

August 2004



TEXAS CIRCULATION
MANAGEMENT ASSOCIATION

TCMA Lone Star Review



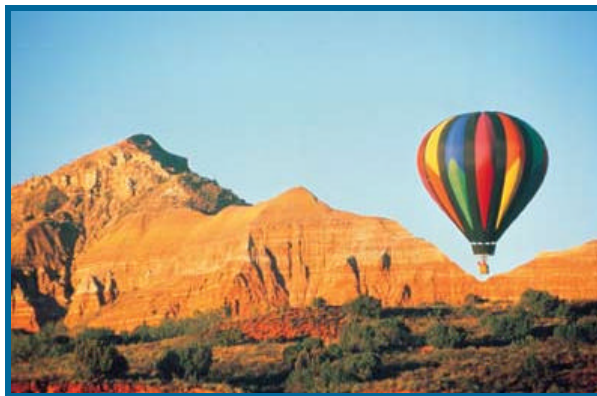
Amarillo, Texas is the site of the 90th Annual Texas Circulation Management Association's Conference. The *Amarillo Globe-News* is sponsoring this year's conference. They are planning some relaxation time while President **Bobby Berry** (*Texarkana Gazette*) is busy planning the program that begins on Tuesday, October 12, 2004.

Bobby has selected the keynote speaker for the opening session. **Robert Fellows** is an internationally recognized stage illusionist who uses the skills he has honed over twenty-five years as an entertainer to create educational presentations that are experiential and memorable.



Based on the response that was received from TCMA members who responded to the mail back card included in the May 2004 newsletter, Perry has assembled a line up of speakers and hands-on sessions.

Members overwhelmingly responded that they wanted sessions on selling subscriptions and retaining subscribers once they are sold. **Larry Graham** and **Marjorie Moore** from the *Arkansas Democrat Gazette* will present selling successes that are applicable to all market size newspapers. **Robert "Bob" Bobber** will speak on retention techniques that work.

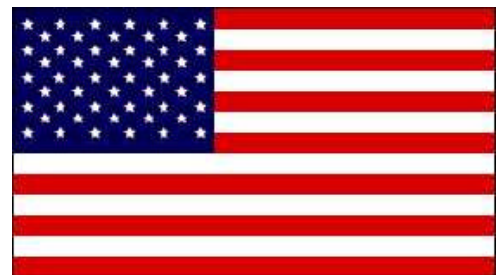


After the Hot Ideas Breakfast on Wednesday, always popular **Tony Marsella**, now with Morris Communications, will provide a lively discussion on customer service. On Wednesday we will have

(Continued on page 5)

Inside this issue:

The Zinser Law Firm	2
Our New Members/Texas Roundup	3
Second VP Election	4
It's Round Up Time in Amarillo!	5
TCMA Newsletter Sponsors	6





THE ZINSER LAW FIRM

TCMA Legal Counsel

Washington Carrier is Independent contractor

A newspaper carrier who struck an individual while delivering newspapers was found to be an independent contractor, not an employee of The Tacoma News Tribune ("TNT"), in the vicarious liability context. The Court of Appeals of Washington affirmed the trial court's grant of summary judgment on that issue to TNT.

Despite the fact that the Court of Appeals found that TNT "assigned" a territory to the contractor and leased the contractor a list of subscribers, the Court of Appeals noted that Washington uses the common-law right to control test. The Court of Appeals found that the following facts conclusively established that the newspaper carrier was an independent contractor:

- The contractor signed a contract that specifically stated that the contractor was going to be an independent contractor;
- The contract stated that the contractor had the right to use his/her own methods;
- The contractor had to provide his/her own equipment and pay his/her own expenses;
- The contractor had the right to hire helpers;
- The contractor bore the risk of loss of undelivered newspapers;
- The contractor was required to hold harmless TNT against all claims resulting from the con-

tractor's performance of the agreement;

- The contractor had to post a \$2,000 bond;
- The contractor's pay consisted of the difference between the wholesale and retail price of the newspaper;
- The contract could not be terminated without cause without 30 days notice;
- The contractor could distribute newspapers for TNT's competitors.

The Court of Appeals acknowledged that the parties' contract required timely delivery of the newspaper in good condition. Also, the court acknowledged that the contractor was required to meet the reasonable delivery requests of each subscriber. However, the court reasoned that TNT was permitted to retain the kind of controls meant merely to ensure that the contractor complied with the parties' agreement. The court distinguished the case from earlier cases involving newspaper carriers, noting that in one previous case the carrier was paid a salary, had a duty to promote good will, was required to give personal services, and could be terminated at any time.



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Be sure to ask for the TCMA conference rate when making your reservations. Hurry! The deadline for reserving rooms is September 16, 2004.

Texas Circulation
Management Association
TCMA Lone Star Review
August 2004

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Editor

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Our Newest Members!

Jim Adkins	Amarillo Globe-News
Karri Billstrom	Amarillo Globe-News
Angela Honerkamp	Houston Chronicle
Douglas Sumrell	Morris Publishing Company
Gurney King	NIE Solutions
Ed Dorsey	Palmer Newspapers
Robin Thompson	RDGDatacrp
Jerry Davis	Texarkana Gazette
Tony Powell	Bryan Eagle

Association to Consider By-Law Change

A motion to amend the TCMA Constitution and By-Laws was made and accepted by the TCMA Board of Directors meeting in Amarillo, Texas on August 14, 2004. The proposed change, subject to membership approval, is to amend Section 4 of Article IV of the By-Laws. The proposed change is to replace the five (5) regional directors with a Membership Director that will be elected at the annual conference. The Membership Director will serve for one year and will be responsible for recruiting new members to the Association and promoting attendance to the Spring Seminar and the Fall Conference.

The Regional Director position is not functioning as expected and the Board felt it was time to propose this change. The position has lost its effectiveness as the membership has continued to dwindle, with only one Regional Director remaining on the Board.

The Association will vote on the proposed By-Law change on Tuesday, October 12, 2004 at the annual conference in Amarillo, Texas. A copy of the motion to amend the by-laws is a part of this newsletter.

Elections for Second Vice-President will immediately follow the by-law change vote. If the by-law change is approved by the membership, then an election for a Membership Director will also be held.

If you are interested in serving on the TCMA Board of Directors, please contact **J W Smith, Secretary**, for more information. His phone number is 713 220 7644 or e-mail at tcma@texascma.org.



Texas Roundup!

Vigliante Accepts Position In Dallas

Lorenzo Vigliante, former Circulation Director at the Bryan Eagle, accepted the position of Assistant Circulation Director/Home Delivery for the Dallas Morning News. In this role, Lorenzo will be responsible for the home delivery market, including the distribution centers of Garland, Richardson and Carrollton.

Lorenzo is an accomplished circulation executive who has spent over 25 years within the circulation environment at several newspapers including the *El Paso Times*, *San Antonio Light*, *The Dallas Morning News* and most recently, he was the Circulation Director for *The Eagle in Bryan-College Station*. He was recognized in 1999 as one of the industries top "20 Under 40" in PressTime magazine. He was honored with NAA's Sales Executive of the year award for newspapers under 50,000 circulation.

Tony Powell Becomes Bryan Eagle CD

Tony Powell has joined The Bryan-College Station Eagle as circulation director. Tony comes from The Dallas Morning News where he was state regional manager in circulation for nine years.

"It's a challenge to live up to, which I enjoy," Powell said of the paper's ranking. "My whole method of operation is to ensure that we give exemplary customer service. That's how we build circulation, one customer at a time." Prior to working in Dallas, Powell was circulation director for five years at the Waco Tribune-Herald, where he worked with Eagle Advertising Director Dwight McKenzie.

He spent the first 13 years of his career working at The Atlanta Journal-Constitution.

Second Vice President

Election In October

According to the TCMA By-Laws in Article IV, Section 4, election of officers shall take place at the annual conference. Nomination speeches will be limited to two minutes during the morning session on Tuesday, October 12, 2004.

Officers elected will begin their term immediately following the conference. Beginning with the Second Vice-President and serving through Chairman is a five year commitment. Officers advance from Second Vice-President, First Vice-President, President-Elect, President, and Chairman. The By-Laws are online at www.texascoma.org.

There may be an election for First Vice President at the annual conference. Current First Vice-President, **Jack Light**, has become ineligible to advance to President-Elect as he is no longer employed with a Texas newspaper. If Jack is unable to secure a circulation management position with a member Texas newspaper by October 1, 2004, then an election for First Vice President will be held.

Spring Seminar 2005

May 12-13, 2005

Mark your calendars and make plans to be in Austin, Texas for the 2005 Spring Seminar. The Association will meet at the Omni Southpark, which was the site for the 2002, 2003, and 2004 Seminar.



2004 TCMA Golf Tournament

Associate Directors **Curtis Smith** and **Lester Mitchell** have lined up a day of golfing before the Annual TCMA Conference gets under way on Tuesday, October 12, 2004.

The 2004 TCMA Golf Tournament will be on Monday, October 11, 2004 at the Ross Rogers Golf Course in Amarillo, Texas. The entry fees will be \$65.00, same as last year, and will cover your course fee, cart fee, refreshments and prizes. Entry forms will be included with the fall conference registration materials.

2005 Conference Site Selected

The Fort Worth Star-Telegram has offered to host the 2005 TCMA Fall Conference. The Association last met in Fort Worth in 1982. **Albert Vaughn** from the Greenville Herald-Banner presided as President.



TCMA Regional Director

North **Charles Lawson** **806 296 1341**

TCMA Board of Directors

Lane Aten	Chairman/NAA Federation Rep.	Valley Morning Star
Bobby Perry	President	Texarkana Gazette
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(Open)	Regional Director (West)	
Curtis Smith	Associate Director	K-Jack Engineering Co., Inc.
Lester Mitchell	Associate Director	Kaspar Sho-Rack
James Smith	Secretary/Treasurer	Houston Chronicle

(Continued from page 1) Amarillo Conference

two round table discussions followed by a nationally renown speaker on advertising's point of view regarding the recent circulation scandals.

Elections for Second Vice President will be held. A by-law proposal will be voted on and if successful, an election for a Membership Director will be held. These business functions will be conducted on Tuesday.

Support your Association! Round-up a van load of circulation managers and come on up to Amarillo! If you know of circulators that have not attended a conference in recent years, encourage them to come to Amarillo in October. Call now and make your hotel reservations and send in your registration credentials today!

Round Up Time in Amarillo

The TCMA Board of Directors voted to allow newspaper circulation managers from bordering circulation sectionals to attend the 2004 Fall Conference in Amarillo and pay the TCMA member conference rate. As a courtesy, sectional secretaries from the eleven circulation sectionals in America receive the TCMA Newsletter. If you know circulation professionals who are members of Mid West Circulation Managers Association or the Southern Circulation Managers Associations, encourage them to participate by sending an e-mail to tcma@texascma.org expressing an interest.

If you know of North Texas Newspapers that are not a part of TCMA, send me an e-mail at tcma@texascma.org and I will invite them to join us in Amarillo in October.


- JW Smith

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