



RE: CHARLIE AND THE CHOCOLATE FACTORY

Robert L. Wald et al.

Robert Wald (1926-2010) practiced law in Washington, DC for many years.¹ He was by all accounts not only a good lawyer, but also a good writer. And he had a fine sense of humor. All those qualities are on display in Wald's contribution to the correspondence reproduced on the pages following this one (and outlined below). You should read them in chronological order:

- Elementary school student Nancy Berliner's letter to literary agent Armitage Watkins (Feb. 16, 1965).
- Watkins's response (Feb. 19, 1965).
- A letter from Wald to Watkins (Mar. 1, 1965).
- A paragraph describing the aftermath of that correspondence (undated).

All four pieces are reproduced from a privately published volume, *From the desk of Robert L. Wald: Looking Back – A Retrospective* (2006), which contains several examples of Wald's useful and entertaining work.

—The Editors

¹ See T. Rees Shapiro, *Robert L. Wald, antitrust lawyer helped found fast-growing District firm, dies*, WASH. POST, Sept. 11, 2010.

Robert L. Wald et al.

February 16, 1965

A. Watkins, Inc.,
77 Park Avenue
New York, N. Y. 10016

My Dear Sirs:

Our sixth grade class read the book "Charlie and the Chocolate Factory" by Roald Dahl. We enjoyed it so much that we would like to try and present it as a play.

This play would be a non-profit production. May we have permission to do so?

Thank you.

Yours truly,

Nancy Berliner,
Sixth Grade Student

Re: Charlie and the Chocolate Factory

A. WATKINS, Inc.

77 Park Avenue • New York 16, N. Y.

Telephone LExington 2-0080

Cable: Anwat

February 19, 1965

Miss Nancy Berliner
Chevy Chase Elementary School
Rosemary St. and Hillcrest Pl.
Chevy Chase 15, Md.

Dear Nancy:

I am sorry to tell you that we cannot give you permission to present as a play any parts of CHARLIE AND THE CHOCOLATE FACTORY by Roald Dahl. The material is of course protected by copyright.

I hope you will find a satisfactory substitute.

Yours sincerely,



Armitage Watkins

Robert L. Wald et al.

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AREA CODE 202
296-2121

March 1, 1965

Mr. Armitage Watkins
A. Watkins, Inc.
77 Park Avenue
New York 16, New York

Re: Charlie and the Chocolate Factory

Dear Mr. Watkins:

Let me try again to resolve this inchoate controversy between you and the Sixth Grade Class of the Chevy Chase Elementary School, Chevy Chase, Maryland. The right to a hearing is deeply imbedded in our democratic traditions and I am sure that you would not want to render a final decision here without giving these trusting little children an opportunity fully to be heard. Bear with me:

Inspired by their classroom reading of Charlie and the Chocolate Factory by Roald Dahl, members of the Chevy Chase Sixth Grade some time ago undertook to prepare an original dramatization of the book for presentation solely to their classmates and teachers.

There are fifty-six children in the class, age eleven years and two months to twelve years and one month. On the whole, they are an appealing group - alert, conscientious, questing, perhaps somewhat more responsive to constituted authority than necessary. Intellectually and socially they bear considerable resemblance to any like group of modestly privileged New York kids, less sophisticated maybe, but probably no more devious, treacherous or venal. It should be frankly conceded, however, that in their school careers - covering elementary grades

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one to five - they have been given no instruction in the substance, scope or application of the copyright laws of the United States, an omission which, I gather, you consider quite heinous. ("Bless their little hearts," I believe you said in our conversation, "they should have realized it was copyrighted.")

It should also be admitted that the children had, in fact, labored for the better part of two months composing their dramatic version of Charlie and the Chocolate Factory before a worldly, elder sibling of one first broached the possible relevance of the copyright laws. In light of your attitude to date, we resolutely face the possibility that you will now claim these minor children already are criminally liable for copyright infringement under Section 104 of the copyright statute (61 Stat. 652 ((1947), as amended, 17 U.S.C. §104 (1958)). At any rate, when advised, they immediately sought to mitigate any potential liability by seeking ex post facto permission from you as agent for the copyright holder. Nancy Berliner, age 11 and good with words, was delegated formally to make this request, which she did by letter to you dated February 16, 1965 (see attached).

On February 19, 1965, you replied, coldly denying permission (also attached) and adding - not very brightly under the circumstance - that "the material is of course protected by copyright." (What do you think motivated the kids' writing in the first place?)

Thereafter, I was called in for consultation and retained by class and faculty to represent them. Our unproductive and rancorous phone conversation followed. As I noted then, I have accepted this commission in the public interest, without fee, solely as a matter of principle, and in no sense because my daughter sits in the third row center.

Mr. Armitage Watkins

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The fact that "the material is of course protected by copyright" is, of course, only a starting point for discussion. It is really quite bad form to try to intimidate these kids with pompous declarations of the unenlightening obvious. A fundamental purpose of the protection of the copyright laws is to allow the copyright holder to define the conditions under which applicants may use the copyrighted materials. The copyright notice in the book properly recognizes this. All these kids have done is to respect the author's copyright and to ask permission as you have invited them to do in the notice.

The unspoken premise here (until now) is that had the children been less compulsively law-abiding, hadn't bothered to seek your authorization, there would not have been the remotest risk of sanctions being applied. Were they now to disregard your edict, we can assume that the hazards (realistically speaking) would be equally remote. But it happens that eleven-year-olds are considerably more respectful of formal restraints than their elders, and I am now faced with the prospect, whatever my advice as to the risks, that they will be unwilling to go forward without your authorization. On reflection, you may feel this places on you a somewhat heavier moral responsibility than you had at first assumed.

In our conversation, you based your position on the "jeopardy" to Mr. Dahl's property interest in the book which would be threatened by this classroom production. Let me therefore spell out the conditions which the children are now prepared to accept in order to avoid this grim possibility:

- 1) The performances will not only be non-profit but non-public. They are to be given only for fellow students and their

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teachers. No admission will be charged. No outsiders, including parents, are expected in attendance. No public announcements of the performances will be made. The children will be instructed to keep all extracurricular references to the production muted.

- 2) The class will submit the script to you for review in advance of performance.
- 3) All copies of the script will be numbered, a distribution list compiled, and a notarized statement prepared for you giving the identity of the recipients, addresses, ages, class standing, any other specified information. (Financial ratings of fathers, if you want.)
- 4) A responsible member of the class - good with matches - will be designated as a Destruction Agent and will submit to you a sworn report of the disposal of all copies of the script following the last performance.
- 5) A legend setting forth the existence of the copyright and the full terms and conditions of your authorization, in such form as you direct, will be inscribed in an appropriately conspicuous place on each copy of the script. Any other limitations, admonition, warning, or threat which you wish brought to the attention of these children and their schoolmates will be included.

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- 6) A copy of the final script, suitably bound, inscribed fulsomely with expressions of appreciation, and autographed by all members of the class, will be forwarded to you.
- 7) The terms of your authorization can be filed with the United States Register of Copyrights, the American Arbitration Association, the National Education Association, the American Book Publisher's Council, the Chocolate Manufacturers Association, or any other organization or individual. It can also be submitted for publication in the New York Law Journal, United States Law Week, United States Patents Quarterly, the Weekly Reader, or other publication as you deem fit.
- 8) Some, but not all, members of the class are prepared to contribute one hot lunch apiece - 35¢ - as royalties. This is our only non-unanimous proposal.
- 9) An appropriate cash bond can be posted, indemnifying Mr. Dahl for any diminution of good will resulting from this caper. At the same time, we will waive any accounting to us for enhancement of the author's reputation which may result.
- 10) We will not send a copy of this correspondence to Mr. Dahl, to Knopf, to Random House, to the New Yorker, to Art Buchwald, to Walter Kerr, to Dorothy Kilgallen, to the Saturday Review or the National Review, to Punch, to Drew Pearson, to Leonard Lyons, to Dear Abbey or to anyone else.

Re: Charlie and the Chocolate Factory

Aftermath:

Bob was contacted by the agent's lawyer – ironically a Chevy Chase Elementary parent – who said he had been retained to block the production. Bob said he had to be kidding; he'd be the laughing stock of the town. After a couple of chilly conversations, the lawyer abandoned the field saying, "I don't want to hear any more about it." Bob told the class to go ahead. The performance was a great success.

GB