

November 2002

TEXAS CIRCULATION
MANAGEMENT ASSOCIATION

TCMA Lone Star Review

Houston Conference Sets a New Standard



During a rainy week in October 2002, the eighty-eighth annual Texas Circulation Management Association convened in Houston. The first TCMA Conference met in Houston in 1914. The Conference has returned to Houston nine additional times in the history of the Association.

TCMA President Paul Jauma, Area Manager for *The Houston Chronicle*, had the lucky privilege to serve as President in his own newspaper's city. And what a conference Paul provided TCMA members! Keynote speaker to the conference, **Rory Aplanalp**, would call the conference a **WOW!** Rory told attendees that a **WOW** is an accumulation of ah, ha's that add up to a **WOW** or a great idea applied.



From the line-up of speakers to the entertainment, the Houston Conference set a new standard. Many people complimented Jauma saying, "This conference was NAA quality."

The lineup of speakers included a motivational speaker, **Rory Aplanalp**, President of Starquest. **Martin Otto**, Senior Vice-President of HEB Food Stores, who shared the Success of HEB and newspapers. At the Tuesday business luncheon, **Jim "Mattress Mac" McIngvale**, President of Gallery Furniture, kept the crowd in stitches with his rag to riches success story of becoming the number one furniture store in Houston. Another speaker was **Steven Duke**, from Northwestern University, who spoke on the Reader Behavior Score used by many newspapers.

On Tuesday evening, conference attendees boarded busses for a short ride to Reliant Stadium, home of the Houston Texans football team, for the President's Dinner. A Texas bar-be-cue was served and tours of the stadium were provided by the stadium hosts.

The Carrier of the Year Award Banquet concluded the 2002 Conference on Wednesday evening. During the banquet carriers who were selected during a Spring competition were honored and presented awards for their achievements.

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THE ZINSER LAW FIRM

TCMA Legal Counsel

Ohio Supreme Court Makes Telemarketing Ruling

When Charvat, who subscribed to the Dispatch Printing Company Inc.'s paper for Sunday only service, was called by a telemarketer to purchase a week-day subscription, Charvat requested to be placed on the Dispatch's "Do Not Call List." Charvat was then called at least two other times in the next twelve months despite his request. Alleging that the Dispatch violated the Telephone Consumer Protection Act (a federal law), when the Dispatch called him, Charvat filed suit. The trial court granted the Dispatch's motion for summary judgment because Charvat had an existing business relationship with the Dispatch, which is an exception to the TCPA.

The TCPA required the FCC to promulgate rules to fill in the gaps of the skeletal shell of the TCPA. Acting upon that grant of authority, the FCC defined an existing business relationship as "a prior or existing relationship formed by a voluntary two-way communication between a person or entity and a residential subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase or transaction by the residential subscriber regarding products or services offered by such person or entity, which

relationship has not been previously terminated by either party." However, the FCC's rules also state, "A customer's request to be placed on a do-not-call list terminates the business relationship between the company and that customer for the purpose of any future solicitation."

The U.S. Supreme Court has previously ruled that all courts are bound by an administrative agency's rules when Congress has specifically mandated that the agency promulgate rules to enforce a statute "unless they are arbitrary, capricious, or manifestly contrary to the statute." Since the FCC's rules did not contradict the express terms of the TCPA, the Ohio Supreme Court reversed the trial court.

Independent Contractor's WARN Act Claim Dies in Arizona heat

The Arizona Court of Appeals, reversing the trial court, held that an individual who was an employee as of the day the employer issued a mass layoff notice was not entitled to Worker Adjustment and Retraining Notification (WARN) Act notice or monetary compensation. The employee had days-earlier signed an agreement to voluntarily terminate his employment and work as an independent contractor as of several days after the date of the mass layoff.

The Court of Appeals held that the individual was not an "aggrieved" and "affected" employee, as defined by the WARN Act, because the claimant did not reasonably expect to experience an employment loss as a consequence of the mass layoff. The court reasoned that the individual was scheduled to become an independent contractor on the next working day following the mass-layoff and his employment status change was due to a voluntary decision, not the layoff.

Further, the court reasoned that it did "not believe Congress intended the WARN Act to be used to punish an employer by requiring the employer pay damages to an employee who voluntarily resigned from his position before a layoff was announced and thus whose employment was not terminated by the layoff."

Texas Circulation
Management Association
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Our Newest Members!

Armando Cano	The Monitor (McAllen)
Sherry Cousins	The Houston Chronicle
Wayne Matthews	Headline Memories
William Traylor	B & W Circulation Supplies
Mufeed Haddad	The New York Times

TCMA Regional Directors

Ginger Nolte (South)	(361) 886-3612
Corpus Christi Caller-Times	
Dolan Stidom (North)	(817) 215-2204
Fort Worth Star-Telegram	
Gary Wamsley (West)	(915) 687-9002
Midland Reporter-Telegram	
Sharon Mertz (Central)	(903) 872-3931
Corsicana Sun	
Steve Hill (East)	(281) 342-1455

2003 Conference Site Selected

The Corpus Christi Caller-Times will host the 2003 TCMA Fall Conference at the Omni Bayfront Hotel. The conference dates will be October 27-29, 2003. The Association last met in Corpus Christi in 1993.

Additional information about the conference site is on the TCMA Web site including conference and vendor room layouts. Hotel room reservations are now being taken by calling the hotel at (361) 887-1600.



Texas Roundup!

Texarkana Gazette

Home Delivery Sales Manager **Hershal Downs** has left the newspaper industry. Hershal served in this capacity for one and a half years. **Larry Bruick**, former City District Manager for the Gazette, has been promoted to Home Delivery Sales Manager.

San Antonio Express-News

Scott Frantzen, Vice President of Circulation, announced two new appointments to his staff. **Christopher Harter** has been appointed as Circulation Sales and Marketing Director. Christopher joins the Express-News after serving as Circulation Sales Manager at the Portland Oregonian.

Frantzen also appointed **Paul Kutzik** as the new Circulation Sales Manager. Kutzik came from the St Paul Pioneer Press where he was the Metro Manager for Home Delivery.

Houston Chronicle

Jim Beideck and Donald Van Ackern joined the Chronicle in October and November respectively as new Zone Managers.

Wanted: Texas Roundup News

Do you have some news to report regarding your newspaper? There is a simple form on the TCMA web site (Newsletters) that only takes seconds to complete for news, promotions, or departures at your paper. We want to know. . . Texas wants to know! Share your good news and your successes with your TCMA members through the Newsletter!

www.texascma.org

Carrier of the Year Winners



Bill Gott

**Dallas Morning
News**

Under 200 Route Size



Melanie Briggs

Amarillo Globe-News

Over 200 Route Size



Jose Rivera

Valley Morning Star

Single Copy



Jerry Davis

Texarkana Gazette

District Manager

Conference 2004

If your newspaper would like to host the TCMA Conference in October 2004, please make your request known to President **Lane Aten** tcma@texascma.org or call 956 430 6256.

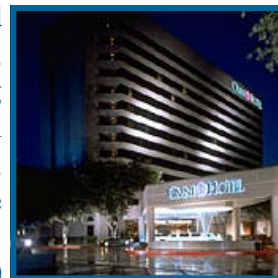
The local newspaper is only responsible for hosting the conference and providing the President's Dinner along with some local logistics. President Aten can give you more details and can share how previous convention cities have been able to host the conference with very little expense.

The TCMA by-laws require the host city to be selected two years in advance.

2003 Spring Seminar

May 15-16, 2003

Mark your calendars and make plans to be in Austin, Texas for the 2003 Spring Seminar. The Association will meet at the Omni Southpark, which was the site for the 2002 Seminar. Great News! The room rates will be \$15.00 less than the room rates at the 2002 Seminar! Reservations are now being accepted at the Omni Southpark Austin hotel. Call 512 448 2222.



Membership Renewal Notices

According to our by-laws, membership renewal notices for 2003 will be mailed in November 2002.

Section 7. Membership Fees and Dues. All persons submitting an application for membership shall be charged a membership fee set by the Board of Directors. In addition, all regular and associate members shall be charged annual dues in November of each year. The amount of such dues shall be set from time to time by the Board of Directors who may choose to schedule the amount of dues according to the number of members from a given newspaper. Dues shall be paid by January 15 for a member to retain his membership. No dues shall be charged to honorary members or honorary life members. However, the Board shall have right to charge for mailing services to honorary members and/or honorary life members.

TCMA Board of Directors

Paul Jauma	Chairman/NAA Federation Rep.	Houston Chronicle
Lane Aten	President	Valley Morning Star
Bobby Perry	President-Elect	Texarkana Gazette
Steve Jordan	First Vice President	Houston Chronicle
Jack Light	Second Vice President	Amarillo Globe-News
Ginger Nolte	Regional Director (South)	Corpus Christi Caller-Times
Sharon Mertz	Regional Director (Central)	Corsicana Sun
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Jeff Hechler	Associate Director	Schermerhorn Brothers
Curtis Smith	Associate Director	K-Jack Engineering Co., Inc.
James Smith	Secretary/Treasurer	Houston Chronicle

Conference Promotional Display Winners


Single Copy-Under 75,000	Retention-Under 75,000	NIE-Under 75,000	Promotions-Under 75,000
First Place- Amarillo Globe-News	First Place- Amarillo Globe-News	First Place- Odessa American	First Place- Amarillo Globe-News
Second Place- Odessa American	Second Place- Odessa American	Recruitment/Training- Under 75,000	Second Place- Amarillo Globe-News
Honorable Mention- Odessa American	Honorable Mention- Amarillo Globe-News	First Place- Amarillo Globe-News	Honorable Mention- Amarillo Globe-News
		Honorable Mention- Odessa American	
Single Copy-Over 75,000	Recruitment/Training-Over 75,000	NIE-Over 75,000	Promotions-Over 75,000
Honorable Mention- Houston Chronicle	First Place- Houston Chronicle	First Place- Fort Worth Star-Telegram	First Place- Houston Chronicle
	Second Place- Houston Chronicle	Second Place- Houston Chronicle	Second Place- Fort Worth Star-Telegram
	Honorable Mention- Houston Chronicle		Honorable Mention- Fort Worth Star-Telegram

TCMA Lone Star Review Sponsors

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- Newsletter Inserts \$75.00 per issue
- Web site link \$50.00 per calendar year



For more information, check out www.texascoma.org and click on the Vendors' link or call James Smith at 713 362 7644.