

TCMA Lone Star Review

Former TCMA President Receives Award

The Newspaper Association of America presented 11 awards for outstanding individual achievement in the fields of newspaper marketing, promotion, sales, research, advertising education and new media. The presentations were made during an awards breakfast at NAA's annual Marketing Conference and Connections®2004 new media conference, which was held concurrently at the San Diego Marriott Hotel and Marina January 18-20.

"The dedication and exceptional work of these individuals not only advances the cause of their key constituents, but also raises the bar for the entire newspaper industry," said NAA Senior Vice President and Chief Marketing Officer John E. Kimball. "It is fitting that NAA honors them on behalf of the industry for their contributions and holds them up as examples of superior achievement."

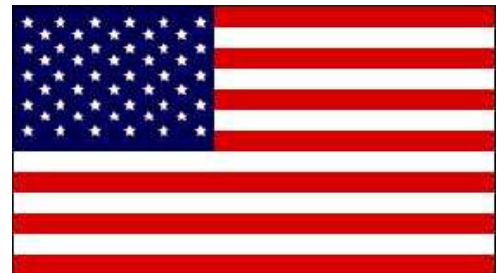
Lorenzo Vigliante, Circulation Director for the Bryan Eagle, was presented the Circulation Sales Executive of the Year Award for the less than 75,000 circulation category. Vigliante has been in the newspaper business for over 20 years. He started his career at the El Paso Times and Herald in 1977 where he worked as district sales manager until 1984. He then went to the San Antonio Light and worked several positions before becoming the state circulation manager. In 1993, he took a position at The Dallas Morning News, working as home delivery sales manager and zone manager. Since 1996, he has worked at The Eagle as its circulation director. Lorenzo is also a member of the NAA Circulation Federation and the NAA committee that developed the Carrier Recruitment/Retention guide. He was also selected as one of Presstime's "20 Under 40" in 1999.



Vince Casavova presents Lorenzo Vigliante his award.

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THE ZINSER LAW FIRM

TCMA Legal Counsel

Email Not Intercepted by Company

The Electronic Communications Privacy Act (ECPA) 1) prohibits intercepting email, and 2) accessing, without authorization, a facility where email is provided, and accessing email while it is in storage. Fraser sued Nationwide for violating the ECPA when it accessed stored emails sent to and from Fraser, on its server, when Nationwide ended its relationship with Fraser. (Fraser claimed he was an employee, Nationwide claimed he was an independent contractor.)

Fraser drafted, but did not send, two letters to competing insurance companies that violated his contract with Nationwide. Nationwide searched its main computer server-which contained all of Fraser's emails-to locate any "similar inappropriate behavior." The search revealed Fraser's disloyalty, and his services were terminated.

Judge Ambro brought the U. S. Court of Appeals for the 3rd Circuit in line with other circuit courts by explaining that " 'intercept' can only occur contemporaneously with transmission"; thus Nationwide's search was not an "intercept" as defined by the ECPA. Additionally, "there can be no 'intercept' of an email in storage, as an email in storage is by definition not an 'electronic communication'." Finally, the ECPA has an excep-

tion for "communications seized by service providers. Thus because Fraser's email was stored on Nationwide's system (which Nationwide administered), its search of that email" was an exception to the ECPA.

Employer Has No Obligation to Transfer Employee

The U. S. Court of Appeals for the 11th Circuit upheld the lower court's grant of summary judgment to an employer, dismissing an employee's Age Discrimination in Employment (ADEA) claim. The employee filed her ADEA claim after her job was eliminated; she was not transferred to another position within the company. The employee told the employer that she would be willing to take any transfer to any position in the company, but she never applied for any particular position in the company, even though she knew several were being advertised by the employer as available.

The Court of Appeals ruled that the ADEA "does not mandate that employers establish an interdepartmental transfer program during the course of a reduction in force or impose any added burden on employers to transfer or rehire laid-off workers in a protected age group as a matter of course.

The court, in contrast, held that an employer is merely obligated to consider an employee "who applies for a job for which she is qualified and which is available at the time of her termination." The court held that "where the plaintiff only expressed a general interest in being rehired and did not actually submit an application for a publicized position," the "employee's failure to apply for a particular position prevents the employee from establishing a prima facie case of discrimination."



Conference Hotel

Amarillo, Texas

October 11-13, 2004

Texas Circulation
Management Association
TCMA Lone Star Review
February 2004

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Editor

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Our Newest Members!

Roger Palmer	Athens Daily Review
Larry Serrano	Austin American-Statesman
Kathryn Richards	Austin American-Statesman
Cara Aker	Austin American-Statesman
Bob Gage	Corpus Christi Caller-Times
Jim Smith	Steel City Corporation
Herman Williams	Bryan Eagle
Bob Rossi	Abilene Reporter-News
Andra Hernandez	Houston Chronicle
James Grimmett	Lubbock Avalanche-Journal
Catherine Brijalba	Hobbs News-Sun

TCMA Regional Directors

North

Charles Lawson (806) 296-1341

East

Maurice Barcomb (903) 785-8744

West Open

South Open

Central Open

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.

Do we have your e-mail address?

Over 78% of TCMA members have provided their e-mail address. Help us communicate with you by sending your e-mail address to tcma@texascma.org. We'll update our database or add your e-mail address to our list.

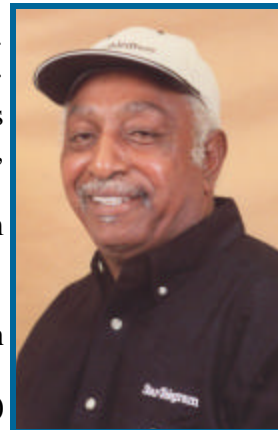


Texas Roundup!

Texas Carrier Wins National Award

The 2003 TCMA Carrier of the Year for the Over 200 Category, **Leon Geiger**, was presented the 2004 Newspaper Association of American Carrier of the Year Award in the Senior Division.

Geiger has been a carrier for the *Fort Worth Star Telegram* for more than 13 years, with a service quality record of one missed copy for every 2,217 papers delivered. He often goes beyond the call of duty for his customers, managers and fellow distributors, assisting other distributors at times to help them get their route out by 5 a.m. Geiger also does an exceptional sales job on behalf of the newspaper, securing more than 50 new paid-in-advance customers in 2002. Along with his responsibilities at the Fort Worth Star Telegram, Geiger also works a day job and cares for his three adopted grandchildren.



In Memoriam

Charles Nettles, Sr, owner and founder of *Tex-Trude* passed away in November 2003. Nettles was 80. Nettles was a long time supporter of TCMA. Services were held on December 1, 2003 with burial in Houston National Cemetery.

www.texascma.org



Mike Zinser, General Counsel for TCMA, is a popular speaker at the Spring Seminar and the annual Fall Conference. Excerpts from Zinser's *Lawlight* newsletter are published quarterly in the TCMA *Lone Star Review*.

Beginning with the first issue of 2004, the online version of the *Lone Star Review* will contain a link to The Zinser Law Firm site. While reading the *Lone Star Review* online, just click on the Zinser Law Firm logo on page two of the newsletter. The web link will redirect you to Zinser's site. On his site are regularly updated versions of the *Lawlight Newsletter*.

Regional Director Openings

The TCMA Board of Directors has three openings for a Regional Director in the Central, West and South Region. There is a map on the TCMA Web site and a list of counties that are a part of the each Region.

Regional Directors are elected by causes at the annual meeting every two years. Regional Directors are responsible for increasing TCMA membership in their respective region.

If you would like to serve as a Regional Director, contact President **Bobby Perry** at 903 794 3111. Regional Directors are responsible for helping to increase TCMA membership. Attendance at Board Meetings is encouraged although not a required.

Conference 2004

The *Amarillo Globe-News* will host the 2004 TCMA Fall Conference. The last time the Association met in Amarillo was in 1989.

This will be the first time since 1997 that the Association will meet outside of South Texas. We met in South Padre in 1998, San Antonio in 1999, Austin in 2000, Beaumont in 2001, Houston in 2002 and Corpus Christi in 2003.

This will be a great time for our North Texas and West Texas newspapers to attend the Conference.

The site of the conference will be the Ambassador Hotel.

2004 Spring Seminar

May 13-14, 2004

Mark your calendars and make plans to be in Austin, Texas for the 2004 Spring Seminar. The Association will meet at the Omni Southpark, which was the site for the 2003 Seminar. Great News! The room rates are the same as last year. 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 2004 will be mailed in November 2003.

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

Lane Aten	Chairman/NAA Federation Rep.	Valley Morning Star
Bobby Perry	President	Texarkana Gazette
Steve Jordan	President-Elect	Corpus Christi-Caller Times
Jack Light	First Vice President	Amarillo Globe-News
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(Open)	Regional Director (Central)	
Charles Lawson	Regional Director (North)	Plainview Daily Herald
Maurice Barcomb, Jr.	Regional Director (East)	Paris News
(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

2003 TCMA Promotion Award Winners

Under 75,000 Circulation

Over 75,000 Circulation

Single Copy Promotion

First Place **Midland Reporter-Telegram**

First Place **Houston Chronicle**

Second Place **Corpus Christi Caller-Times**

Second Place **Houston Chronicle**

Retention Promotion

First Place **Amarillo Globe-News**

First Place **Houston Chronicle**

Sales Promotion

First Place **Amarillo Globe-News**

First Place **Houston Chronicle**

Second Place **Fort Worth Star-Telegram**

Newspaper In Education Promotion

First Place **Midland Reporter-Telegram**

First Place **Fort Worth Star-Telegram**

Recruitment and Training Promotion


First Place **Amarillo Globe-News**

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