, but these protections are continually ignored in the employment context. An individual's choice of what to view or broadcast on the Internet in his or her off time represents fertile new battle ground in the censorship war. Like most other Internet issues, the law is either minimal or nonexistent. The Miller case will likely set a precedent to be followed by employers across the nation when dealing with private Internet usage by employees.

Even though the U.S. Government's attempt to censor the Internet under the guise of protecting children has so far failed in the courts, the Michigan Legislature, in its infinite wisdom decided to pass a similar law targeting people who distribute sexually explicit materials to minors over the Internet. U.S. District Court Judge Arthur Tarnow ruled that the law, set to take effect August 1, would have violated the right to free speech because of the anonymity of the Internet and the difficulty of checking the age of users. "Even under the guise of protecting minors, the government may not justify the complete suppression of constitutionally protected speech", the Judge wrote. The Michigan law would likely have penalized even a doctor who posted sex information on the web or who answered a sexually explicit question in a chat room.

The City of Tampa, Florida has decided that the "Voyeur Dorm" which broadcasts images of female college students 24 hours a day living in their home, is an adult business. The City's variance review board ruled recently that the house is not a home, but a business just the same as an adult bookstore or strip club. Web surfers pay \$34.00 a month to view the site which provides images from more than 30 cameras. One can only guess how many other Internet businesses exist in the same neighborhood as the Voyeur Dorm. But, as usual, the City has singled out the sexually-oriented business for a hyper-technical enforcement of its codes. Voyeur Dorm's attorney plans to appeal.

The ground-breaking World Pornography Conference sponsored by Cal State's Center for Sex Research last summer, is now being investigated by California's Joint Legislative Audit Committee. The conference, which I attended, focused on various legal, sociological and economic issues relating to pornography. The seminars were extremely academic in nature and the conference was lauded by those who attended. Yet Senator Ray Haynes, R-Riverside, had the audacity to say: "State tax dollars were used to promote child pornography." I didn't see Senator Haynes at the

conference.

The courts have dealt adult entertainment businesses several setbacks in the last month. In Wisconsin, the Seventh Circuit Court of Appeals upheld a law which required an adult bookstore to close at certain hours because of harmful secondary effects that adult businesses allegedly caused. In upholding the law, the court acknowledged that the ordinance singled out adult-oriented establishments for different treatment based on the content of the materials they sell or display. But, since the content was sexually-explicit, the law was okay. The bookstore's attorney said that the decision was dangerous for First Amendment jurisprudence. That's putting it mildly! In another case, the Supreme Court of New Jersey decided that an adult entertainment club owner violated a local sign ordinance by erecting 20 displays of scantily clad women inside the windows of his clubs. The owner contended that the displays were not signs. The New Jersey Supreme Court found that the displays were devices used for visual communication, display, identification and publicity and thus upheld the fines imposed against the club owner. Does Sak's Fifth Avenue have sign permits for its mannequins in the window?

One final item: The ultraconservative Morality in Media group has launched a nationwide campaign to urge supermarket chains to stop displaying magazines with sexually blatant cover headlines at checkout counters. Among the objectionable headlines to be censored from Cosmopolitan is: "Sex - Clusives! 1000 Men Confess the Squeezes, Licks & Teases They Long for and the Most Important Inch on a Man's Body." Morality in Media President, Robert W. Peters stated: "We believe strongly that such material should not be in your stores at checkout counters where innocent children and vulnerable adolescents see it...I hope you agree." I guess Mr. Peters wasn't among the 1000 men polled.

What a month!