

ASMP Bulletin

JULY/AUGUST 2002



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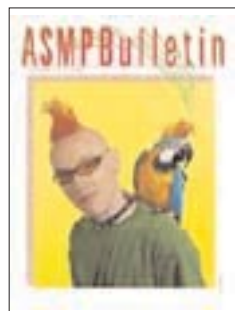
ASMP Bulletin

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THE PURPOSE OF ASMP

To protect and promote the interests 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

Rusty and Tyler was made by Dan Knudson for a direct mail piece. See page 17.

A HAIR PULLING QUANDARY

The paradox of educating the competition BY STANLEY ROWIN

That photo of me on the right was taken by my good friend Kathy Tarantola. She was one of my first freelance assistants when I started out as a professional photographer. When we first met, I had a full head of hair and I hold Kathy partially responsible for my current bald pate. As Kathy evolved from assistant to photographer she would call me for ideas and questions on contracts, rights and pricing. I'd give her my advice and other sources for information. She joined ASMP after attending the *Strictly Business* meeting held in Boston several years ago. Each time Kathy would call me with business questions about one of her assignments, I would pull out a little more of my hair. Kathy and I were now competing in the same market for the same clients. I felt that every assignment she got, was one that I lost.

Of course that wasn't exactly true. People would call her because she had different talents than I, or people might find her site on the Web and never get to mine. But it didn't stop me from pulling out all my hair.

So herein lies the education conundrum. If the ASMP educates more aspiring photographers, do the rest of us make less money? My New England Chapter has over 260 members. Many of them compete for the same corporate and editorial clients. Let's guess that in any given week, there are a total of 95 full day assignments for the 260 members (not to mention the dozens of pros who aren't ASMP members).

What do the other couple of hundred photographers, who didn't get assignments, do for income that week?

Let's break education down into two facets. For years the ASMP has felt that one of its major strategies was to teach good business practices to its members. This is relatively easy. We have most of this information available in *ASMP Professional Business Practices in Photography* which is available for purchase in book form or free for members online, at our Web site, in PDF form. All new members get this book on CD-ROM. The legal forms, such as delivery memos and invoices templates, which are in the book, are being made available on our Web site in a form that will allow you to download and print them out on your stationery.

The other facet of education is a little vague. Our members would often ask us to teach the other photographers in their market how to license their work at the prevailing market prices and usage. Are they really telling us that they can't make money when the other guy is "low balling" them? Are they asking us to show

their competitors how disruptive low balling or giving away all rights are to the market? Can education help? Or is this simply free market forces at work showing that the lowest price in the current economy often beats out the person with a higher price and possibly more experience and talent? If this is the case, then we can teach proper paperwork and licensing until we're blue in the face and the cheapest photographer will still win.

Has all this money and effort we've spent on education helped the working climate for the professional photographer? What is the actual need that the members are asking the ASMP to fulfill? Do we really have to spend money to teach our members how to keep a paper trail for stock and assignment sales? Can't they just read it in the *Business Bible*?

In an effort to answer some of these questions we have assigned Susan Carr to chair an education study group. Her committee will try to determine if we should continue with a program that we dropped: a travelling presentation that teaches the use of proper paperwork along with negotiation skills and marketing. Many who took our *Strictly Business* program years ago still rave about the feeling of empowerment that it gave them. But Susan will also have the hard task of determining whether this program actually improved the market, or just gave a false sense of empowerment. She will also have to determine if educating more photographers just gives us all smaller pieces of the same size pie.

While this process is going on, we will continue to try to get back the market force that working pros seem to be losing because of demands from large clients. We hope to achieve this through legislation and lobbying efforts. We look forward to hearing your opinion on education and what you feel we should be doing. You can contact Susan or me via e-mail [Carr@asmp.org and Rowin@asmp.org] or start a discussion on the members-only forum. And if you want to see more of Kathy Tarantola's work go to [ktpphoto.com]. ∞



Stanley Rowin
ASMP president
and chairman of the board

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GOOD OFFICES EXPLAINED

Behind the scenes, ASMP offers an unsung benefit BY KEN HAWKINS, ASMP SECRETARY AND PETER SKINNER

Good Offices: The words appear as an item in virtually every report to the ASMP board of directors. And traditionally they are followed by a brief statement pointing out that ASMP staff provides the good offices service day-to-day, week in and week out, year after year. The words are short, concise. But they mean a lot. In fact, they constitute a tremendous resource and are one of the most valuable services ASMP members can avail themselves of. Recently, executive director Richard Weisgrau, who with managing director and general counsel Victor Perlman, is a principal provider of “good offices services” was asked by a director to keep the board apprised of recent examples of good offices. What followed was a typical example, if there is such a thing given the huge range of topics and subject matter that fall within this area. It also typifies the alacrity with which ASMP staffers will respond to members who face a potential problem or need urgent advice.

Reported Weisgrau: “Once again, in an effort to keep you aware of the kind of service that members are getting from ASMP, I forward the tail end of a member’s consultation that took place last night and this morning. Our member in Oregon faxed a nine-page contract that he had to sign in the morning, if he was going to get the job. It arrived at 5:15 p.m. I called him by 5:30 p.m. and reviewed it with him. When I got home I received an e-mail from him with additional concerns and questions. We exchanged about three rounds of e-mail during the evening. That was followed by an additional exchange this morning. In the end, he got what he needed from ASMP and in time.”

The member, Chijo Takeda, responded: “Thanks much for all your help with this issue. This just emphasizes the fact that my membership in ASMP is VERY worthwhile and that I don’t have to feel like I’m always dealing with business issues on my own. I will continue to spread the word that ASMP is valuable.”

Another example involved a member’s need for assistance with a client which started with a phone call to the national

office from a member in Rome. Subsequently, the member faxed eight pages of documentation which included correspondence and the copyright license. Weisgrau reviewed that material and after deciding ASMP, and the member, were on a reasonable footing, wrote a letter on the member’s behalf pointing out that the usage of the member’s images were governed by specific permission given in an agreement signed on a particular date. “No other use may be made of these images without her express written permission. Unauthorized use of her images is copyright infringement... ASMP remains prepared to assist in the event that any undisclosed infringement of her rights is discovered,” the letter stated.

In many cases, ASMP has to step in with good offices when members find themselves in difficulty because of bad or non-existent paperwork. At times, the advice given by ASMP is not what the member might want to hear. Put simply, the horse might have bolted and closing the stable door is too little too late. In those cases, ASMP hopes the member has learned a valuable, but not too expensive, lesson in

the value of good documentation in business transactions. By the way, an excellent resource for that documentation is in the ASMP *Business Bible* and the ASMP *Professional Business Practices in Photography*.

And at other times, ASMP provides specific advice and consultation in hopes of preventing potential problems for photographers and clients. Where there is an inequity, either potential or existing, the Society will attempt to resolve it. Obviously, the effectiveness of the effort is strengthened if the photographers add their weight. A case in point is the recent finalization of a recommended contract developed at the behest of the ASMP Underwater Specialty Group whose members wholeheartedly supported the contract and helped in its wording. The contract set out recommended terms and conditions to combat an inequitable situation for photographers who specialized in providing images for the underwater industry publications. Of this Weisgrau said, “It (the contract) is the result of extensive efforts over six months. It is classic industry advocacy and done in response to horrible terms and fees demanded of the photographers.” A similar effort has been offered to the Architectural Specialty Group to counter business practices of *Architectural Record* magazine.

Not all good offices require a prolonged effort, as was the case in writing the model contract for the underwater specialty group. Often a quick phone call or emphatic letter is all that is required. And do members appreciate the service? They do. And here are some sample quotes from recent thank you letters, written in response to assistance provided by general counsel

Victor Perlman. Additionally, all ASMP staff members provide good offices service to members, and it is an on-going and routine part of ASMP's function.

WHAT THEY SAID

Regarding my unexpected check for a photo credit omission. I had much help from ASMP National in writing my contract using terms from the ASMP *Business Bible*. One of the terms I include is that I get three times the amount of the invoice if they fail to give me a photo credit— and I won't work without a signed contract. In this job the client accepted the contract and when they sent me the sample printed pieces they included a check for three times the job to cover the photo omission fee. It is great to do business with honest people who live up to the terms of the agreement. This contract has made my life much better and I appreciate the help I get from all the people at ASMP. —*Molly Winkelman*.

Fortunately, your comments are very clear, understandable, and I really appreciate your input—I will address most of these issues with the company. I really appreciate your comments, and promptness. —*Randa Bishop (who had sought advice and comments on a contract)*.

Advice to a photographer: For the future, to avoid this sort of problem, you may want to use forms like those published by ASMP. **Photographer's response:** I certainly agree! This was quite an education and, fortunately, it worked out okay. The original agreement was for one year usage for the brochure but I now see where that wasn't addressed in the written agreement. It was a verbal agreement of what they wanted. I appreciate all your help and assistance. This has given me a better appreciation of ASMP and what an incredible service you offer photographers. Thanks again. —*Ann Lukacs*.

Thank you for your speedy, no-nonsense reply to my inquiry. You've echoed

some of my thoughts as they relate to copyright of 127-year-old photographs, but you raise a couple points I need to look into. I may well ask you for a referral to an attorney who could research our situation more thoroughly, and perhaps guide us on other aspects of the publishing, when we have decided how to proceed on this end. I really appreciate your help! —*Paul Horsted*.

I feel that a compromise is possible, once everyone cools off a bit. I don't believe that any legal action is necessary, and it would just be more hassle and money than this particular work is worth. I will chalk this up to a learning experience, and I will be sure to better educate myself on copyright issues as well as still photography. —*Melissa Hollister*.

HOW TO USE ASMP'S GOOD OFFICES

This subject is addressed comprehensively in the new *Frequently Asked Questions* cont. on p. 19

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LOSS OF IMAGES SETTLEMENT

South Florida member Greg Johnston of Miami recently learned the value of sticking to your guns, having a good lawyer in your corner, and backing up those factors with solid paperwork. In Johnston's case it resulted in a settlement of

\$126,000 from a publisher who lost 63 of his slides. "I think this may have set a precedent and hope that it will help others in similar situations," said Johnston. The matter started in December 2000 when Johnston, who photographs for advertis-

ing, travel, people, catalogues, editorial, corporate-industrial and other fields, had completed an assignment for a destination guide and submitted some 600 images to the publisher. "After the book was printed I continuously called the publisher for nearly five months asking for the return of the images. I finally received a box with 420 images and immediately sent an e-mail followed by a letter alerting them that 180 images were still being held by them. I also sent them copies of the EP delivery memo I use, placing a value of \$2,000 per slide. I followed up with an invoice for \$360,000 at which, I am sure the publisher laughed.

"After another four months of unheeded phone calls and e-mails I contacted attorney John Ostrow, who advertises in the *ASMP Bulletin*, to look at my case. He put the publisher on notice and immediately I received 114 images but 66 were still missing. After another six months of legal wrangling between my attorney and the publisher's attorneys, who claimed the images were of less quality, therefore less value, I was thinking I would settle for just about anything they were going to offer.

"Then we tried one last pitch. My attorney put them on notice again that we would be filing suit for the \$5.50 per day per image for the original 600 images held for five months, the 180 that were held for an additional six months and the 66 that were being held indefinitely. Finally my attorney just called to tell me the publisher settled for the lost 63 images at \$2,000 each for a total of \$126,000 (3 of the missing 66 were found and returned). I am told this will be an insurance settlement and that I should have a check within 30 days less fees. I believe the clincher was the \$5.50 per day holding fee that would have been outrageous to pay, but most importantly payment will be based on the \$2,000 value I placed on each slide," said Johnston. ∞

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IMAGES FROM

Within ASMP's ranks are many senior photographers whose careers started about the same time as ASMP was established. Now, nearly 60 years after ASMP's beginnings, it's all too easy to overlook the contributions made by the Society's pioneers, both to their chosen fields and to ASMP. Over this period, the pioneers of ASMP have seen it all and contemporary photographers owe much to the stands they made back in the 1950s in such things as fighting for photo credits and more equitable compensation and retention of rights. Some long fought battles continue. The adage, some things never change, rings true. However, younger ASMP members shouldn't overlook nor forget the sacrifices made by many of the Society's senior members in the hope that future photographers would benefit. Recently, three of these "old-timers"—Seymour Linden, Arthur Lavine and Hugh Ackroyd—independently contacted the *Bulletin*, sending in samples of their work, some new, some from their extensive archives. The three veterans have quite a few things in common—apart from longevity—including their love of photography, an appreciation of having been a part of the industry for so many years, and an ongoing understanding of the role ASMP has played and its continued importance as the leading trade association of its kind in the world.

ARTHUR LAVINE, SAN DIEGO, CALIFORNIA

"After 45 years of assignment work, I'm just photographing whatever grabs me these days," says Lavine, a member since 1951 and a national director for about

eight years in the '50s and '60s. This native of Trenton, New Jersey, served as a photographer with the U.S. Army Signal Corps in the Pacific theater of World War II and later as a freelance magazine photographer in New York city in the 1950s. Publications which used his work included *Colliers*, *Esquire*, *The New York Times Magazine*, *Glamour*, *Newsweek*, *Fortune*, *Look*, *LIFE* and *Redbook*. In those early years, he also studied photography with Lisette Model, Alexey Brodovitch, Berenice Abbott and Clarence White, Jr. His freelance career was followed by staff positions with Western Electric Company and then The Chase Manhattan Bank's photo department. Lavine's approach has generally been straightforward, with emphasis on forms,



Bottom left: *Light and Shadow*, abstract, San Diego, Calif., 1998 © Arthur Lavine.

Above: A young Tommy Lee Jones at the burned remains of the New York City Pier, 1974 © Seymour Linden.

Below: The joyful celebration of VJ Day, August 14, 1945, in Portland, Oregon. © Hugh Ackroyd.



THE VETERANS

light and shadow. Today, he has simplified his approach by using just one camera, a Canon EOS Rebel with a 28mm-80mm lens, and T-Max 400 film—and shoots whatever grabs him. [See www.PhotoArts.com/Lavine]

SEYMOUR H. (LINDY) LINDEN, PASADENA, CALIFORNIA

“During the 1960s and ’70s in New York City, when photojournalism was at its peak, I was lucky enough to have the talent to be a stringer with Magnum Photos, then the best picture agency in the world,” says Linden, a life member of ASMP whose career was cut short by eye problems. “My life was like this: one day photographing the French Ambassador’s wife at the French Embassy in Washington, DC, the next covering an anti-Vietnam War riot and being tear gassed and billy clubbed. The next week floating down the Snake River on the last log run in the U.S., then on to a horse and covering the biggest cattle drive in 100 years. And so on and so on. It was a life I’ve never regretted.” However, Linden’s life in New York City was short. “Only 15 years, and the last five were full of major eye operations and recovery periods.” Later, with some improvement in his eyes (he was able to use his left eye as his “master eye”) Linden was able to work on documentary films in California and also did a French feature film. Now in his ’70s, Lindy has retired.



Above: Washington Square Park, New York City, 1974 © Seymour Linden.

Bottom right: Spiral Staircase, Riverside, Calif., 1999 © Arthur Lavine.

HUGH ACKROYD, PORTLAND, OREGON

This corporate-industrial, annual report, marine, public relations and executive portrait shooter is still toiling at his craft, churning out images. And he’s 89 years old! A life member of ASMP, Ackroyd joined the Society in 1950, and was one of the original members from Oregon. If ever a visual history of Portland and Oregon is compiled you can bet Hugh Ackroyd will be one of the first photographers contacted. One of his many anecdotes includes a story about the first artificial snowstorm created in Oregon, at a place called Gresham in the 1960s in an effort to break a drought. One of Ackroyd’s favorite “down memory lane” images is the one we are very pleased to reproduce here, VJ Day, August 14, 1945, in Portland, when unbounded joy greeted the end of World War II. If any other old-timers are reading this, Hugh has suggested a reunion in Death Valley. If you’re interested, get in touch with him. Phone: 503-227-5694. ∞



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ON DIGITAL PHOTOGRAPHY

Less evangelism, please; from both sides BY TIMOTHY EDBERG

I believe that digital capture is a wonderful new medium, and is capable of some extraordinary things. It is the appropriate medium for many cases. But film capture can do some things that digital capture cannot, and is also appropriate in some cases. Both have their niches. I am quite disturbed, therefore, when digital capture is oversold. The misinformation that is spread can only be harmful to the photographic community. We should be able to make our decisions based on the accurate relative merits of the two types of capture. Published articles that praise digital capture to the skies, including claims that are false or misleading, are promoting assertions that are taking on a life of their own. These falsehoods are circulating to the point that they are becoming uncritically accepted as truth.

One case in point is in the April 2002, *Bulletin*. A brief article on page 13 simply quotes, without analysis, a *New York Times* article that in turn quotes unnamed experts as asserting that the new Foveon chip will be the first digital sensor to “match or surpass 35 mm film.” This 3.5 MP chip will perform as the effective equivalent of a 7 MP chip, so it is claimed. The fact of the matter is that even a 7 MP chip provides nowhere near the performance of 35 mm film, at least as far as resolution goes. While some applications do not require this advantage of film, it is always there. I am not against digital technology, but I am against misinformation, and any claim that 7 MP matches or surpasses 35 mm film is nonsense. I feel there is an increasing trend among photographers to believe that a 6 or 7 MP camera gives the same resolution as film, and this canard must be revealed for what it is if photographers are to remain intelligent consumers and shooters.

Another case in point is the article by Richard Anderson in the May 2002 *Bulletin*. To his credit he points out many of the honest advantages of digital capture, and he does point out some drawbacks of going digital. But in places he makes unwarranted claims for digital capture. He says he was first impressed by the world of digital because “I discovered that the computer and the Epson could make better prints than any darkroom.” Very true. But aside from that fact that this applies equally to film scans, these gorgeous inkjet prints will fade in a few years and, depending on the final purpose of the print, it can be unethical to provide an inkjet print in lieu of a print on, say, Fuji Crystal Archive paper.

Because of its light balancing needs, Anderson says, “film pretty much forces you to light everything.” Not true for color nega-

tive film. He continues, “you can go to ASA settings of ... even 800, without the penalty of grain ... inherent in film.” On the contrary, digital images get noisier, sort of a rough equivalent to grain, as the ASA setting increases. “Clients [find that] film is hard to look at, is easily lost, vulnerable to damage, and is invariably in someone else’s filing cabinet when they need it.” Well, CDs are impossible to look at and see an image, and in the time it takes to load the CD, wait for it to spin up, open your application, and search to find the correct image, one could have looked at more than a few film images. And CDs are equally capable of being lost, getting damaged, or being in someone else’s filing cabinet as is film. When he ends with the quote, “you will need to face the reality that there is no going back to film once you’ve shot with this puppy,” Anderson reveals himself to be a digital evangelist. (Editor’s note: *Richard Anderson responds on following page.*)

There needs to be less evangelism on both sides of the film vs. digital debate. I hope ASMP will seek ways to offer more balanced and reasoned discussion on the subject in the future.

COMPARISON OF DIGITAL VS. FILM RESOLUTION

Let’s consider a 6 MP camera with a rectangular pixel array—the math is easiest. To match a frame of 35 mm film, the digital camera has 2,000 x 3,000 stripes of pixels, the 2,000 corresponding to one inch. This corresponds to 80 lines per millimeter (mm), or 40 line pairs per mm (lp/mm). (A line pair is a dark line adjacent to a light line, and lp/mm is one standard measure of resolution.) Aha!, you say, the camera can resolve 40 lp/mm. Not quite. If a black line and a white line are in perfect registration with two adjacent strips of pixels, then the resolution would, indeed, be 40 lp/mm. But move the lines over by exactly half a pixel width, and suddenly all pixels are gray: zero lp/mm. To achieve a given resolution, one must sample the image at about twice that resolution. Thus the 40 lp/mm sampling yields about 20 lp/mm resolution from a 6 MP digital sensor.

Now compare this to film. A good lens and good film is capable of achieving close to 100 lp/mm. Even mediocre lenses on mediocre film will give around 50 lp/mm. Comparing digital capture to even mediocre film results, the film records 2.5 times the detail, and to match it the digital sensor would have to be $(2.5) \times (2.5) = 6.25$ times the pixel count: about a 36 MP camera just to match mediocre film. To match film at its best would take 5

cont. on next page

THE MARKET IS MOVING

Richard Anderson responds

First, I would like to point out that Mr. Edberg is primarily a nature and landscape photographer, so his needs and concerns are very different from mine as I am an advertising and corporate photographer shooting mostly for print. I don't sell prints for display, so a 25-year life span is fine for my needs. I would, however, like to point out that an Epson 2000P print on archival paper will outlast a Fuji archive print by 140 years!

I am also aware of the fact that color negative is not as sensitive to mixed lighting as chromes. The problem is that high end drum scanners do not get along well with color negatives due to the orange mask, so printers are generally not very happy to work with them. In my testing, the quality of Nikon D1x images at ISO 400 was far superior to ISO 400 Fuji or Kodak color negatives as evidenced in 11x14 inkjet prints. Mr. Edberg seems to imply that digital noise is as bad as film grain at higher ISO settings, but I would caution the reader to test this for themselves before agreeing with him. Digital capture also generates noise with long exposures, so for very long exposures—meaning over 30 seconds, film may be the prudent choice, but I recently did advertising shots for an outdoor lighting company at dusk, and after dusk with up to 30 second exposures, and could see very little noise from the D1x. The Canon D60 with its CMOS chip is reputed to be even better in this regard. In any case, there are software/plugin solutions for digital noise.

Regarding Mr. Edberg's assertion that CDs are less convenient than film to look at, he would have a hard time convincing my clients that that is the case. Over and over, my clients have told

cont. from previous page

times the resolution, or $(5) \times (5) = 25$ times the pixel count: a 150 MP camera just to match—not exceed—film.

A 6 to 7 MP camera cannot possibly provide the same resolution as 35 mm film. It's not even remotely close. Advances like octagonal pixels or the Foveon chip may improve the effective pixel count by maybe a factor of 2, but this still leaves digital capture a far cry from film. In short, any claim that any digital camera (apart from scanning backs) comes anywhere close to 35 mm film in terms of resolution is false. It is not physically possible.

Timothy Edberg, a research physicist-turned-freelance photographer is based in Bowie, Maryland. His work can be seen at [http://www.edbergphoto.com]

me how much they prefer looking at the photos on their computer screen as opposed to on a light table. First of all, most never had a light table to begin with, and would hold a sheet of slides up to a window or overhead fluorescent light! There are programs that convert the images to html Web pages where a client can review hundreds of images in minutes. Also, while true that CDs can get lost or misplaced, the cost of replacing a CD of images is small compared to losing a package containing original chromes. Also, you need to consider that duplicate CDs are inexpensive, easy and quick to make, so there is less need to be shipping originals around to begin with.

Regarding the comments on digital vs. film resolution, I would invite readers to visit a very good discussion of this at <http://www.luminous-landscape.com/sharpness.htm>. Although Mr. Edberg (a former research physicist), makes some interesting observations about digital and film resolution, most of what he has to say about it may be irrelevant, since the human eye can only resolve between 5 and 10 lines and the topic *Resolution* is explained very well in the luminous-landscape discussion.

In my own testing, 11x14 inch ink jet prints from an Epson 1270 consistently showed that Nikon D1x images appeared to be sharper and more detailed than prints derived from 35mm Provia film scanned and printed on the same printer. Michael Reichman has a discussion where he compares images from the Canon D30, which is only a 3 million pixel camera, to 35mm Provia, and the complete discussion can be found at: <http://www.luminous-landscape.com/iso100-400.htm>

Finally, the quote "you will need to face the reality that there is no going back to film once you've shot with this puppy" is actually by another photographer, Rob Miracle. However, if Mr. Edberg wants to consider me an evangelist for digital, so be it. Somebody needs to alert photographers to the fact that the market is moving to digital, like it or not, and lines per inch don't mean anything compared to the clients' desire to use digital capture. I just completed a three-day day ad shoot where every shot came up on a TV monitor instantly. I asked the art director whether she would ever sit still for Polaroids again, and she said simply "no way".

Richard Anderson, an ASMP member in Baltimore, Maryland, was the author of the article Going Digital, published in the May Bulletin.



© PETER SKINNER

Karsh in a contemplative mood, at Brooks Institute of Photography

Yousuf Karsh, the great portraitist who was as famous as many of his legendary subjects, died July 13 at the age of 93 in Boston's Brigham and Women's Hospital of complications following surgery. He leaves a legacy of definitive portraits of people who made tremendous impact on and shaped the world we live in. Similarly, Karsh helped shape the way in which we see those people.

During an extraordinary life and career, Karsh—who was known internationally as Karsh of Ottawa—epitomised the classic rags-to-riches story of an immigrant who fled his homeland to escape genocide. Born in Turkish Armenia in 1908, he was 14 when his family sought freedom in Syria, leaving Armenia with only what they could carry. Two years later, Karsh moved to Quebec, where his uncle, George Nakash, a portrait photographer took him under his wing. Within four years, Karsh's inherent talent became obvious and in 1928, Nakash sent the 20-year-old Karsh to Boston to study with one of the leading portrait photographers in America, John Garo. It was in Boston that Karsh became exposed to powerful, famous people, something that made an indelible impression and helped chart his career course. On his return

YOUSUF KARSH, 93

A great portraitist leaves a priceless legacy BY PETER SKINNER

to Canada, Karsh opened a small studio in Ottawa. Through the Prime Minister, Mackenzie King, who took a liking to the young photographer, Karsh was able to gain access to many dignitaries. From then on, the rich, powerful and celebrated became his subjects.

Relocating to Ottawa was a masterful move, a stroke of business genius. Karsh once wrote why he based his business in that city. "As a capital city, I knew Ottawa would be a crossroads of statesmen coming from London to Washington. I felt there would be great advantages here and I would be ready for them when they came." And ready he was. Few visiting dignitaries passed through Ottawa without sitting for Yousuf Karsh.

Perhaps his most recognizable, and probably most published, portrait is of Sir Winston Churchill, made in December 1941 when Britain's wartime leader was in Ottawa to address the Canadian Parliament, seeking help in the battle against Nazi Germany. "You can even make a roaring lion stand still to be photographed," Churchill is reported to have told Karsh who had snatched Churchill's famous cigar from his mouth, an unpremeditated but bold action which immediately brought a scowl to the pugnacious politician's face. That famous photograph first appeared on the cover of LIFE magazine, eventually being published worldwide—to this day.

Karsh once said that the artist's job was to accomplish at least two things: "To stir the emotions of the viewer and to lay bare the soul of his subject." And for almost 70 years he did just that. His list of subjects is a veritable who's who of internationally-famous and instantly recognizable people including Ernest Hemingway, Albert Einstein, Robert Frost, Nikita Khrushchev, Pablo Picasso, Bernard Shaw, Walter Kronkite, Jonas Salk, John Updike, Norman Mailer, Arnold Palmer, Henry Kissinger, and Norman Schwarzkopf. The London *Sunday Times* once wrote:

"When the famous start thinking of immortality, they call for Karsh of Ottawa."

Several countries used his portraits on postage stamps including these honoring Dag Hammarskjold, Britain's Queen Elizabeth II and Prince Philip, Monaco's Prince Rainier and Princess Grace, Pope Pius XII and Canadian Prime Minister William Mackenzie, the man who helped launch Karsh's career.

That Karsh moved so easily among people from all walks was due in no small part to his own personality, his always being the consummate gentleman and his sartorial elegance. His early years were traumatic and humble—he was definitely not to the manor born—and he was self-educated. But he carried himself with the confident air of a true gentleman and throughout his career won over all who associated with him with his impeccable manners and worldly charm. He was comfortable in virtually any surrounding, whether hobnobbing with world leaders or chatting with admiring students on college campuses. He was an eloquent and entertaining speaker, much sought after in that capacity.

During his career Yousuf Karsh received countless prizes, numerous honorary degrees, exhibited worldwide, published great collections of his work, and was the subject of many television documentaries and programs including a 1977 profile by CBS's *60 Minutes*. In a 1996 essay he had published in *Contemporary Photographers*, he wrote: "My personal interest in ordinary people is unlimited, but I am fascinated by the challenge of portraying true greatness adequately with my camera." It was a challenge he handled with aplomb—and very, very successfully.

Karsh moved to Boston from Ottawa in the early 1990s. His first wife, Solange Gauthier, died in 1961. He is survived by his second wife, Estrellita Maria Nachbar. A private funeral was to be held in Ottawa and a memorial service was to be held at a later date. ∞

LEGAL ACTION FUND PRIZE WINNERS ANNOUNCED

Some 40 ASMP members who contributed to the Society's Legal Action Fund have won prizes including Nikon Coolpix 5000 cameras, an Epson color printer, Adobe software, Fuji and Kodak film, Hindsight caption writing software, and a variety of books. ASMP thanks all those who have contributed thousands of dollars to the Legal Action Fund, a resource which plays a vital and ongoing role in ASMP's advocacy and other legal operations. And ASMP also thanks those sponsors who support ASMP's efforts by contributing product to the cause.

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AND THE WINNERS ARE:

- **Nikon Coolpix 5000 cameras**

Philip Gould and C. Bruce Forster.

- **Epson Stylus 2000P Printer**

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- **Adobe Software**

InDesign: Brian Dressler.

GoLive: Jay Hoops.

Livemotion: Cathryn Jirlds.

- **Bricks of Professional Fuji Film**

Lois Rodger, Jack Novak, Dennis Connors, Roark Johnson, Jim Douglas, Steve Wilkings.

- **Bricks of Kodak Professional Film**

Gary Cialdella, Terry W. Phipps, Brent Nicastro, William Campbell, Greg Vaughn, Herbert Gustin.

- **Hindsight Caption Writer software**

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- **Book Prizes**

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Many thanks to the following who contributed to the Legal Action Fund in recent months.

MAY 2002

Kate BADER \$25, James H. BARKER \$25, Billy BLACK \$200, Charlotte BROOKS \$200, Archie CARPENTER \$10, Luca E. DICECCO \$7, Bruce FRITZ \$25, George R. GAREN CPP \$5, John C. GOODWIN \$25, David MAKRIS \$50, Jonathan & Phyllis MEYERS, \$25, Barry RABINOWITZ \$17, Steve SHARP \$50, Michael D. SIMPSON \$50, Joel D. ZWINK \$25.

JUNE 2002

Jan BACHMAN \$25, Lynne R. CASHMAN \$10, Thomas DALLAL \$100, David DOYLE \$25, Ted ENGELMANN \$10, Dan FORER \$100, Philip GOULD \$200, Jonathan KANNAIR \$100, Scott F. KOHN \$20, George LONG \$50, Chip RACHES \$10, Stanley ROWIN \$50, Jackie SHUMAKER \$25, Sean SMYTH \$25, Greg VAUGHN \$25, Aneal VOHRA \$20.

This photograph was shot by Dan Knudson as part of a direct mail series for Sybase, Inc. of Emeryville, Calif. The concept and production was by Denver-based ad agency, Paige Design, for a direct mail campaign that promotes Sybase's Industry Warehouse Studio – an integrated business intelligence solution that helps the newspaper industry improve the profiling of their readership and their advertisers. The goal was to ensure that advertisements hit their intended targets. In this photo, the target audience is the young man who has found his "mate" at the exotic bird show advertised in the local paper.

Dan Knudson created the digital image with a LightPhase back on a Mamiya RZ 67 and lit the shot with Norman lights. The direct mail piece, which included another image, was designed by Paige Hamilton and the copy was written by Tom Scharf, both of Paige Design.

BIRDNAPPING

And Knudson offers this interesting side note: "I read a small article in the Sunday *Denver Post* that the bird in the shot, Tyler, was stolen from the pet store where he lived. The thief or thieves broke a plate glass window and Tyler was the only thing they made off with. The shop owner (and Tyler's "Mom") is pretty busted up about it." However, there is a happy ending to the birdnapping drama: reportedly, Tyler was found abandoned (maybe he made a get-away and flew the birdnapper's coop) and was returned to his rightful owner. All's well that ends well.

Dan Knudson is based in Denver, Colo., and specializes in advertising, annual reports, corporate-industrial, digital, and products. To see Knudson's work [www.danknudson.com]. ∞

HOLLYWOOD WAS HIS BEAT

Sid Avery, 83: celebrity photographer



Sid Avery, a self portrait.

© SID AVERY/MPTV

Veteran ASMP member Sid Avery, whose images of Hollywood stars made him an icon of the genre, died of cancer on July 1 at Cedars-Sinai Medical Center in Los Angeles. He was 83. During the 1950s and '60s, Avery created one of the most enduring portfolios of Hollywood stars and his classic images of celebrities such as Humphrey Bogart,

Marlon Brando, Rock Hudson, Elizabeth Taylor, Lauren Bacall, Nat "King" Cole, Ernest Borgnine and others of that era are as popular today, perhaps even more so, than they ever were.

Sid Avery, who was born in Akron, Ohio, was one of six children. His family moved to Los Angeles when he was still an infant. His father, an architectural and landscape photographer introduced young Sid to photography when he was only seven and from that point on photography became an integral part of Avery's life. By the late 1930s, he was photographing celebrities and opened a studio that specialized in publicity, portraiture and photojournalism. During World War II he was stationed in London with the Army Signal Corps and helped establish the Army Pictorial Service. During the latter stages of the war, he helped establish a second division of the pictorial service in Paris.

At war's end, Avery returned to Los Angeles, and began a career of commercial and advertising photography and the production of television commercials. And he carved his name indelibly in the field of

celebrity photography. His personality and winning ways opened doors for him that led to many of his subjects becoming close friends and also allowed him make images far more intimate than the traditional staged publicity shots of film stars. Even the taciturn Bogart, who had initially fobbed off the persistent Avery, relented and let the photographer into his home, gave him a drink, and the planned 10-minute shoot became a two-hour session. Subsequently, Bogart invited Avery to go sailing with him and also to dinner at Romanoff's. Sid Avery's life story is replete with similar anecdotes.

In the 1980s, Avery founded the non-profit Hollywood Photographers Archive to preserve and exhibit the images of numerous notable photographers. This eventually led to the founding of the Motion Picture and Television Archive, MPTV, a commercial enterprise representing the work of many photographers and containing more than a million and a half historic images. And through MPTV, which is operated by Sid's son Ron, those remarkable images will continue to be made available.

In a full-page obituary in the *Los Angeles Times* on July 8, a quote from Avery made during an interview with *Biography* magazine two years ago, encapsulates how he felt about working the his famous subjects. "It was just a wonderful time," he said. "The relationship between photographers and stars wasn't adversarial, like it is today. You could develop relationships with some of the stars." Those relationships led to some of the most memorable photographs ever made of Hollywood's fabled stars.

Sid Avery is survived by his wife Diana; three children, daughter Sandra Guttman, and sons Marc and Ron Avery, and three grandchildren. In lieu of flowers, the family has requested that donations be made to the Cancer Research Society. To see Sid Avery's images go to [www.mptv.net]. ∞

ADVERTISEMENT

GOOD OFFICES *cont. from p. 7*

section in the members-only area of www.asmp.org (along with numerous other topics) and ASMP members can contact the national office whose staff is prepared to consult with you on many matters with no cost to members. When staff does not have the expertise they usually can direct you to someone who has.

To be prepared for the consultation with an ASMP staff person you should do the following before calling or sending an e-mail:

1. Prepare a brief statement describing the nature of your problem, concern or information needed.
2. Check the FAQ and other sections of this Web site to see if your question is answered there. Use the search engine on the home page.
3. Have any relevant paperwork ready to refer to or send to ASMP, if requested.
4. If you call, be ready to take some notes.
5. If you e-mail, include your phone number and the best time to reach you, in case the staff person has to call you.

The staff can advise you in many ways. Most of the calls ASMP receives are related to the following topics: Contractual terms interpretation; infringement claims, concerns and questions; copyright questions; pricing parameters for assignment usage and stock sales; collection of past due accounts; model and prop-

erty releases; liability insurance coverage; defending or filing a lawsuit; client's bankruptcy; tax audits; lost or damaged transparencies or negatives.

Additionally, ASMP provides legal assistance to members in a variety of forms depending on the circumstances. These include: ASMP's staff attorney consultation with member's attorney; referrals to attorneys who are in the ASMP legal network; financial contribution to defray legal expenses for precedent-setting cases. However, ASMP's staff attorney, who is the Society's general counsel, is not permitted by ASMP policy to directly represent any member. The General Counsel is ASMP's corporate attorney, chief legal advisor, and coordinator of the Society's legal network. While every effort is made to answer members' legally-oriented questions, the answers usually are clarifications or directions to guide your actions, not taking action for members.

The complete list of criteria weighed by ASMP in supporting legal action is contained in the FAQ section but it should be noted that ASMP does not seek to promote or prolong litigation, but rather seeks to assure that the outcome of cases involving major principles or practices is fair and favorable to photographers. Finally, the expenditure of any funds on behalf of a photographer is made on the condition that, if the photographer is successful in the litigation, the funds will be repaid out of the proceeds of the judgment or settlement. ∞

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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.

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Stan A. Williams ASA GM
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CORRECTION: The May *Bulletin* listed Didrik Johnson incorrectly—it should be Didrik JOHNCK, (NC chapter)

AK	Alaska
ASE	Atlanta/Southeast
ASA	Austin/San Antonio
BLT	Baltimore
CAP	Capitol Region
CFL	Central Florida
CVA	Central Virginia
CHI	Chicago/Midwest
CO	Colorado
CT	Connecticut
DTX	Dallas
FOR	Foreign
HI	Hawaii
HTX	Houston
MAM	Kansas City/Mid-America
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STL	St. Louis
TN	Tennessee
TAZ	Tucson
SLC	Utah/Mountain West
WNY	Western New York

NewsLines

Please send contributions to Editor, ASMP Bulletin, P.O. Box 652, Anacortes, WA 98221
E-mail: Bulletin@asmp.org

Q AND A: PROPERTY RELEASES

A recent thread on the ASMP members-only forum about property releases covered a variety of situations and the following questions and answers should be of interest. Also, members are advised to check out the new Frequently Asked Questions section in the member-only area of the ASMP site which at present covers a wide range of issues and will continue to be expanded. It's a valuable feature of www.asmp.org.

Q: I have some older images of buildings/manufacturing plants that have been demolished that I would like to market. Legally, do I need a property release from the previous owners of the now nonexistent buildings?

A: The answer to this question can be reached by asking a series of questions about the subject and use of the photograph. A property release is needed from each property owner whose property appears in a photograph that is used for advertising or trade (business) purposes when the property owner is clearly identifiable by the property. Look at the photograph and the property in it, and ask these questions

1. Could the property owner in the photograph be recognized by anyone? If the answer to question #1 is "no", then you do not need a release. If the answer to question #1 is "yes", then answer questions #'s 2 and 3.
2. Is the photograph to be used for an advertisement?
3. Is the photograph going to be used for commercial business purposes, like a brochure, calendar, poster, web site or other use that is intended to enhance a business interest?

If the answer to #2 and #3 is "no", then you do not need a release. If the answer to #2 and/or #3 is "yes", then you do need a release. When doing this analysis be sure to remember that a property owner can be a corporation as well as an individual. If you photograph a building with the logo of ASMP on it you have to have a release to use it for advertising or trade purposes. The fact that the buildings do not exist is perplexing, but I'd say that you have to treat them as if they did, because it is the name or logo on the building or the ability to ID the owner from the photos that requires the release. You do not have to have a release for editorial use.

Q: If I create a poster or calendar of a building to be sold by me at retail, like the Rock 'n' Roll Hall of Fame poster, do I need a property release?

A: No, if you sell the poster as art it is First Amendment expression. If you issue a brochure to clients to promote sales of your services it is to enhance your business interests, and then you would need a release.

Q: What if only a part of a building is photographed, like a door or window?

A: In most cases, the answer would probably be no; unless it was so distinctive as to identify the building and the owner.

Q: Is there any difference if the building is privately owned as opposed to a government building?

A: A government building is probably fair game, but no one can tell you for sure. There is very little case law on the subject of property in any circumstances, and I doubt that there is any on government property.

Q: Is there any problem with removing logos from a building? If a company has their logo in a building ... can they do anything if it is missing in the image.

A: There is one thing you need to keep in mind. Most questions that we run into, and therefore most of our answers, relating to property releases usually deal with photos made from public places. Once you add the complication of making the photograph on private or controlled property, all of the assumed rules are subject to change. As an example, once you enter private property, the owner can make virtually any restrictions he/she/it wants controlling both the making and the use of the photographs.

IN MEMORIAM: GUY MARCHMONT, 54

Former Chicago Midwest chapter board member Guy Marchmont has lost a year-long battle after suffering a massive stroke. Marchmont, who died on June 6 was known among his friends and colleagues as a man who loved photography, family, friends and life itself. "His occasional curmudgeonly-like qualities kept us on our toes, but we knew it was from the heart. He will be greatly missed," said chapter past president Neil Schierstedt who notified the *Bulletin* of Marchmont's death. Guy is survived by his two brothers, Hugh and Scott, along with their families.

COHEN APPOINTED RANGEFINDER PRESIDENT AND COO

Skip Cohen, former president of Hasselblad USA and a past vice-president of the Photographic Manufacturers and Distributors Association (PMDA), has been appointed president and chief operating officer of Santa Monica, Calif., company Rangefinder Publishing. The appointment was announced by Steve Sheanin, owner and CEO of Rangefinder. During his tenure at Hasselblad, and at the suggestion of ASMP, Cohen initiated putting credit lines on all images in Hasselblad's print ads.

ASPP WORKSHOPS, SEPT. 12-15

The American Society of Picture Professionals, ASPP, is offering a comprehensive program of workshops covering a wide range of topics from financial planning for the creative professional to digital imagery and rights management. An impressive faculty including photographers, editors, photo researchers, stock agency owners, attorneys, and financial experts has been assembled for this program to be held September 12-15 in Alexandria, Virginia. Deadline for enrollment is September 3. For complete information: Ph: 703-299-0219 or visit [www.aspp.com/seminars.html].

GOING THE FULL SPECTRUM

Users of the business software Full Spectrum can thank ASMP member David Arky of New York for ensuring the program's longevity. The story goes back to 1994 when Arky was looking for a Mac-based program to handle a wide range of business applications and he came across Full Spectrum at Photo East (now PhotoPlus). Six years later, and wanting to upgrade to OS 9.2, Arky encountered a problem. Full Spectrum seemed to have gone off the map and searches via the Internet were fruitless. However, a fellow photographer, Jim Imbrogno of Chicago, also a user, had made contact with a company named Swift Development which had taken over Full Spectrum but had not developed it any further. They offered to sell the program code to Arky. This appeared the only way to ensure the program's future, so Arky bought it and founded Robin Road software. Since then, a host of new features have been added to the original version so Full Spectrum, reintroduced to the market this year, is once again a going concern. For information: Ph: 212-533-2725 or visit [www.robinroadsoftware.com].

What's Hot

THE BIG ONE—THAT DIDN'T GET AWAY

Experienced anglers will tell you that even the smallest nibble can come from a huge fish. And to put that analogy in photography terms: Regardless of how mundane or run-of-the-mill an assignment may be, you never know when the world will be beating a path to your door wanting to use that image.

Classic case in point is the recent experience of ASMP member Paul Foley, a Boston-based editorial and corporate shooter. In early February 2001, Foley photographed Ms. Suzy Wetlaufer, then editor of the *Harvard Business Review* as part of an assignment for the Harvard Business School *Bulletin*. About a year later, on March 4, 2002 the story broke in *The Wall Street Journal*: Ms. Wetlaufer was romantically linked with high profile corporate boss Jack Welch, former chairman of GE. Foley was contacted by someone from the *Review*, inquiring about rights to the photograph. "We discussed the rights issue and I reminded this person, who was somewhat unclear on the subject of ownership, that the rights belonged to me, not Harvard. The publication never did offer me a buyout," said Foley.

One photographer who did sell the *Harvard Business Review* exclusive lifetime rights was Greg Kinch. And his pictures, as reported in July's *PDN*, were of Wetlaufer with Welch. According to the *PDN* article, Kinch said he had no idea the magazine was just trying to keep the pictures out of circulation to cover up an embarrassing scandal. "The pictures weren't worth much then," he said of the photographs before he knew of the scandal. They sure were when the story broke.

It was probably just as well Foley didn't have to face the same buyout temptation because it wasn't long before he was inundated with an avalanche of phone calls. "My phone rang just after seven in the morning. It was an editor from the London *Telegraph* who told me he had seen a picture of Ms. Wetlaufer with my byline on the Web site of the *Harvard Business Review*. We negotiated a price, and by seven thirty I had e-mailed him an image of Ms. Wetlaufer that appeared in the *Telegraph's* next edition. Soon, my phone was ringing continuously. I had the only known picture of Ms. Wetlaufer and editors from around the world were requesting it."

Foley does have one small regret, because as good as it was, it might have been even better. "Eventually I sold newspaper rights to AP. And later I sold non-exclusive magazine rights to Corbis, which if I were to do over, I would have done neither," he said. And the moral of the story? "Never surrender rights," he said. (Note: To see "the" image [<http://www.paulfoley.com>].

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