

# ASMP Bulletin

JUNE 2000



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# ASMP Bulletin

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## THE PURPOSE OF ASMP

To protect and promote the interest of photographers whose work is for publication  
To promote high professional standards and ethics  
To cultivate friendship and mutual understanding between photographers

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**OUR COVER**  
New York photographer Carl Fischer made this enduring image more than 25 years ago. See page 31.

# A SUMMIT CONFERENCE

*The work of ASMP begins with renewed energy* BY EUGENE MOPSIK

**A**fter three trips to the Philadelphia airport and a night in Denver (I was caught in a United pilots' slowdown), I arrived in Aspen moments prior to my scheduled opening remarks at the Bradshaw Leadership Conference. The entire leadership of ASMP — both chapter and board — was assembled for three days of meetings and study groups. The board would then stay on for an additional two days of board meetings. Given the events of recent months, I was uncertain of my reception and yet hopeful for the conference. My fears were quickly set aside and I was reassured by the sense of cooperation and support from the assembled leadership.

In my opening remarks I spoke of the shared values and commonality of the attendees — we are all photographers, we are all volunteers, and we are all ASMP members. I went on to say that in the coming year we will be concentrating on those issues and programs which have a direct effect on our members' ability to earn a living and compete more effectively in the marketplace. Specifically, we will concentrate on collective licensing, Web-based communication, and legal advocacy. Collective licensing involves a means or system whereby a photographer can collect royalties from newly assigned work or from the use and re-use of existing work.

The conference was composed of a series of large and small sessions dealing with topics such as chapter management and mining resources, the "us versus them mentality" between national and chapters, tools for better communication, MP©A, and the role of chapters in ASMP. Chapter leaders facilitated impromptu sessions with board members and chapter leaders as participants. The sessions were great! The discussions were open and constructive and ended up contributing good ideas and directions for the Society. Both board and chapter leaders enjoyed the opportunity to meet face to face and to know each other as fellow photographers.

Time was made available for leaders with differing views to address their issues directly to the board of directors. This discussion was facilitated and served to clear the air on some unresolved questions. The participants left the meeting with a pledge to work toward open and expanded communication and to put personal feelings aside for the betterment of ASMP. Specifically, the board plans to produce a monthly update to the leadership describing progress on existing programs and information on

new initiatives. In time, it is hoped that e-mail will be the primary information vehicle for the Society.

The success of this conference was due in large part to the planning and preparation accomplished by conference chairs Mary Beth McAuley and Lon Atkinson. Their months of hard work paid off in providing an experience that was a fitting tribute to the memory of Reagan Bradshaw. Ultimately, the success of the conference will be measured by how well the lessons and information learned in Aspen are communicated to the leadership and membership at the local level. The conference has ended, but the work of ASMP and its leadership has just begun with renewed energy. ∞



Eugene Mopsik  
ASMP president  
and chairman of the board

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# FINALLY: © PROTECTION

*A nine-year-long saga nears conclusion* BY RICHARD WEISGRAU

**F**riday, April 29: Good news comes my way. It appears ASMP's nine-year-long quest to simplify copyright registration was finally coming to a happy end. The Copyright Office was on the verge of approving a new copyright regulation that promised relief from the burdensome problems of registering photographs in order to obtain the benefits of registration: eligibility for statutory damages and legal fees in a copyright infringement claim. Under current rules, only unpublished photographs can be registered in a group for a single fee. This requires sending in copies of all images before any are published. The process is time consuming and expensive because of making all the required copies. But it was the only practical way to register those images that eventually would be published.

Photographers who could not hold on to film long enough to make copies for registration were simply out of luck. Their only alternative was to register individual images after publication

This new regulation, which will allow group registration of published photographs, was about to be published in the Federal Register as part of the final approval process. Comments on the regulation could be made for 45 days, after review of which the Copyright Office would issue the final regulation, probably within a month or two after the comment period. Finally, photographers would have a way to protect their copyright, especially of published work.

Now, what does this mean to you? Believe me, it's good news. Under the regulation you will be able to register up to 500 published photographs, taken within a 12-month period, in a single registration for a single registration fee. That's 500 for the price of 1.

You will also be able to submit one copy of the image instead of two copies of the image as published. You will be able to put 36 images on a slide, use video tape or CD or other means to capture the images for deposit with the office.

**Editor's note:** *A copy of the regulation can be found at ASMP's Web site at ([www.asmp.org/information/guides/registration.html](http://www.asmp.org/information/guides/registration.html)). It is not final, but we expect it to be in force within the next few months.*

## THE LONGEST JOURNEY STARTS WITH...

This long journey started in 1991. Regularly, my office received reports of infringements of members' images. All too many times, the cost of enforcing the copyright was too high to make it practical. And since the images had not been registered before the infringement, there was no chance to receive legal fees in any successful prosecution. Frequently, the cost of enforcement exceeded the possible award of damages by a hundred fold or more.

This meant that any fight would be on principle rather than monetary compensation, something only the very wealthy could afford. The ultimate result: Infringers were getting away with their crimes.

As the infringements increased I explained the situation to then ASMP president Vince Streano and asked for a policy decision: should ASMP set out to correct this injustice? Vince, after consultation

with ASMP directors, responded to my question with a simple answer. He ordered a plan of action and approved it. ASMP had a new goal to change the copyright registration regulations.

ASMP soon met with officials of the Copyright Office, which at that time was under different leadership. We produced an array of evidence of hardship and proposed suggestions for relief. We wanted a simpler and less expensive way to register photographs. We proposed being able to register on videotape, and by photographing a whole sheet of slides onto one slide. We wanted to be able to group many images into one submission. We wanted to be able to register unpublished and published images by group registration.

As mentioned above, to be fully protected, photographers had to make copies of everything they shot and register the work before it was published. This was an onerous chore for most photographers; and impossible for those who had to rush transparencies out the door to a client before the images can be copied for registration purposes.

"Under the regulation you will be able to register up to 500 published photographs, taken within a 12-month period, in a single registration."

## BATTLING IN CONGRESS

Finally, the Copyright Office consented to one thing only: photographers could register unpublished images on videotape in groups for a single fee. The idea of using a slide to capture many slides was not acceptable to them. They complained that it would be hard to see - really! - and they refused ASMP's offer to buy them a slide viewing device that would enlarge the images. We were unhappy at that outcome, so our next stop was Congress.

We met with congressional staffers and, since regulatory relief was unavailable, asked for legislative relief. Well, it takes a long time to get anything started in Congress. However, persistence pays, and in late 1992 we were told that bills eliminating registration would be introduced in the House and Senate at the opening of Congress in 1993.

We were told to muster our forces, as it was going to be a fierce fight. The PPA joined with the ASMP. We received support from dozens of creators' groups, and others. The photofinishers, unenamored of PPA, which had sponsored several legal suits against wholesale infringers, opposed. The publishers, wanting to deny ASMP any more tools for its arsenal, also opposed. Well, history shows that we got the legislation through the House in 1993, but we lost the fight in the Senate in 1994. The law would not change.

PPA and ASMP went back to the Copyright Office in 1995. We rationalized that as that office was under new management, perhaps there was hope. In fact, we did get some promise of relief with an agreement that would allow unpublished images to be group registered without depositing copies of the images. The only requirement would be a brief written description of the subject matter. This would be both time and cost saving. We could not get a liberalization of registration rules for published images.

## PHOTOFINISHERS' CLOUT

The Copyright Office published the proposed regulation, and the roof caved in. This time, the major objection came from photofinishers who feared that many portrait, wedding and school photographers could easily register everything they shot, and thus be armed when dealing with infringing photofinishers, some of whom seemed to be running major copying enterprises. We had neutralized publishers for the most part at that time. Publishers were fighting a major battle on Capital Hill over fair use and they needed ASMP as an ally. Fair use, while an issue for us, was not as pressing as registration relief. The publishers backed off their opposition to assure our support in the fair use battle.

Unfortunately, the photofinishers, which have a lot of clout as much bigger businesses than photographers, pulled out all stops and went back to Congress to put political pressure on the Copyright Office. Eventually, the Copyright Office withdrew the regulation. It seemed that photographers would not get relief through liberalized (no images to be sent for the record) registra-

tion. It was now 1996, and we had been working on the problem for five years. PPA and ASMP retired from the process, with hopes of eventually getting change in years to come.

Since 1997, ASMP has had regular contact with the Copyright Office as we represented photographers' interests in CONFU (Committee on Fair Use). We went to Washington for meetings for two years to help shape the Digital Millennium Copyright Act and the WIPO Treaties. We testified at the hearings about copyright registration fee increases in 1998. At that hearing, ASMP pounded on the absurdity of asking photographers to pay even higher fees to register images when the regulations already made it too expensive for photographers to register. We simply suggested that the Copyright office was unintentionally aiding and abetting infringers of images by making registration more problematic than before.

Now, finally, common sense, fair play, and - shall we call it justice? - have won out. Let's not forget how this battle started and to whom we owe thanks. As stated previously, this started in 1991 when Vince Streano said let's go after this registration problem. He and others worked diligently on it for years. Now, the persistence of ASMP is paying off. We owe Vince, other ASMP leaders, members who helped us, the PPA and an assortment of other folks a big thank you. Too often we forget the contributions that our past leaders have made to ASMP. ∞

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# STAYING FOCUSED

*A vision for ASMP and Biennial matters* BY EUGENE MOPSIK

Our ASMP is at a turning point. We have entered a new millennium with a multitude of new problems for photographers. The marketplace for new and unique images is under pressure from a proliferation of royalty-free stock - the control and distribution of which has in many cases been surrendered and concentrated in the hands of the few. Our agencies no longer act as "agents" working on our behalf. Clients seek greater control over the use and distribution of our created content without additional reasonable compensation. More and more frequently, photographers must be willing to pursue corporate infringers into court at great emotional and financial cost to protect their work.

The Internet and digital communications have changed the manner in which our work is marketed and delivered, making our control over it more tenuous than ever before. ASMP's value to its members hinges on its response to these and other important issues and its ability to identify new problems and communicate our response effectively with our membership and the marketplace.

ASMP's board of directors is composed of elected volunteers constitutionally charged with the creation of policy that will effectively address the issues before us and manage our limited resources to their maximum effect. We can no longer allow ourselves to be reactive. We must actively seek out the areas in which we can have the greatest impact, provide the greatest service to our membership, and best apply our financial and personal resources.

To this end, this board began a process in December of 1999 of evaluating all ASMP programs in the light of their contributions to our strategic goals. Those goals have been defined as the pursuit of programs and policies that have a direct effect on our members' ability to earn a living and compete more effectively in a changing marketplace.

Specifically, we have chosen to concentrate on collective licensing, Web-based communication and legal advocacy while our ASMP Foundation concentrates on education. It is believed that if we have success in these areas that we will in turn fulfill ASMP's secondary purposes of promoting high standards and ethics, and fostering harmony and mutual understanding among photographers.

ASMP has initiated an effort to open a channel of communication between the leadership of EP, APA, NPPA and PPA. A meeting of organizational heads has been scheduled for the near future in Los Angeles. We hope to explore ways that we can use our numbers and united voice to work together for the mutual benefit of all photographers.

A committee headed by directors Woody Packard and Stan Rowin is working on the appraisal of our Web site and Web-based communications. New York member Gary Gladstone and Philadelphia chapter president Peter Lien have been asked to contribute to this process. Efforts are underway to increase the content of MIRA. Changes in the marketplace have made MP©A a more valuable asset than ever. Stock photographers faced with reduced

return on sales and increased anxiety over acquisitions and mergers of stock agencies are finding security in MP©A and MIRA. We need resources to promote this entity to make it even more valuable.

ASMP has given financial and staff support to the fight against the new *Boston Globe* freelancer contract. Secretary and former first vice-president Jim Scherer, a contributor to the *Globe*, is directly involved with the local ad hoc group in this ongoing effort. ASMP has dedicated funds and staff time to the case of Penny Gentieu against Tony Stone Images - a case that has implications for all photographers working with stock agencies. Woody Packard continues his work with the Eastman Kodak Company on the *Kodak Reuse Plan*, a system which would allow a client to quickly and easily calculate the fees for reuse of original photography. An element in this is software which has applications for helping to determine an equitable fee for original assignment work.

Staff is exploring new ways to use e-mail for member communication and also considering changes to the content and form of the *Bulletin*. The structure of the Society — including staff positions, board, and chapters - is scheduled to be examined in the near future as well.

## CANCELING THE BIENNIAL CONFERENCE

As a program of ASMP, the 2000 Biennial Conference, scheduled to be held in San Antonio in September, came under this same sort of scrutiny. It was not simply set upon in a vindictive or arbitrary manner as some have suggested. The Biennial was under the oversight of past president

*cont. on p. 23*

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# ASPEN 2000

*The Bradshaw Leadership Conference* BY PETER SKINNER


**A**SMP leaders - national directors, chapter leaders, and staff - gathered in Aspen, Colo., May 11-14 for the annual Bradshaw Leadership Conference. Several attendees were asked to write of their "Aspen Experience" and their impressions are reprinted here. If there were a single, recurring theme to their accounts it would be this: despite its politics and recent turbulence, ASMP is a vigorous organization that is well and truly alive. Some went to this conference expecting friction and confrontation to prevail. Instead they found reasonable debate, lively discussion, and the prevailing attitude that their Society was on track.



The conference was chaired by Mary Beth McAuley and co-chaired by Lon Atkinson pictured above.

## BY JOHN GIAMMATTEO

### CONNECTICUT CHAPTER

 When the Connecticut chapter board and officers decided to send a second member to the Bradshaw Leadership Conference, we felt it was important to send a member with "Aspen Experience" and also someone who would be new to the conference. Lanny Nagler would attend for the

first time, and I for the fourth.

Based on what has happened in the past few months, (the resignation of our president Les Riess, calls for removal of board members, the cancellation of the Biennial Conference), I expected the conference to be a rough ride. As it turns out, the roughest part of the whole weekend was the 35 minute flight from Denver to Aspen. (How is it possible that 35 minutes could seem like an eternity?!)

Almost immediately upon arrival in Aspen, the calming effect of the Aspen Meadows began to take effect. Of course, this was greatly enhanced by Lanny introducing me and several other attendees to "Cosmopolitans" at the opening reception sponsored by Fujifilm Professional. Surprisingly, compared to earlier conferences, there seemed to be a lot less tension and hostility among the attendees. Prior to arrival, several parties had agreed to keep their "feelings" in check and would address the board at a separate session so that the group could concentrate on the immediate issues at hand and focus on the future of ASMP. By the time president Gene Mopsik addressed the group on Saturday morning it was evident that a new era was breaking for ASMP. For years, the chapter leaders had been begging the national board for more information and communication. E-mail, ListSers and the forum postings recently have shown that finally a more open channel is being established.

For the first time, national board members were in attendance AND participated in the conference in its entirety. In each of the six study groups and five chapter group discussions a wealth of information, ideas, and suggestions crossed from member to member, chapter to chapter, and membership to board. While the days were packed


with tightly scheduled sessions, the nights turned into informal continuations of many of the discussions at the presentations and receptions hosted by Fujifilm, Adobe and Kodak.



By the time Sunday's final session occurred, everyone agreed that ASMP was on a path that will probably still have a few bumps from time to time but with continued open communication that path is becoming clearer.

## BY LARRY GATZ

### SOUTH FLORIDA CHAPTER

The meeting opened with two thoughts: "We be jammin!" and "Like herding cats." Both proved to be correct as we jammed two 18-hour days full of meetings and discussion groups moving up and down the soft inclines of Aspen Institute. 



Top row from left: sharing photos; comrades in arms, Robert Boyer, Robert E. Potter, III, Clem Spalding, and Mark Langford; Gene Mopsik and Dick Weisgrau.  
 Second row from left: Clayton Price, John Greim, and Todd Powell; Vickie Lewis, Bruce Kluckhohn, and Linda Enger; AV gurus and slide show producers, Jim Havey and Dave Barry.  
 Third row from left: Dr. Robert Alan Black, Doctor of Creative Thinking, relaxing with some of his props; teamwork, keeping balloons aloft.  
 Fourth row from left: demonstrations of new MIRA software by Kristen Giordano (CCC) and Todd Powell.

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A theme for this conference could have been *Opening the Channels of Communications*. In the rough and tumble world of ASMP politics this weekend had all the promise of becoming a catastrophic meltdown. Dr. Alan Black, the only Doctor of Creative Thinking from the University of Georgia, told us that in an organization of creative professionals conflict is inevitable. An organization not in conflict is a dying organization. So conflict, while stressful and at times divisive, is a sign of a robust, active, energized group. We like that. No conflict, no growth, no progress.

Gene Mopsik's opening address was short and direct. He asked that we remember that we are all in the same business, all looking for similar things and trying to

work in everyone's best interest. He asked that "personal agendas be left behind" and that "we must learn to overcome our individualism." He spoke of the organization "being at a turning point" and the "need to seek out areas to benefit membership." Mopsik's address was briefly interrupted by an exploding balloon left over from Dr. Black's preceding communication exercise. As if on cue, the balloon self-exploded as Mopsik was asking for reasoned discussion of the society's problems. He quickly ducked behind a chair in mock hiding; continuing his speech he recalled how there had been jokes the year before about wearing a flak jacket at these proceedings. This unscheduled event lightened the mood and eased some tension.

Attending my first leadership conference, I arrived with low expectations. I anticipated lectures on organizational issues like membership, chapter finances, sponsorships and how to attain them, etc. I definitely did not want to be "lectured" by my peers on leadership or some other esoteric qualities thought necessary to run a successful chapter. Thanks to adaptation of the information from a pre-conference questionnaire there

were no lectures. There was communication. The schedule of study groups was intense and continuous for two days.

National directors were required to attend discussion sessions and participated shoulder to shoulder with the chapter representatives. We found their additional insight into organizational issues enlightening.

A request to veteran national board member Jim Scherer that board meeting agendas be made available to chapter leaders prior to the meeting met with almost instant response. The next morning the board agenda was distributed to the chapter leaders and in future, we were told, agendas would be available to chapter leaders two weeks prior to the meetings. A bridge was built with this gesture of confidence.

MP©A was the surprise of the conference. After all the noise about the cost, both real dollar and political, to develop the new search engine software for the MIRA site, the demonstration was impressive. Opinions have changed as a result of this weekend. There is considerable work to do but if each member contributed just 10 images, MIRA would be viable.

**BY PENNY GENTIEU****NEW YORK CHAPTER**

*"I've been to the mountaintop. And I've looked over. And I've seen the promised land."* Dr. Martin Luther King Jr.



"Good Morning, this is your WAKE UP CALL." It's 6 a.m., May 12 in the mountains of Aspen, 8,000 feet high. I'm a new co-president of the New York chapter. I'm here for leadership training. The room is unlike any place I'd ever stayed before, Bauhaus style suite with a small library of books by great thinkers going back to Plato. I feel honored to be in the mountains with a group of like-minded peers in the most powerful, venerable organization, at a defining moment in our history - an invigorating challenge that I am up for indeed.

We gather in an octagonal room with three rows of continuous tables. The meeting opens up to the tune of Willie Nelson's *I'll Take You Everywhere I Go*, annotating a brief slide show honoring ASMP's past president Reagan Bradshaw, who died in a flying accident in October 1998. We look at his snow-covered mountain peak photos interspersed with personal moments of camaraderie, exemplifying the spirit of ASMP and a model of who we are as photographers, leaders and friends.

President Gene Mopsik, addresses us with strength, insight and humor. As diverse as we are, he says, we have more in common than we do with any other group. "What makes us different and sets us apart is that we have a highly developed ability to see; that makes us rare human beings. Seeing is poetry, philosophy and religion combined."

Robert Alan Black, speaker-facilitator, focuses us on communication. We have 90 seconds to shake as many hands as we can. By then I am on the other side of the room getting a well-rounded picture from another colleague's perspective.

The group of 90 chapter leaders separates into small study and chapter groups, commencing the jam-packed two-and-a-

half day training consisting of non-stop brainstorming in a dozen different sessions. Vital, active chapters share practical and ingenious ways to grow, serve and lead the local membership and photography communities. Board members discuss policies, and we exchange ideas.

We analyze over a dozen issues. We share comments arising from our sessions at the Sunday morning general meeting. We enthusiastically support building alliances with other creative associations to promote the preservation our intellectual property rights. We are excited by the new design of the MIRA Web site for collective licensing, and the fact that a large number of stock photographers are now turning to MP©A/MIRA. We are proud of the proactive stance ASMP takes in copyright legislation and legal advocacy.

I talk to every board member and nearly every chapter president. The passion behind ASMP manifest in our leaders is equal or greater than the passion behind the most beautiful photograph in the world. It is our greatest asset.

Landing on the ground at La Guardia at 2:00 a.m., Monday the exalting Aspen mountain experience reminded me of John Lennon at Yoko's art show where he met her, and John going up the ladder to look behind the flap, and it said "Yes". It interested him in her, and from that started a great love story. A "No" would have turned him off and the power of their love would not have gotten off the ground. I can't wait to spread the word. For ASMP is climbing the mountain and reaching the summit and we say YES!

**BY NANCY HORTON****NEW ENGLAND CHAPTER**

Dear Diary: I have not written to you since the beginning of May because I've been attending a conference in Aspen - I stayed at the Aspen Institute a place with soothing architecture and surrounded by natural beauty.



© BLAKE DISCHER

Arriving after a turbulent ride I jumped into the hot tub. As soon as I smelled the air and felt the hot water I felt a familiar place. When I lived here the winter of 1987/88 I spent many nights hot tubbing. I arrived to the Fujifilm welcome party without my badge and I knew we were about to begin. I hung out with Stanley (Rowin) - we met people from all over the country; had tasty hors d'oeuvres and cocktails. I started to hear about the "current politics" but found meeting the people far more interesting.

The party wound down and Stanley and I joined Michigan, New York and North Carolina chapter leaders for a dinner at Jimmy's. This group was really cool. We talked about ideas; passion versus technical, promotion. It was great. I felt really connected to this group. The next day it all began and while I was there it felt like a week and now I can't believe it's over.

One part with Dr. "feel good" Robert Alan Black was really insightful and I wished that we could have done more creative thinking techniques and character analysis. I'll have to touch base with Alan about ideas for our chapter's retreat and programs.

Mostly business stuff. As it began, I wished my chapter members were along and will try to employ the techniques used at the conference at our upcoming retreat — power sessions and timed follow-ups. Anyway, in each session we discussed numerous topics and I want to write this stuff down now so I can share it with Jim and George to prepare for our annual retreat.

Communication: We talked about dividing the members-only forum into two. One for "ASMP business" the other for photography talk. Basically the goal was to kill the bitching and complaining. Water under the bridge at this point. The powers above must communicate to the masses below. You must have e-mail, you must have e-mail! Do you have e-mail? Why don't you have e-mail? It gets to be too many e-mails to many e-mails.

Membership: New member greeting package and communicating benefits to members, having new members show their work during a program. Each individual photographer needs to take the time to meet other photographers and share the knowledge ASMP has acquired and how the organization as a whole has an effect on all photographers, whether they are members of ASMP or not.

I fought for a long time to maintain my independence. I was encouraged by other members Bill Truslow, Frank Clarkson and Mark Bogacz to get involved, and I appreciate the opportunity to be in a position to support my profession.

The grand finale was the slide show - images and music which was fun to experience.

## BY LANNY NAGLER

### CONNECTICUT CHAPTER



After 25 years in the photography business it was a unique experience to feel like a rookie. But that is precisely how I felt at

the Bradshaw Leadership Conference. I arrived at the conference without any baggage or preconceived notions. Prior to leaving home, I did have some conversations with past attendees as well as with John Giammatteo, the chapter president who would be accompanying me. I was told that there had been some rather heated exchanges between the national board and the chapter leaders and that could be a factor at this meeting. I packed a flak jacket but replaced it with ones supplied by Fuji and Kodak on the first day.

The bumpiest part of the weekend was the flight from Denver to Aspen. What I came away with was a sense of camaraderie and common purpose way beyond my expectations.

We are in a business which often puts you in a vacuum both in your relationships with your local photographers and to a greater extent the national organization. I was able to come to a realization that there



High fives, thumbs up and cheery grins: ASMP in Aspen, Colorado.

© 2000 MIKE GURLEY/TOM GUIDERA,III

is common ground for all of us. The way that I was welcomed into the group, even though I really did not know a soul, was greatly appreciated. The opening get together and breakfast the next morning were structured so I was thrust into interaction from the start.

From Gene Mopsik's remarks to the raucous training session led by Robert Alan Black it was evident that there was a conscious effort to unite, succeed and inspire.

The individual session schedule was extremely hectic. In the future I think roller blades should be issued to all attendees. I think the struggle to get from one venue to another would either kill or further help to unite the chapter leaders. I also think that it would be a good idea to have strategically placed porta-potties along the paths between sessions. Was it the altitude?

I was placed in a study group with people who were geographically diverse yet the issues seemed to be identical. One advantage to having the same study group members for the entire time was that I really got a better sense of all the issues in a particular chapter. This really forms a resource from which to draw successful ideas and programs.

The culmination of the event for me was the final dinner and slide show which provided the opportunity to see the work of the people you got to know during the sessions. Being part of this show left me with the feeling of being part of a creative community way beyond my local chapter.

Finally, borrowing from the words of a famous Hartfordite Mark Twain: *The rumor of ASMP's death is greatly exaggerated. It is alive and well and living in all of us.* ∞

# BOARD MEETS IN ASPEN

*Setting course on new directions, strategy* BY PETER SKINNER

**D**uring two days of debate and analysis the ASMP board of directors covered subjects ranging from the search for a new executive director, membership and chapter issues, and MP©A affairs to ASMP foundation matters, ASMP in the 21st century and the complex issue of ASMP's role in developing collective licensing strategy. Added to that there were numerous committee and staff reports on topics such as finances, chapter membership, surveys, staffing, communications, and legal matters to digest, and discuss where necessary.

This was the first face-to-face meeting of the 2000-2001 board and while 11 of the directors were veterans of numerous prior board meetings, this was the first occasion to which four new directors were subjected to the usually unwitnessed intensity of the decision-making process at a national level.

Managing director and general counsel Victor Perlman who offered both his congratulations and condolences on their being elected, conducted an orientation for directors during which their duties under the law and ASMP's rules were explained.

In his opening remarks president Eugene Mopsik thanked the directors for their participation in the annual Bradshaw Leadership Conference, held prior to the board meeting and which was attended by all directors who were involved in study groups. That participation and the directors' accessibility was commended by many chapter leaders.

Chair of the Bradshaw conference, Mary Beth McAuley, in a brief oral report to the board said that words which came to mind were "vibrant, stimulating, thought provoking and cathartic" and comments from chapter leaders were not only heart warming but also highlighted the importance of the conference to chapter leaders. The conference vice-chair was Lon Atkinson.

One of the first items on the agenda was the search for a replacement of executive director Richard Weisgrau whose contract expires in about two-and-a-half years. The board has started the process and has charged a committee to identify the type of person, the skills required, and the role that person would play in the ASMP of the future. Jim Scherer pointed out the search committee would need to develop a profile of a suitable person, and not simply create a job description. The deadline for determining that person is September 30, 2002 and the committee has been given an annual budget of \$6,000.

Membership matters included expediting the application and approval procedure for international - and occasionally domestic - members through a national membership approval committee. This

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ASMP board of directors for 2000. Standing from left: Morton Beebe, Margaretta Mitchell, Woody Packard, Don Luce, Lee Schulman, Stan Rowin, Mary Beth McAuley, Dave Harp, Scott Highton, Robert Wiley. Front from left: Michael Cardacino, Matt Herron, Gene Mopsik, Tom Guidera, Jim Scherer.

would enable international applications to be handled through the national office and also allow domestic applicants, who for whatever reason didn't want to join ASMP through a local chapter, to have their applications handled the same way. The board listened to, and approved, a request from the St. Louis chapter to allow students to retain their student affiliate membership status for one year after graduation. The chapter felt this gesture, which would help students while they got on their financial feet, would encourage students to remain affiliated with ASMP and thus more likely to become members.

## LIEN'S PROPOSAL

Streamlining chapter and national communications within the organization was also debated at length at various times throughout the meeting. The board has asked the communications committee to take a closer look at a proposal on this theme from Philadelphia chapter president Peter Lien. One of the elements of Lien's proposal was consolidating all chapter Web sites into one national Web server but still allowing chapters to maintain their own addresses, content, and design. For his part, president Gene Mopsik said he would like all ASMP sites to open with one ASMP page from which visitors could link to any section within the ASMP Web page system. However, he wanted a sense from the board if the Lien proposal had merit and was it worth further investigation.

Some directors said that while their conversation with chapter leaders indicated there were mixed reactions to the proposal - and to the savings involved in reducing the required number of Internet service providers (ISP) - but in general there was support. One of the key issues, as Stanley Rowin pointed out, was not that of ISP's but in programming (on each site) and keeping it current. Lien proposed that money saved on having one server could be used to promote the Find a Photographer through a postcard campaign. (Editor's note: In the past two years there have been several mailings of postcards to photo buyers and advertisements in *Communications Arts* and *Photo District News* promoting Find a Photographer.) The board commended Lien's hard work and enthusiasm for this project and directed the communications committee to study it further.

## FORUM QUESTIONS

Also under the topic of communications, were the time spent answering members' questions on-line and splitting the ASMP members-only Internet forum into two sections: one for discussing business, trade, technical and similar non-ASMP-specific topics, and the other on ASMP issues and policies. While the two topics were discussed separately, they are related. Mopsik, who in the weeks prior to this meeting had spent hours researching figures and amounts to incorporate into answering a forum question about the

cancellation of the biennial conference, sought guidance from his colleagues on answering demands for immediate answers. It was, he stressed, a time-consuming process.

The need to answer members' questions was acknowledged: Rowin pointing out that Mopsik's detailed answers showed a willingness to provide answers and opening lines of communication is critical; Matt Herron, saying that the board cannot respond as quickly as someone can fire off an e-mail, agreed the board should "be responsive, but not knee jerk responsive."

The mechanism for providing forum answers could be simplified when the forum is divided into two sections even though there are software and forum moderator issues to be addressed. The division is intended to increase the benefit to members seeking business and technical advice and share other similar information while also providing a forum for members wanting to discuss internal issues and ASMP-related concerns. One of the moderators' responsibilities will be to ensure topics are in the appropriate forum.

Producing an equitable resolution to the cancellation of the Biennial Conference, and reimbursing the Austin/San Antonio chapter for expenses, were discussed at length. Most directors felt that in view of the tension and rift in chapter relations created as a result of the cancellation, reimbursement and an additional token of goodwill were in order. After lengthy debate, the board approved reimbursing the chapter for \$1500 for expenses associated in bring-

*cont. on p. 20*

## ADVERTISEMENT

**BOARD MEETS IN ASPEN** *cont. from p. 19*

ing an extra delegate to the Bradshaw Leadership Conference. Additionally, ASMP will donate \$3500 to the Reagan Bradshaw Memorial Scholarship Fund in the name of the Austin/San Antonio chapter. Executive director Richard Weisgrau told the board that this would bring the total in the scholarship fund, which had been initiated by Bradshaw's chapter, to about \$20,000, sufficient to establish a program in Bradshaw's name at his alma mater, the University of Texas.

**LEGAL AND MP©A**

The Society continues to play a key role in legal matters and Victor Perlman reported on the contract dispute with The Boston Globe; the board approved reimbursement of \$15,000 from the Legal Action Fund to Chuck Gentile's attorney in the Rock Hall of Fame suit; and approved an additional appropriation of \$5000 from the fund to assist ASMP member Penny Gentieu in her legal battle with Tony Stone Images (Getty Images).

MP©A, its leadership and overall operation, the renewed interest in the agency as photographers look to alternatives in the wake of massive consolidation and acquisitions by major corporations, and to what extent ASMP will continue to support this program came under scrutiny. Chairman Matt Herron told the board that a critical point had been reached and numerous improvements in software, Web page and Internet systems, and increased promotion of MIRA by the Copyright Clearance Center, Inc. (CCC) were being developed and nearing implementation.

Among innovations to the collective licensing initiative's operations are the probable hiring of an editor who would edit out weaker images currently in the MP©A file and ensure tighter editing of new submissions. Herron also said that while photographers with large stock files were concerned to what extent CCC would promote MIRA, they had to understand that a commitment, and much more content, was needed before promotional funds could be allocated. It was, he said, an issue of content versus promotion.

The role of an editor and the cost to ASMP were categorized by Scott Highton as "just another obstacle to overcome." "If we need to hire an editor in order to get these new photographers to put their images in the file, then this what we should do," he said. "The real question is whether ASMP is willing to put its weight behind MP©A." To that last point, McAuley said that if ASMP had been supporting MP©A for the past seven years, why was that even being discussed. The board agreed, and has given the go ahead for Weisgrau to investigate hiring an editor, probably on a freelance basis, and the cost.

The board debated the number and composition of the MP©A committee and elected eight MP©A committee members by secret ballot. (*See minutes for details, page 28.*)

An update on the Kodak Reuse System for licensing photography assigned by Eastman Kodak, and which could become a model for the industry, was given by Michael Cardacino and Woody Packard.

Specifically, Cardacino reported on reactions from a focus group of about 30 photographers at Kodak-arranged presentation in New York on May 2 given by Packard and Forest McMullin. Generally, the attendees were positive about the system but there were elements of it they didn't like. During the board's discussion on the reuse system, and to what extent Kodak was willing to support and fund it, was the concern that photographers equated it to a software package and not what it was, an agreement between a corporation and an individual to facilitate licensing beyond the original assignment. The software, which is being developed by Packard, is part of the system but the question remains, and it might be a dilemma faced by ASMP, will Kodak pay for the development of that software?

**FOUNDATION CHANGES**

The ASMP Foundation, which is now responsible for handling ASMP's education activities was scrutinized and debated at length. The ultimate result was that the board removed the current foundation board and replaced it with three directors, Margaretta Mitchell, Mary Beth McAuley and Jim Scherer to consider other potential foundation directors and report back to the ASMP board in September. Prior to the vote being taken, the only roll call vote during the meeting, Mitchell, the foundation secretary outlined various aspects of the foundation leading up to the current situation. An impasse in creating programs and, subsequently, fund-raising efforts was a major impediment to the foundation's progress. (*Details on voting are in the minutes on page 28.*)

**COLLECTIVE LICENSING**

What is collective licensing and what is ASMP's role in developing systems and strategy? This complex and far reaching topic took several hours of the board's time. Initially, Weisgrau outlined the history of ASMP's entry into collective licensing via MP©A and the roller-coaster ride of the fledgling licensing entity through its various stages until the present. The initial intent, he said, was not to build a stock agency but to show photographers they could collectively license rights of their material.

The goal of collective licensing - and board members stressed it is a system comprising many elements of which entities such as MIRA are just one - is, as Tom Guidera stated, to remove the disadvantage individual creators face when negotiating with large corporations. The ideal, he said, would be to get the point where an individual could state "I don't handle that" and have licensing matters handled through a creator-originated collective system.

Scherer urged that ASMP must raise consciousness about what collective licensing is beyond its being a current buzz word. "When we use the term we are not referring to MIRA, which is essentially stock photography. We must point out that collective licensing goes beyond the concept of stock photography. MIRA is just one part of the system," he said. The discussion centered around a paper written by Weisgrau.

*cont. on p. 25*

# A TIMELINE

*Tracking the portfolio call* BY ELYSE WEISSBERG

**MONDAY:** A potential client calls, asking to see your portfolio. This is when you must be sure to ask as many questions as you can to learn about their project. Stress to the caller that the more information you have, the better and more appropriate the portfolio will be to their project.

The photographers I represent have “general books” that have a flow we feel comfortable with - a specific style. Eighty percent of the time, I don’t change the portfolio, but there are times when I’ll add additional images to support the direction that the client wants to see. The information I receive from the client may help with the promotions I send with the portfolio. For example, Jack Reznicki wrote a book which shows many great examples of how he produces jobs; sometimes we include it with the portfolio but at other times the portfolio stands alone. And there are times that we send the published book alone - without the portfolio.

Always request the client’s shipping account number (i.e.: FedEx). They are calling in your book, so this is standard procedure. They pay freight charges both ways.

**TUESDAY:** The portfolio arrives at the client’s office. Confirm the delivery with the shipping company. I also call the company’s mailroom to make sure the portfolio was delivered to the art director or the art buyer. It is amazing how many mailrooms will wait to deliver an express package. At this point, there is no need to confirm the delivery with the actual client once you’ve checked with the shipping company and the mailroom.

**WEDNESDAY:** Follow-up! If you are uncomfortable with this, get over it! You have to go after every job. As a rep I stay on

top of every portfolio that goes out. If you are a photographer repping yourself, make these calls! You may feel more comfortable using “shipping confirmation” as an excuse to call, but make some kind of contact, even if it’s voice mail. It shows you are interested in the project. If you do get to speak with your client, use this conversation as an icebreaker and find out more about the project.

**THURSDAY:** The long wait. The main reason you may not hear from the client right away is that they need to show submitted portfolios to many people (the art director, the account person, the art buyer). Books have to be reviewed and eliminated. That takes time.

**FRIDAY:** Another follow-up. At this point, I call to say that I am excited about the project and ask if there is anything I can do to help answer production questions. I’ll also ask if any decision has been

made and what they expect may happen next week. As we have all experienced, clients continually practice the “hurry up and wait” routine.

Patience - and perseverance - is a virtue so keep that in mind. As example: in February, I received a call for a portfolio for one of my photographers. The client kept the book for three weeks (you know that drove me crazy)! It was down to two photographers, us and the photographer who usually shoots for this particular client. We were both asked to bid the job. (No layouts were given, just shot descriptions). As the client kept changing the specs, my photographer and I re-worked the estimate nine times (no exaggeration)! We were told in March that they were 99 percent certain that we didn’t get the job. In April, the client called to book us. As the saying goes “It ain’t over ‘til it’s over”.

*Elyse Weissberg is a photographers’ representative and creative consultant based in New York.*

ADVERTISEMENT

# SHOOTING IN SANTA BARBARA

*More on palm trees, paradise and permits* PETER SKINNER

**P**olicy has been adopted by the Santa Barbara City Council that could simplify the photography permit process. But, according to photographers close to the issue in the picturesque California city, that policy does not provide clear guidelines on what is permitted. Nor is policy enforcement a clear-cut matter. (For background on the complex procedure see the *Stock Nightmare* article by Los Angeles freelance writer Norman Sklarewitz, April ASMP *Bulletin*.)

The wave of public protest against the city's permits policy was initiated by ASMP member Mike Perry after he was stopped while photographing reflections in a pond at sunset in November 1998. His principal subject that evening was the reflection a building housing an antique carousel; not the carousel itself, but the reflection of the building.

Perry was accosted by a city official because the carousel's carved animal figures were copyrighted and could not be used for commercial purposes. The copyright issue was fair enough, but the convoluted, and seemingly inequitable permit process (to many photographers it appeared wedding photographers got better treatment than other commercial and stock shooters) seemed unfair to Perry. Also, another major issue arose which dovetailed with the permits concern: the city wanted all-rights for a photograph of Perry's which had been used on the back cover of an entry brochure in a park landscape and design contest.

So the disgruntled photographer gathered support within the Santa Barbara photo community by posting a flyer in a lab inquiring about other photographers who had received similar treatment. Among those who responded was Len Wood, now head of the photo department at the Santa Barbara *News-Press*, who went a step further and notified a reporter.

An article in the *News-Press* written by Scott Hadly resulted in a flood of letters to the paper protesting the city's permit requirements and fees. Perry then gathered around him a group of photographers who worked together in an attempt to resolve the situation with the city and to help develop an equitable system. This core group comprised ASMP members Perry, Steve Barsky, Austin MacRea, Greg Huglin, Kirk Irwin, Chuck Place and non-members James Chen and Jim Macari, head of the Brooks Institute Alumni Association. They received advice from ASMP managing director and general counsel Victor Perlman in framing written proposals to the city and how to present their case before various panels and commissions. It was a long and time-consuming process.

As Barsky stated: "The big issue, I think, came down to the fact that the city couldn't differentiate between somebody shooting for

stock or a non-commissioned project and somebody shooting a large scale corporate shoot. We tried repeatedly to define it for them in terms of the differences between what a corporate photographer might need and what a lone photographer with no major baggage or crew might require. We gave them examples of what should require a fee, such as the exclusive use of an area, alteration of the landscape, structure, crowd control involving police, generators for electric power, use of stunt people, traffic diversion, or the need for a large crew." To Barsky, it seemed the city just "did not get it."

However, eventually the city made some concessions and did adopt a new policy. Says Mike Perry: "The year-long permit controversy came to an end this February when the Santa Barbara City Council voted to adopt a new policy and while we, as a group of photographers, did not support it because it gave no clear guidelines, nor did we oppose it," said Perry. "The policy, as it now stands requires that a Santa Barbara business license is obtained, for \$30 or so; you co-insure the city for \$250,000 liability insurance, and then you get your very own free photo permit."

"The primary reason we did not support this policy was because there are no guidelines for enforcement. The fact that the permit is now free was the city's big concession. It's better than \$250 per day. But now, with your free permit you can now have a party, of who knows how many people, to photograph without having to pay anything. That's great news if you're an outdoor portrait or wedding specialist. But on the other hand if you're a single photographer without a permit and you look like you might be professional watch out, because the tripod police are still alive and well here.

"Believe it or not they, the cities, do have a legal obligation to regulate commercial use of public properties whether we like it or not. But, it applies to everyone not just photographers. Because, if you ever want to teach fly fishing in a public park, you will be required to have a permit.

"We argued the fact that shooting stock or just a scenic photo on speculation is not commercial. Unfortunately they saw that differently, and even though the negative impact on tourism was raised on numerous occasions, the city did not take that into consideration. They chose to listen to wedding and portrait photographers rather than the people whose work is used to promote tourism in the city," said Perry.

In fact, Perry said, the photographers supported a set of Parks and Recreation Department recommendations for stock and portrait photography which included a scale of fees based on size of groups, use of vehicles, and crowd control. As example, an individual or groups of five or fewer would not pay a fee or require a per-

mit; groups of five to ten people would pay a \$100 per day fee and require a permit and proof of insurance; groups of 11 or more would pay \$250 per day and require the permit and insurance. The Parks and Recreation Department's recommendations - developed after extensive discussions with photographers and research into how other cities handled permits - were turned down by the city's finance committee.

So, what's a visiting photographer to do? Logically, impact on the location being used for photography appears to be a critical factor and the basic policy now on the books could be the simple solution. Anyone using models, props, or requiring special access or street closure is almost certain to require permits beyond the requirement for a business license and insurance coverage. And still sticking in the craw of photographers like Perry is that "commercial" photographers - and stock is regarded as commercial - appear to be faced with a complex set of hoops to jump through.

Lorraine Cruz, special events coordinator for the Santa Barbara Parks and Recreation Department ([lcruz@ci.santa-barbara.ca.us](mailto:lcruz@ci.santa-barbara.ca.us)) has informed Mike Perry that the city is in the process of implementing its new policy. According to what Cruz told Perry, this is how it's going to work.

The permits will be issued by Cruz or her office. The first stop for photographers is the city council finance office to obtain a business license (Ph: 805-564-5346). The second stop is the Parks and Recreation Department (Ph: 805-564-5418); take proof of liability insurance of \$250,000 and a copy of your business license. With those in hand, you will get a free photo permit. By the time this *Bulletin* is published, the permit process and information might be on the Internet at [[www.ci.santa-barbara.ca.us/departments](http://www.ci.santa-barbara.ca.us/departments)]. ∞

## GETTING YOUR PERMIT

Following are the provisions that must be met in order to receive a Santa Barbara city stock and portrait photography permit:

To qualify for a permit, photographers must provide:

- Completed application.
- Proof of a valid City of Santa Barbara business license.
- Certificate of insurance naming the City of Santa Barbara as additionally insured for \$250,000.
- Permit is only valid for the time that the business license is valid. It is the responsibility of the permit holder to renew his/her permit when they renew their business license.
- Use shall not be obtrusive or cause any displacement of other park visitors. Photographs may not be taken in areas previously reserved by others.
- A portrait/stock photography permit does not allow for the solicitation or sale of photographic or any other services on city property.
- Permit holders must adhere to all existing city policies.
- Photo equipment should be minimal. Larger sessions involving props, etc. may indicate a need for a daily permit and are subject to additional fees.
- Use will not result in any additional costs to the city such as clean up, damage, utilities, etc. Such costs, should they occur, will be charged to the permittee.
- Permit does not include vehicle access to city facilities.
- Permit may be revoked at any time at the discretion of the City of Santa Barbara.
- Photographers must have their permit card with them at all times while photographing on city property.

Les Riess and, after his departure, it came under the oversight of the executive board.

The 1996 Biennial, held in Orlando, had a total paid attendance of 91 members and the 1998 Biennial, held in San Diego, had a total paid attendance of 132. In both cases, those numbers included the 15 members of the board.

The decision to terminate the 2000 Biennial was not about profit and loss. There is no question that the Biennial generated funds for the local host chapter and the Legal Action Fund. The question is at what cost and to what benefit?

Although the timing of the decision to terminate the Biennial was not good, it would have been worse if we waited another month. The event would have been publicized in the national *Bulletin* and elsewhere and more sponsor dollars would have been received. Personal travel plans would have been made and more volunteer time and effort expended.

The Society owes the San Antonio Biennial Committee a debt of gratitude for their hard work and dedication to this project; I regret their personal and financial losses.

The ASMP board is working to keep the Society focused on the economic survival and well-being of its member photographers. Although not without merit, the Biennial could not be justified in the face of other critically important issues and programs.

We are at the turning point. If ASMP is to be effective, we must concentrate our energy, strength, and resources without distraction on the core issues facing today's working photographers. We need to promote collective licensing and fair compensation for use, improve member and industry communication and education, and continue our strong legal advocacy. To achieve these goals we need to work together. We are all volunteers. We are all working photographers. We are all ASMP. ∞

## CONTEST RULES AMENDED AFTER DELUGE OF PROTESTS

Led by ASMP members, underwater photographers recently have been waving a big stick at photo contest organizers - with positive results. As example, the Project AWARE (Aquatic World Awareness, Responsibility and Education) Foundation's second annual photo contest which is closely associated with the Professional Association of Diving Instructors (PADI) felt the impact of concerned underwater photographers who demanded, and obtained, changes in the contest rules. Among other things, the rules specified PADI could use all the submitted images. Project AWARE Foundation is a 501 (c) (3) non-profit foundation. PADI is a multi-million dollar for-profit business.

The contest organizers said that proceeds would support Project AWARE to fund ongoing environmental programs and initiatives such as beach clean-ups, environmental research projects, and educational campaigns. These are programs that most photographer would agree with; what they didn't like were some of the entry rules.

The proliferation of protests was initiated by the ASMP Underwater Photographers Special Interest Group which voiced the concern of their colleagues around the country. These photographers say they are seeing an alarming trend toward photo contests with rules that make the events more like vehicles for the collection of free-use photography.

In this case, the entry rules that really riled underwater photographers was the blanket permission clause to allow Project AWARE Foundation and PADI to use submitted photo(s) at their sole discretion and those uses could include, but would not be limited to, photographs, video, print, microfilm, electronic media including the Internet, CD-ROM and online services. Entrants were

also asked to submit original color photographs, preferably slides, which would not be returned.

ASMP UW group leaders Chris Crumley and Georgienne Bradley conceded that they knew going in that rules could have been developed by individuals with little or no contest or photography experience. More often than not, the rules are innocently missing the commonly accepted standards that make a contest both good for the organizer and the photographer.

That was the case with the PADI/Project Aware contest. After comments and suggestions from Bradley, Crumley, Karen Stewart, Franklin Viola, Norbert Wu, Bill Curtsinger, Doug Perrine, Mark Strickland, Doug Seifert, Casey Mahaney, Cathy Church, Debbie Fugitt, Ken Howard and numerous others, PADI/Project Aware announced significant changes to the contest rules. The revised rules made the contest much more fair to PADI/Project Aware and the entrants. (See Contest Rules at <http://www.padi.com>).

Another contest which also felt the barrage of photographer protests was that conducted by the Monterey Bay National Marine Sanctuary and rule changes were also implemented by that contest's organizers as a result.

The underwater group leaders stress contests are clearly not the issue and they are not fighting to change amateur photographer contests: it's about the industry's attitude to the value of photography and fair compensation to photographers. "The contests are one symptom and we're using the issue as a vehicle to carry the "value" message to a large number of industry people," they said.

The moral of this action by the underwater photographers is that a concerted, unified effort can pay dividends and legitimate contest organizers will often listen to reason - if they hear it from enough concerned photographers.

## GLADSTONE WINS TIB AWARD FOR PASSING GAS PROJECT

The Image Bank has presented ASMP member Gary Gladstone with the agency's 1999 Award of Visual Excellence and along with it a \$25,000 grant to enable him to complete his photography project *Passing Gas and Other Towns Along the American Highway*. This is a collection of portraits of people who live in small towns with funny names such as Boogertown, Tightwad, Ding Dong and Sweetlips. Gladstone is planning to publish a book with the collection. The award was open to both film and still photography artists and is a bi-annual grant of up to \$25,000 to fund special projects of artistic development that do not fall within the scope of the artist's budget. For years, Gladstone had been collecting names of funny towns while on the road for photo assignments. "I can remember thinking: Can you keep a straight face if you live in Boogertown? How many people find Romance and then mail a letter from there? Can you buy an ice-cold bottle of Coke in Hell? And, who lives in Peculiar?"

## PHOTOGRAPHERS HELPING PHOTOGRAPHERS: HARRISON NORTHCUTT TO THE RESCUE

This happened some time ago but is still worth mentioning. Ellen Denuto, then president of the New Jersey chapter had a location interior assignment in Atlanta but professed to the art director that kind of work was not her bag. The client, trusting Denuto because of her previous work, insisted she handle the assignment. Denuto tried to get an assistant in Atlanta; none was available. A quick call to a colleague, Atlanta chapter president Ken Hawkins, resulted in his suggestion that Harrison Northcutt, an experienced architectural shooter, be recruited. And, in short, that's what happened. Northcutt used his experience and talent to handle

the shoot while Denuto, and the client, directed. The ultimate result? A huge success. Wrote Denuto in her chapter newsletter: "Harrison's photos came in and were a great hit. It worked well for all involved thanks to our ASMP network of great photographers." Now, isn't that what it's all about?

## CELEBRATING 50 YEARS OF HIS PHOTOGRAPHY

George Zimbel, an ASMP member since 1953, has celebrated over 50 years of his work in a widely-praised exhibit titled *George S. Zimbel: Documents* which opened at the prestigious John Cleary Gallery in Houston, April 29. George sent ASMP a quote from an essay by Vicente Molina Foix in the beautiful catalogue of his work published for his retrospective by Institut Valenciana del Arte Moderno. (Translation from the Spanish) "For over forty years he has been a prince in disguise, much better hidden than his other colleagues. But now, in the rooms of a museum, he lets us look at him openly. Seeing his face. And the product of his discreet curiosity. Quite clearly he is a man of the world. And his betrothal to the crowd had been so true that if we look very closely we may find that we ourselves are in his pictures."

## HEALTH INSURANCE AVAILABLE THROUGH TEIGIT

Health insurance is now available in most states to ASMP members through TEIGIT. Apparently, the rates are good to excellent, especially if applicants are in good health (non-smokers etc.). ASMP is working on obtaining insurance for members in these excluded states: Maine, New Hampshire, Vermont, Kentucky, Washington and Hawaii. If interested, call TEIGIT: 800-886-7504, identify yourself as an ASMP member and you will be referred to another toll free number for a quote.

**BOARD MEETS IN ASPEN** *cont. from p. 20*

(Editor's note: This paper can be downloaded in pdf format from [www.asmp.org](http://www.asmp.org): go to Information and then White Papers.)

Weisgrau told the board that ASMP did not have the resources to build a collective licensing system but does have the capability to bring all the elements together and to facilitate the system to make it work. He stressed that, from what authorities forecast, the year 2004 was the time that any apparatus like this had to be in place or "you will be out of it."

Mopsik emphasized that the concept of ASMP's involvement in collective licensing was something that he was committed to, and so was the executive board, and while ASMP was not rich in monetary resources it was in human resources. "We can afford to make this kind of move and can be invested in the result. There is no sense in having the vision if we don't commit the resources to make it happen. I am asking for board support - and working in concert with staff - to reach this goal."

**ASMP IN THE 21ST CENTURY**

Another far reaching topic put before the board was titled *The 21st Century ASMP: Maintaining relevance through improved function* which incorporated six principal criteria in formulating recommendations on communication, information services, collective licensing, education, staff, and chapters. These criteria in the paper

jointly written by the executive board and staff were: • ASMP must stop the erosion of, while striving to improve, photographers' economic interests. • Chapters, specialty groups, staff, consultants, service providers are all means, not ends. • The actual, relative and perceived value of ASMP's means has to be assessed periodically. • Technology changes the way we communicate, and ASMP must modernize communications. • Different members have different relevance criteria so the membership should have choices. • Nothing is indispensable except the membership.

Weisgrau asked the board if the concepts outlined in the paper were on track and how staff should proceed with this proposal. While the prevailing opinion was that such an all-encompassing paper contained too many topics to make an overall recommendation without more intensive study, the board agreed that the many recommendations be referred to appropriate committees.

The ASMP target logo is staying. A new logo and design for ASMP stationery - a proposed new corporate look - got the thumbs down from the board. About a year ago, the previous board directed that a new logo be investigated and Mopsik and Weisgrau were charged with that responsibility. A design firm created a logo incorporating a different type face for board approval. The board decided to use the current ASMP Bulletin and Web page logo and font for ASMP's stationery and other Society media.

The board has placed on record their appreciation to former directors Jim Cavanaugh, Forest McMullin and Andy Washnik. ∞

**ADVERTISEMENT**

# NewsLines

Please send contributions to Editor, ASMP Bulletin, P.O. Box 652, Anacortes, WA 98221.

## ATTORNEY SELECTED TO REPRESENT PLAINTIFFS IN CONTRACT SUIT AGAINST THE BOSTON GLOBE

Boston attorney Ira Sills, a partner in Segal, Roitman & Coleman, has been selected to represent a group of photographers, writers and illustrators in a lawsuit against *The Boston Globe* over a contract the *Globe* has presented to its freelance contributors. The contract has been criticized as an attempt to grab additional rights while giving nothing in exchange. The suit is being prepared and has not yet been filed.

Sills was selected jointly by ASMP and the United Automobile Workers, U.A.W., which is representing the interests of both writers and illustrators through its affiliated local unions, the National Writers Union and the Graphic Artists Guild.

Sills is an experienced lawyer in the area of labor and employment and is general counsel to the Boston locals of the Screen Actors Guild and the American Federation of Television and Radio Artists. He is also a lecturer at Northeastern University School of Law, Boston.

Since being presented, the *Globe* contract has drawn widespread protest from freelancers in a variety of fields. Several trade organizations have criticized the paper for essentially seeking to acquire all commercially valuable rights to copyrighted works from contributors for the life of the contract, but offering only the same payments that it is currently making for the rights to publish those works one time in print media.

The *Globe*, which is owned by *The New York Times*, has been blasted by ASMP, for making "an unconscionable and thinly veiled attempt to grab additional rights on a wholesale basis while giving nothing in exchange."

All told, five major organizations of writers, graphic artists and photographers have united to contest the *Globe's* contract. Some 18,000 freelancers are represented by ASMP and the other organizations, the American Society of Journalists and Authors, the Authors Guild, the Graphic Artists Guild, and the National Writers Union.

The general consensus among these groups is that the contract is legally unenforceable as being unconscionable and void as being against public policy. Further, the contract is seen as a grab at additional rights being made retroactively so as to seize those rights to works that it previously accepted under old agreements and practices with very different provisions from the new one.

## ASMP'S PROMPT RESPONSE TO BALLOON FIESTA CREDENTIAL PROBLEM

The thousands of photographers who obtain press credentials for The Kodak Albuquerque International Balloon Fiesta, October 7-15, can thank ASMP and member Ron Behrmann for a major reversal on usage language contained in the original application. Within two days of ASMP's protesting the offending language which said, in part, "Filming and photography for any purpose other than news/feature coverage will require written approval from Albuquerque International Balloon Fiesta, Inc." that language was dropped.

Behrmann, an experienced balloon pilot and a leading balloon photographer, on seeing the usage restrictions recognized the obvious obstacles for stock photographers. He alerted ASMP executive director Richard Weisgrau. Communications between ASMP and Kodak Professional solved the problem - quickly. In a commu-

niqué from fiesta officials two days later, the dropping of language about usage from the credentials application was announced. And fiesta executive director Paul Smith was quoted as saying, "the balloon fiesta is the most visual aviation event in the world and we want to encourage the media to share the event with different audiences. Since Kodak is our title sponsor, we want to do whatever we can to encourage photography of our event." How about that!

## \$400 FOR 42 IMAGES! NOT BAD EH?

Doug Perrine, a member of ASMP's underwater special interest group sent the following to his colleague. It's a quote from a book publisher, and should be of interest to stock shooters. Remember, this is from a book publisher.

"Regarding Corbis: We use so many of their photos, because they are royalty free. We pay a one-time fee of \$200 per disc then can use as many from the disc as we like with no additional charges. For this book we had two discs, so \$400 for 42 images including a cover shot. Not bad eh?! Typically we are paying between \$100 and \$200 per 'spot' image from everyone we deal with. That is our budget. We have made the rare exceptions, but generally if we can't get this range we can't use the photo. As you can see you are at the high end of our price range, but you without a doubt have the best overall quality, so if push comes to shove you usually win."

And Perrine warns that there are some clear lessons here: 1) If you sell photos for clip art, or provide them to agents in the clip art business, you will end up competing with yourself on very unfavorable terms (note the price is less than \$10 per image, including a cover photo, and they can keep using the disc free for more projects)

and will drag the whole industry down to rates that make it impossible to continue shooting except as a hobby. 2) At the present time, if you have quality material, you can still sell it at favorable rates, even if charging more than 20 times the price of clip art. Of course, this may change if a few people with large collections of good underwater work sell out to the clip art companies, thus ending life as we know it for professional underwater photographers.

## CHANNEL MAGAZINE CONCERNS

Any members experiencing difficulty with *Channel* magazine are asked to contact ASMP National with details. One member reports having "tremendous difficulty finding any information about Channel Magazine. They are no longer in business and they owe us quite a large sum of money."

## WWW AND COPYRIGHT

Photographs share the same legal protection and rights on the World Wide Web as they do in other forms of print media such as newspapers, magazines, brochures, and billboards. Each of these images is protected under the Federal Copyright Act.

One of the basic rights granted by the copyright law is the ability of the photographer to control the reproduction of the image. Regardless of the media or specific application, it is required, by law, for the user of the image to find the owner of the copyrighted material and seek authorization for use. Illegal usage of an image is considered copyright infringement and is a serious federal offense. Please distribute this information: users must understand and respect the value of the images to the owner and get permission before usage.

## Suddenly, MP<sup>©</sup>A seems good to many more

Changing attitudes in the stock industry, the consolidation of agencies under the umbrellas of giants Getty Images and Corbis (recent significant acquisitions include The Stock Market and Sharpshooters by Corbis), and the recent change in the agency-exclusive requirement by The Image Bank, owned by Getty Images, have boosted MP<sup>©</sup>A's potential popularity.

Consolidation of agencies, changes in contracts and their impact are not new - the change in TIB policy is. What does this mean? Well, for one thing, some of the world's leading stock shooters, until now prevented from submitting to MP<sup>©</sup>A because of the exclusivity clause in their contract, can now put images into the MP<sup>©</sup>A/MIRA system. And given that ASMP members get 70 percent of sales fees, combined with the MP<sup>©</sup>A contract, the "puny little MP<sup>©</sup>A option" (as one writer referred, not unkindly, to it) suddenly looks pretty good. Out there in the fast-moving world of Internet communications the word is spreading that if you want a photographer-friendly agency there is at least one: ASMP's own MP<sup>©</sup>A.

And MP<sup>©</sup>A chairman, Matt Herron, was prompted to say in his report to the ASMP board, "Gun shy as I am about overly optimistic predictions, I still feel more hopeful about the future of this enterprise today than I have since the early days when none of us could predict the difficulties that lay ahead of us."

Virtually everyone associated with MP<sup>©</sup>A/MIRA recognizes that improvements are needed to make the agency truly competitive but the sudden surge of interest, and the probability that many leading photographers will now submit images, are positive indicators.

## Sharpshooters acquired by Corbis

ASMP has been told that Miami, Fla., agency Sharpshooters Premium Stock Photography and Footage has been acquired by Corbis. Susan Turnau, Sharpshooters CEO, who founded the agency 15 years ago, confirmed the transaction which was finalized on May 4. The agency's photographers were notified at Sharpshooters' recent annual photographer meeting. Turnau said that all the agency's staff will be kept on and she will remain as a consultant for six months to assist in the transition.

# What's Hot

## Board cancels Biennial Conference, San Antonio 2000

The board of directors has canceled the ASMP 2000 Biennial Conference slated to be held in San Antonio in September. President Gene Mopsik said the board had scrutinized the Biennial event, its overall merit and benefit as an ASMP program, and whether it fit within the Society's refocused strategic and operational objectives, and decided that the event did not warrant the allocation of ASMP's resources.

"ASMP's leadership wanted to concentrate on programs which have a more direct effect on the membership's ability to compete in the marketplace. Also, the board felt that our limited time, money and effort should be applied to programs with a broader membership appeal," said Mopsik.

The cancellation did not sit well with the Austin/San Antonio Biennial Conference committee headed by Clem Spalding, and Mopsik conceded that while the timing of the cancellation was not good, it would have been worse if it were later.

More detail on the cancellation is contained in the article *STAYING FOCUSED: A vision for ASMP and Biennial matters* on page 12 in which Mopsik states, "the Biennial could not be justified in the face of other critically important issues and programs."

**Editor's note:** Greater detail on the subject can be seen in an expanded version of Mopsik's article under *Special Announcements* on the ASMP Web site. The cancellation has also been a topic of discussion, at times heated, in the ASMP members-only forum on the ASMP Web site and is addressed in several other articles in the *Bulletin*.

# ASMP Board Minutes

Sunday, May 14, 2000,  
Aspen, CO

Session began at 8.30 am - Roll Call

**Present:** Morton Beebe, Michael Cardacino, Tom Guidera, Dave Harp, Matt Herron, Scott Highton, Don Luce, Margaretta K. Mitchell, Eugene Mopsik, Woody Packard, Stan Rowin, Jim Scherer, Lee Schulman, Robert Wiley.

Mary Beth McAuley joined the meeting at 11.30 am after attending to Leadership Conference responsibilities.

**Others Present:** Elena Concepcion, Victor Perlman, Peter Skinner, Cilla Skinner, Richard Weisgrau.

President Eugene Mopsik chaired the meeting.

## Opening Remarks

President Eugene Mopsik thanked the board for their participation in the Bradshaw Leadership Conference and stated that he thought the board's participation and accessibility to all attendees were meaningful and valuable to the success of the conference. He was gratified with the discussion within study groups and that the ideas and comments from these groups would affect the future progress and decisions made by the board. He encouraged the directors to put in writing the comments from chapter leaders in the study groups they attended for everyone's review. Mopsik then welcomed everyone to the board meeting, in particular the new board members.

## Board Orientation

As a part of the annual orientation for new directors, ASMP general counsel Victor Perlman spoke to the board on the fiduciary and other responsibilities of a director.

## Executive Search Proposal

**Motion:** That an Executive Search committee be created, with its chair nominated by the president and confirmed by the board. The committee's purpose is to identify ASMP's future executive director.

The committee shall consist of at least five members including its chair. There shall be at least one member appointed to the committee from each of the three groups (1) current board, (2) past board, (3) general membership.

Committee members, other than the chair, shall be nominated by the chair and individually confirmed by the board. The same procedure shall be used if committee membership changes.

The committee is charged with identifying a new executive director by 9/30/02, and shall be given an annual budget of \$6,000 to conduct meetings and to seek outside consultation. It should report to the board twice a year. It will negotiate an employment contract with the selected individual, to be approved by the board. (Scherer/Harp) Passed unanimously.

## Membership Issues

Topics discussed were a national membership application process and extending eligibility for student membership.

**Motion:** That Bylaw #1, Section 2 Affiliates, C Student Affiliates, be changed to read as follows: Student affiliates shall be full time students at college level or above, in the visual communications field. The student must be accredited by his or her registrar or supervising faculty members, and no sponsor shall be required.

Student affiliate membership shall continue for student affiliate members for one year after graduation. (Mitchell/Wiley) Passed unanimously.

## Chapter Web sites proposal

A proposal was presented to the board for consideration by Peter Lien (Philadelphia chapter). His proposal consisted of the following: 1) To merge all chapter "member portfolios" into the national "Find a Photographer" database. 2) To consolidate all chapter web sites into one national web server. Chapter web sites may maintain their own unique URLs and content/design looks. 3) To launch a

text based "postcard" or other such printed informational campaign to promote the ASMP National Web site and the "Find a Photographer" feature specifically, which would be mailed to a list of national photography buyers/photo editors every three months continually.

After discussion by the board the proposal was referred to the communications committee for further study. The board also thanked Peter Lien for his contribution and looks forward to his further participation in this project.

## ASMP WWW Site Members Only policy

A policy recommendation regarding the ASMP Web site was discussed by the board and a report was submitted by Stanley Rowin (ex forum administrator). It was referred to the communications committee for further study and report back by July 15, 2000.

**Motion:** That the ASMP members' only forum be split into two parts. One part for discussion of ASMP issues, policies, etc. The other part for discussion of business, trade, technical and similar non ASMP topics. Any material involving a discussion of ASMP programs, policies, accomplishments, deficiencies, or other ASMP related discourse which is placed in the business/trade/technical section will be removed by the moderators and placed in the ASMP related section. (Scherer/seconds) Passed unanimously.

## Long Island chapter

A concern from a member about the running of the Long Island chapter was brought before the board for discussion. It was consequently referred to the chapter relations committee for further investigation.

## ASMP/Expo Event

The board discussed the possibility of having a panel discussion program at the upcoming PhotoEast trade show in New York in conjunction with a reception for ASMP members only.

## Report on Meeting of ASMP/APA/CCC/EP

Jim Scherer reported on a meeting that was held in Boston recently with ASMP/APA/CCC/EP to discuss a new collective licensing program.

## ASMP Biennial Conference

The board discussed the recent cancellation of the ASMP Biennial Conference to be held in San Antonio.

**Motion:** That the Austin/San Antonio chapter be reimbursed for expenses incurred in planning the Biennial and for Clem Spalding to attend the Bradshaw Leadership Conference in an amount not to exceed \$1,500. (Harp/Scherer)

**Motion:** That the previous motion be tabled. (Harp/Scherer) Passed unanimously.

## Legal Support

A report submitted by ASMP legal counsel, Victor Perlman was discussed by the board. Topics included: Penny Gentieu, Boston Globe and Chuck Gentile.

**Motion:** That an additional \$5,000 be appropriated from the Legal Action Fund for the Penny Gentieu case. (Herron/Highton) Passed unanimously.

## Committee Appointments

The following were nominated as chairs/members of committees by president Eugene Mopsik.

### • Chapter Relations

Michael Cardacino - chair  
Morton Beebe  
Lee Schulman

### • Communications

Woody Packard - chair  
Stanley Rowin

### • International

Matt Herron - chair

### • Leadership Manuals

Don Luce - chair  
Mary Beth McAuley  
Margaretta Mitchell

### • New Issues

Tom Guidera - chair

**Motion:** That the board approve the appointments as proposed. (Herron/Beebe) Passed unanimously.

At this time Jerrienne Lowther (Alaska chapter), John Post (Los Angeles chapter) David Crosby (North Carolina chapter), Kevin LaTona (Seattle chapter), and Brian Dressler (South Carolina chapter) joined the meeting.

**Election of MP©A Committee**

Nine people were nominated for the MP©A committee.

**Motion:** That the board approve a 9 member MP©A committee. (Wiley/Packard) Failed. 4 - in favor, 10 - opposed.

**Motion:** That the board approve an 8 member MP©A committee (Highton/Herron) Passed. 10 - in favor, 4 - opposed,

At this time a secret ballot vote was held and the following were elected to the MP©A committee. Michael Cardacino, John Greim, Matt Herron, Scott Highton, Jerrienne Lowther, Forest McMullin, Todd Powell, Stanley Rowin.

The committee will elect the chair of the MP©A committee.

**Report on Bradshaw Leadership Conference**

Mary Beth McAuley, chair of the Bradshaw Leadership Conference, gave a report to the board. McAuley said the conference was "vibrant, stimulating, thought provoking and cathartic." Core issues were identified by the chapter leadership in a survey that was sent out prior to the conference and these issues helped establish the agenda. Comments from the leaders were very heartwarming and that ASMP had a positive future. They also thought it was an important and valuable program for chapter leaders and that it should be evaluated in a positive light and continued. Having the whole board attend was also very valuable. At this time input from the leaders present was invited.

**ASMP Members' Only Forum**

President, Eugene Mopsik requested guidance from the board to what extent he should answer members' time consuming questions on the Members' Only Forum. Various suggestions were made and the best way to provide

information effectively will be examined by staff and directors.

**MP©A Committee Report to the Board**

The report submitted by chair, Matt Herron was accepted by the board. The report was an update on the various aspects of MP©A including: new members, mailings, assignment reuse plan, and an MP©A editor. It was the consensus of the board that editing of the MP©A photo file is an operation within the scope of ASMP activity.

At this time J. W. Burkey (Dallas chapter) joined the meeting.

**Set Place and Date of Next Board Meeting**

The next board meeting will be held in Philadelphia, PA, September 23 - 24, 2000.

**Kodak Re-Use System**

Michael Cardacino gave a report on a meeting held in New York in which a focus group examined the Kodak Re-Use system as presented by ASMP directors Woody Packard and Forest McMullin.

Session ended 5.00 PM

**Monday, May 15, 2000,**

Session began at 9.00 am - Roll Call

**Present:** Morton Beebe, Michael Cardacino, Tom Guidera, Dave Harp, Matt Herron, Scott Highton, Don Luce, Mary Beth McAuley, Margaretta K. Mitchell, Eugene Mopsik, Woody Packard, Stan Rowin, Jim Scherer, Lee Schulman, Robert Wiley.

**Others Present:** Elena Concepcion, Jerrienne Lowther, Victor Perlman, Peter Skinner, Cilla Skinner, Richard Weisgrau.

President Eugene Mopsik handed the gavel to first vice-president David Harp.

**ASMP Foundation Matters**

Secretary, Margaretta Mitchell distributed a report on the status of the ASMP Foundation. Mitchell then gave a history of the Foundation for the benefit of the new board members.

**Motion:** That the current Foundation board be removed and replaced by Mary Beth McAuley, Jim Scherer, Margaretta Mitchell and Forest McMullin and that this board be asked to investigate new candidates and make recommendations for the Foundation board in an effort to fulfill the mission statement of the Foundation and to report back to the board of directors by the September 2000 board meeting. (Mopsik/Wiley)

**Motion:** That the previous motion be tabled. (Mopsik/Wiley) Passed unanimously.

**Motion:** That the current Foundation board be removed and replaced by Mary Beth McAuley, Jim Scherer, and Margaretta Mitchell, and that this board be asked to investigate new candidates and make recommendations for the Foundation board in an effort to fulfill the mission statement of the Foundation and to report back to the board of directors by the September 2000 board meeting. (Mopsik/Wiley) Passed. (in favor - Morton Beebe, Michael Cardacino, Tom Guidera, Scott Highton, Don Luce, Eugene Mopsik, Woody Packard, Stanley Rowin, Lee Schulman, Robert Wiley, opposed - Matt Herron, abstaining - Mary Beth McAuley, Margaretta Mitchell, Jim Scherer.)

**Collective Licensing - Strategy and Developments**

Executive director, Richard Weisgrau gave the board an oral history which was followed by discussion and Q&A.

**Proposed ASMP logo re-design**

A proposed ASMP logo was distributed to the board for discussion but it was not approved. ASMP's current logo will be retained.

**Motion:** That the board approve to adopt the current design and fonts as used on the Bulletin and Web site for ASMP. (Highton/Luce) Passed. 12 - in favor, 2 - opposed,

**ASMP in 21st Century Discussion**  
A document by executive director, Richard Weisgrau was submitted to the board for discussion. Topics

in the document were referred to the appropriate committees for further study.

**Financial Matters**

**Motion:** That the Austin/San Antonio chapter be reimbursed for expenses incurred in planning the Biennial and for Clem Spalding to attend the Bradshaw Leadership Conference in an amount not to exceed \$1,500. (Harp/Scherer) Passed. 13 - in favor, 1 - opposed,

**Motion:** That ASMP contribute \$3,500 to the Reagan Bradshaw Scholarship Fund in the name of Austin/San Antonio chapter. (Mopsik/Schulman) Passed. 12 - in favor, 2 - opposed, .

At this time David Harp handed the gavel to Eugene Mopsik. President, Eugene Mopsik thanked Harp for chairing this session.

**Committee Appointment**

President Eugene Mopsik then nominated Lee Schulman to chair the Election Policy Committee. The board confirmed the appointment.

**Closing Remarks**

President Eugene Mopsik once again thanked the board for participating in the Bradshaw Leadership Conference and said he was pleased with the structure and participation and that the board should keep what was started from those meetings moving. He would also continue to communicate better.

**Motion:** That the board express their deep appreciation to Jim Cavanaugh, Forest McMullin and Andy Washnik for their years of service to the board. (Highton/Harp) Passed unanimously.

President Eugene Mopsik thanked the staff on behalf of the board. Director Matt Herron thanked Eugene Mopsik and the executive board for their time and efforts.

**Motion:** That the meeting be adjourned (4.30 PM) (Wiley/seconds) Passed unanimously. ∞

# CADET MURDER CASE IMAGE SUIT IS SETTLED

A copyright lawsuit filed in U.S. District Court in Dallas, Texas against more than a dozen media defendants has been settled for a confidential amount. The plaintiff, a Dallas “glamour shots” studio, alleged that it owned the rights to the portraits of the victim in the high-profile *Cadet Murder Case*, and that numerous newspapers, agencies, and television companies were not entitled to use the image without paying license fees.

A few weeks prior to the December, 1995 murder of Adrienne Jones in Plano, Texas, the girl’s mother had arranged for a portrait session with Texas Hot Shots, doing business as Hot Looks, Inc. Subsequently, when the bizarre circumstances of the love triangle murder, and the fact that the couple charged (and eventually found guilty) had been accepted to prestigious military academies, became highly-publicized, the “glamour” portraits of Jones were suddenly in great demand.

Houston attorney Dana LeJune was retained by Hot Looks to recoup license fees for the wide-spread use of the photographs which had been made available to the media by Jones’s mother. The media defendants tried to get the mother to cooperate in their defense of the copyright claims by having her deny publicity rights to Hot Looks. LeJune argued that while some states do allow the publicity rights of a person to survive his or her death, in Texas the right is not automatic. An heir may register the claim to the publicity rights with the Texas Secretary of State, but that must be done within one year of the death. After one year, all claims to publicity

rights are waived. Because Jones’s mother had not registered the claim within the year, Hot Looks was the only entity which could charge for use of the portraits of Adrienne Jones following her tragic death.

The news media defendants raised the “news reporting defense” under fair use, arguing that because they were reporting news, and to adequately convey the ideas within the story, they had to use Jones’s portraits.<sup>1</sup>

However, LeJune argued that while the media defendants could have used many other images of Jones, including snapshots of her in her high school cheerleading outfit, they chose not to do so. “The primary reason they chose to use the obviously professional portraits is that they were sexy, glamorous and rendered the love triangle gone awry byline much more sensational than it would otherwise have been,” said LeJune. “Thus, the images’ use was much more profitable to the defendants, and not protected by fair use.”

The amounts of the settlements were not disclosed; a spokesman for Hot Looks was permitted to say only that the settlements were “very satisfactory.” Photographer and stock photography agent Jim Pickerell of Maryland was the expert witness for Hot Looks.

<sup>1</sup> Profit motivation can also negate fair use under the news-reporting portion of the exception. Because the facts can be copied in a broadcast without the need to reproduce the expression, a claim that the image used is newsworthy does not necessarily validate a fair use. ∞ — Peter Skinner

## Classifieds

**ROBERT M. CAVALLO**  
ATTORNEY AT LAW

400 Park Avenue Tel: 212 753-2224  
New York, N.Y. 10022 Fax: 212 753-7113

**CENTRAL FLORIDA**  
**STROBE RENTALS**

**RUMMEL WAGNER, OWNER**  
MEMBER ASMP  
ORLANDO AREA  
407-671-5112

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Member, ASMP/NPPA. Call Pat Murphy-  
Racey 865-688-1980/[www.gx680.com](http://www.gx680.com)

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Rates for advertising in the classified section of the ASMP *Bulletin* are:

**DISPLAY ADS:**  
Members - \$40/inch  
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**CLASSIFIEDS:**  
Members - \$3.50/line  
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All ads are based on a column width of 2.25 inches and paid for in advance.

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Ph: 360-293-7959  
Fax: 360-293-8912  
e-mail: [skinner@asmp.org](mailto:skinner@asmp.org)

# NewMembers'Zone

The following have applied for membership in ASMP. Any comments, either positive or negative, relating to these applicants should be sent to the Membership Coordinator at ASMP Headquarters. After 20 days, applicants with no unfavorable comments shall be accepted.

## BALTIMORE

Tim Tadder, PS  
*M. Tadder, J. Herrman*

## CENTRAL FLORIDA

Steve Widoff, GM  
*S. O'Neal, V. Bowen*  
Jerry White, GM  
*E. McDonald, L. Stone*  
Dori Levine, ST  
*Daytona Beach Comm. Coll.*

Stephen Defco, ST  
*Daytona Beach Comm. Coll.*

R. Carlton, Ward, Jr., TRST  
*University of Florida*

## CHICAGO/MIDWEST

Lee Higgs, GM  
*R. Potter, N. Schierstedt*

## CONNECTICUT

Maggie Cole, AS  
*J. McConnell, J. Giammatteo*

## FOREIGN

Doug Wicken, IM  
*D. Hartley, G. Waldman*

Elisabetta Catalano, IM  
*L. Bentley, R. Bright*

John Kevin Pawlick, REIM  
*Reinstatement committee*

## LOS ANGELES

Alison M. Jones, GM  
*L. Nettelhorst, J. Alexander*

Lance Dickinson, REAF  
*K. Nadalin, R. Barnes*

Mary Kate Denny, REGM  
*R. Barnes, J. Blair*

Marc A. Weisberg, ST  
*Univ. of California-Irvine*

## MID AMERICA

Joyce H. Templeton, PS  
*D. Templeton, C. Davis*

## MICHIGAN

Michael T. Lanka, GM  
*S. Carr, G. Cialdella*

Thomas W. Brayne, GM  
*G. Cialdella, S. Carr*

## NORTHERN CALIFORNIA

Michael Lucia, AF  
*S. Arbabi, S. Whittaker*

Sidney Cooper, AS  
*L. Preston, L. Burr*

William Bert Craytor, AS  
*D. Keister, M. Beebe*

Kevin M. McDonnell, GM  
*C. Crumley, G. Bradley*

Trevor Weaver, ST  
*California State Univ. Hayward*

## NEW ENGLAND

Allan Rosen-Ducat, GM  
*J. Flynn, D. Bradley*

Kimberly Jablon, SU  
*L. Balgemann, R. Gould*

Wendy S. Eaton, TRAF  
*K. Clineff, K. Brusie*

## NEW ORLEANS/GULF SOUTH

Shannon Caruso, AF  
*D. Bull, M. Lizama*

Leslie Henderson, GM  
*G. Long, S. Legendre*

## NORTH CAROLINA

J. Ann Lamb, TRAF  
*J. Ciarlante, D. Crosby*

## NEW YORK

Jonathan Greene, AF  
*A. Gescheidt, A. O'Beirne*

Sheva Fruitman, GM  
*A. Gescheidt, A. O'Beirne*

Dwight Primiano, GM  
*A. Gescheidt, A. O'Beirne*

Javier Larenas, ST  
*Lehman College*

Marilyn Epp, ST  
*Alfred University*

Dasha Ewing, TRGM  
*A. Gescheidt, A. O'Beirne*

## OHIO VALLEY

Jason Meyer, AF  
*B. Feinknopf, D. Floss*

Javier Jarrin, AS  
*T. Joyce, T. Arrasmith*

Nicole Dixon, ST  
*Columbus College of Art & Design*

James R. Mitchell, ST  
*Antonelli College*

Kelly Danielle Clem, ST  
*Murray State University*

Dolores Hughes, ST  
*Antonelli College*

Donna Poehner, SU  
*D. Cone, D. Wendt*

## OHIO NORTH COAST

Elizabeth Mallinak, AF  
*E. Hanson, G. Yasaki*

## OREGON

Bryan Mullenix, AS  
*D. Straub, R. Iwasaki*

Barbara L. Parker, ST  
*Mt. Hood Comm. College*

SOUTH CAROLINA  
James Connelly Jr., GM  
*B. Dressler, R. Clark*

E. Patrick Rawlins, GM  
*A. Crosby, G. Reynolds*

Matthew H. Scott, GM  
*P. Edwards, J. Alterman*

## SAN DIEGO

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*G. Lepp, J. Aronovsky*

SOUTH FLORIDA  
Jean Claude Vigourt, AS  
*P. Morris, S. Sabloff*

Matthew Pace, GM  
*P. Morris, D. Mitchell*

Stephen P. Flint, TRAF  
*M. Vaughn, P. Barrett*

## SEATTLE/NORTHWEST

Margaret Sanford, AF  
*D. Busher, D. Plummer*

James R. Anderson, TRAS  
*S. Resnick, D. Busher*

## ST. LOUIS

Jessica Withington, AS  
*J. Phelan, A. O'Brien*

Mike Bizelli, GM  
*J. Koniak, J. Balogh*

## WESTERN NEW YORK

Joe Territo, AF  
*T. Toal, D. Brennan*

Maya Myers, ST  
*Alfred University*

Lindsay Cave, ST  
*University of Buffalo*

Benjamin G. Ellcome, ST  
*Alfred University*

Monica L. Cervone, ST  
*Alfred University*

Lindsay Calkins, ST  
*Alfred University*

Steve Barton, ST  
*Monroe Comm. College*

Lisa Ward, TRAS  
*A. Barbagallo, J. Rettalack*

# OurCover

This 1974 image by long-time ASMP member Carl Fischer was for the New York pharmaceutical advertising agency Kallir, Philips, Ross and actually was one of two photographs in the assignment. The first was for nine seated women and one empty chair, the second was the 10 empty chairs. The product was a women's medication, Sultrin. The photograph was featured in a recent MP©A gallery.

Fischer, photographer and graphic designer, graduated from The Cooper Union and studied in Europe as a Fulbright scholar before beginning his career as an advertising agency art director. Over the years his work has won many awards including The Art Director's Club gold and silver medals. His early portraits of Southern segregationist leaders were exhibited in The Museum of Modern Art's *The Photo Essay* and his later work is in the permanent collections of several museums including The Metropolitan Museum of Art. A widely published international editorial and cover photographer, Fischer has, for the past several years, been working with computer manipulation of his images. ∞

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