

February 2010

TEXAS CIRCULATION
MANAGEMENT ASSOCIATION

TCMA Lone Star Review

The New Era of Circulation

In just a few weeks the 95th Annual TCMA Conference will convene in Austin, Texas, at the Omni Southpark Hotel.

The two-half day conference will begin on Thursday, April 8, 2010 and adjourn around 12:30 pm on Friday, April 9, 2010. In those two days, President Mike Arnold has assembled a host of speakers to address the group.

Back by popular demand is a panel discussion entitled, *The New Era of Circulation*, with distinguished panel members: **Jeff DeLoach**, Publisher of the San Angelo Times, **Harry Davis**, VP of Circulation for the Austin American-Statesman, **Dolan Stidom**, VP of Circulation for the Fort Worth Star-Telegram, and **David Rowe**, Senior Director of Newspaper Operations at San Angelo will be the panel members. This panel will make a presentation and then have a question and answer session following the presentation.

Mike Arnold has made a time commitment to hear from you. The final session will be comprised of a TCMA member/attendee discussion on the future of TCMA. In three years TCMA will celebrate its 100th anniversary. The board is seeking your input on what the role of TCMA should be as we approach our 100th birthday in 2013. If you think no one listens to you, come to the conference and you will have an opportunity to express your views and suggestions. The complete 2010 Conference Agenda is on the TCMA web site.

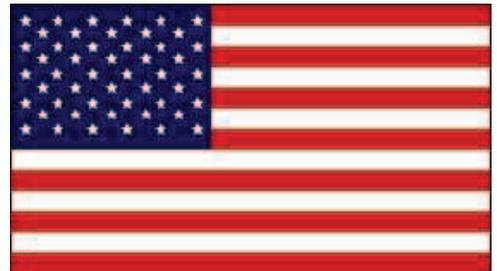
The conference rate is **\$239.00**. The price includes one night's accommodations including tax at the Omni Southpark. This rate includes your conference fee along with Thursday night's dinner and Friday's breakfast. This is the **BEST** offer in the history of TCMA!



Go to the TCMA web site, click on the Quick Links on the upper right corner of the home page to go directly to the **2010 Conference page**. Click on the Conference Registration and you may even pay online. It's fast and easy! The deadline is **Tuesday, March 2, 2010**.

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Carrier of the Year Awards

On Thursday, April 8, 2010, the 2010 Carrier of the Year Award Banquet will take place as a part of the 2010 Annual Conference in Austin, Texas.

This year's winners will receive a commendation from the Governor of Texas, Rick Perry. The finalists were awarded \$200.00 in December 2009. The winners will receive an additional \$300.00 from TCMA.

After the Conference, the videos used in the judging will be posted on the TCMA Carrier of the Year web page. In addition, the videos will be uploaded to the *YouTube* Internet web site. The previous years, 2007, 2008 and 2009, are also posted on *YouTube*. There will be links to the *YouTube* site on the TCMA COTY web page.

First Vice-President, **Marti Christiansen**, (*Austin American-Statesman*), announced the finalists for the 2010 competition. The finalists were notified in December, 2009, and each finalist's newspaper submitted a five minute DVD for the TCMA Board of Directors to review at the February, 2010 board meeting. The winners will be announced at the 2010 Conference. Marti provided a list of the finalists for this years competition:



2009 COTY Winners

Newspaper Carrier Under 200 Route Size Category

Carrier	Newspaper
Orville Hart	Austin American-Statesman
Verna Franklin	Fort Worth Star-Telegram

Newspaper Carrier Over 200 Route Size Category

Carrier	Newspaper
Judy Heitter	McKinney Courier-Gazette
Robert Blair	Bryan Eagle

Single Copy Category

Carrier	Newspaper
Richard Perez	Fort Worth Star-Telegram
Eric Enim	Corpus Christi Caller Times

Newspaper District Manager/Contractor Category

Manager/Contractor	Newspaper
Tom Friedrich	Austin American Statesman
Barry Veanueva	Denton Record-Chronicle

Membership Update

Included with this newsletter is your Membership Certificate for 2010, provided you renewed or started a new TCMA membership for this year.

Misplaced your renewal notice?

The 2010 Membership Renewal Notices were mailed in November. If you have not responded yet, it is not too late to renew your 2010 TCMA Membership. Go online to the Membership page at www.texascma.org and choose the link, Renewing Members.

Email Address

Do we have your email address? During the last several weeks TCMA has been sending announcements vital to you but many of the emails are bouncing back. If you have not been receiving our emails send your address—new or corrected to tcma@texascma.org. I will reply back that I received an updated address. You can also make any email or other changes on your membership application or renewal notice.



—J W Smith, Secretary

2010 Conference Sponsors

As of February 18, 2010, the following vendors have become a sponsor of the 2010 Conference that will be held in Austin, Texas, April 8-9, 2010.

Silver

GP Plastics

PDI Plastics

Wilson Gregory

Kaspar Sho-Rack

Bronze

Hamilton Circulation Supply

There is still room for you! Your sponsorship will help us attract newspaper managers by keeping the registration fee low. Interested? Call JW Smith at 713 362 5567 or go online to the Conference page to secure a sponsorship.

Buyer's Guide Update

TCMA will continue with the traditional Buyer's Guide format for the 2010 issue. As a bonus, the 2010 Buyer's Guide will be posted on the BlueToad.com site with links back to the TCMA web page.

Time is short! Ads for the 2010 Buyer's Guide are due **Tuesday, March 2, 2010**. You can go online to the 2010 Conference page and find a complete packet of ad requirements and a special offer for a free booth at the conference. For your convenience, use your credit card to pay for your ad online.



The one-stop order form also includes renewing your Associate Membership, securing a newsletter business card size ad, web link ads to direct users back to your company's web site, and you can even register for the 2010 Conference all in one location.

TCMA appreciates the support of our vendor members. If you would like to be a sponsor at the 2010 Conference, this is available by checking the appropriate box on the one-stop online order form.

Our Newest Members!

Chris Stluka

Kaspar Sho-Rack

Charles Alexander

Texarkana Gazette

Lorenzo Vigliante

Star Community
Newspapers

WELCOME

TCMA Lone Star Review Sponsors



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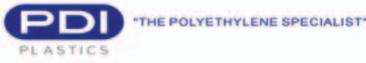
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Advertising Space Available

If you would like your business card ad in this space,

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J W Smith

713 362 5567

tcma@texascma.org

Also available!

Web links on the TCMA web site that link back to your company's web page. Your logo appears on the home page and a separate Vendor page. Your name and company are highlighted in the Vendor Directory.

GP Plastics Corporation

Sherry Brumley
Territory Manager

13375 Branchview Ln. Phone: 800-527-9459
Farmers Branch, TX 75234 Fax: (972) 484-2609
email: sherryb@gp-plastics.com

Lone Star Review Going Digital

In order to provide our members with a quarterly newsletter that is relevant, useful and easy to read, the next issue of the *Lone Star Review* will become join the 2009 issues already online.

Using the Blue Toad web site, your newsletter will arrive in your email box with a link that will take you to the newsletter site. The ads will be hyperlinked so you can go to an advertiser's web site all within your online reading experience. Don't like to read newsletters online? Then with just a quick mouse click you will be able to print a copy.

The *Lone Star Review* will be archived so you will always have the newsletters at any time. In addition, you will be able to go to the Blue Toad site directly from the TCMA web page.

If we do not have your email address, please send it to tcma@texascma.org

TCMA Conference/Hotel Registration

2010 Texas Circulation Management Association Conference
Omni Southpark Hotel

April 8-9, 2010
Austin, Texas

.01 >>REGISTRATION INFO

Please be sure to fill in all blanks which apply to your registration form as needed. Use names as you want them to appear on name tags. The prices for the conference are per person.

Pay online at www.texascma.org or

Make checks payable to TCMA.

Send to
TCMA
PO Box 90490
Houston TX 77290

Cancellation/Refund Policy

Reservation deadline is March 2, 2010.

No refunds will be issued for no-shows. No cancellations after March 2, 2010.

Questions?

Call 713 362 5567/Fax 713 354 3099
conference@texascma.org

.02 >>Conference Plans *(Includes conference fee AND Omni Hotel Room + tax)*

<u>Registration Fees</u>	<u>Number</u>	<u>Before March 2</u>	<u>Line Total</u>
Single	_____ X	\$239	\$_____
Double	_____ X	\$199 (per person)	\$_____

TCMA WILL RESERVE YOUR HOTEL ROOM

Includes one hotel night (April 8, 2010) including hotel tax

Other charges to hotel room will be guest's responsibility

Check in April 8, 2010, 3:00 pm; Check out April 9, 2010, 12 noon

Additional night(s) available; Single \$110; Double \$135.00 \$_____

_____ April 7; _____ April 9; _____ April 10

Select Guest® Number (if applicable) _____ \$_____ Total

.03 >>ATTENDEE INFORMATION (for **double occupancy**, submit information forms together)

Please Print

Name _____

Address _____

City _____ ST _____ ZIP _____

Office Phone (____) _____ Fax Phone (____) _____

E-Mail Address _____

Newspaper/Vendor _____

Position/Title _____

Is this your first TCMA Conference? _____ Yes _____ No

Legally Speaking

By L. Michael Zinser
TCMA General Counsel

Previously in this column this writer reported that there is a nationwide attack on independent contractor status. It continues unabated. At this time I am handling cases in Washington State, Oregon, California, and Ohio.

Now is the time to conduct a complete independent contractor audit. That audit should include a review of your written independent contractor agreement. Based upon case law, the following list is clauses that should be present in every written agreement:

1. **Preamble** – A clause that states that the Company is a publishing and manufacturing business and that the contractor is in the distribution business;
2. **Intent** – A paragraph that clearly states Independent contractor status/expression of intent;
3. **Route/ Territory** – Negotiated geographic area of distribution;
4. **Negotiated Rates** – Negotiated purchase terms/contract fees for each publication to be delivered by contractor;
5. **Contractor Payment** – Agreed upon payment date for Contractor;
6. **Bonding** – A clause that provides for a bonding requirement/insurance bond;
7. **Papers Pick-up Point** – Agreed upon location for contractor to pick up newspapers;
8. **Delivery deadline** – A delivery deadline is independent contractor friendly;
9. **Billing/payment dispute resolution mechanism** – A clause that states that contractor must raise a payment dispute within a time limit or the issue is waived;
10. **Risk of loss** – The contractor should have the risk of loss of lost, damaged papers. Contractor should have some risk of loss in the buy/sell relationship;
11. **Complaint Delivery** – Negotiated delivery complaint fee, payable by contractor;
12. **No agency language** – Make clear that contractor is not an agent of the Publishing Company;
13. **No Benefits** – A paragraph excluding contractor from Company employee benefits;

14. **Vehicles/Expenses/Insurance** – Vehicle/insurance paragraph that makes clear that contractor provides vehicle and pays all expenses for it; is responsible for all insurance;
15. **Unemployment/Workers Comp** – Express language, in bold type, communicating ineligibility for unemployment and workers compensation benefits;
16. **Indemnification** – Indemnification paragraphs, including indemnification concerning contractor telemarketing efforts;
17. **Taxes** – Taxes/licenses paragraph, including reference to Direct seller provision of the Internal Revenue Service. It is critical to provide that the contractor is responsible to pay taxes;
18. **Product integrity** – It is critical to provide that the Publisher controls the content of the product and to provide that the contractor may not insert foreign material into the product;
19. **Negotiated performance standards** – If you provide for performance standards, independent contractor status is enhanced if they are negotiated;
20. **Integration** – A complete agreement/changes provision; it is important that the agreement provide that it is the complete agreement and that any changes must be in writing, signed by both parties;
21. **Contract duration** – The written agreement should have a definite expiration date and not be automatically renewable;
22. **Termination rights of contractor and Company** – It is important that both parties have equal rights of termination. In the “without cause” context, both parties should be required to give the other party at least 30 days advanced written notice of termination;
23. **Contractor’s Signature** – Bold signature block language where contractor acknowledges independent contractor status, the contract’s negotiability, and ability to read and understand the English language;
24. **Compliance with Law** – The contract should include a paragraph that obligates the contractor to comply with all state, federal and local laws, including child labor laws.