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YEAR END 2005

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ON OUR COVER: © Paul Kline. <www.paulkline.com> This elegant lotus blossom is one of Paul Kline's top selling pieces. Kline, a member of ASMP's Fine Art Specialty Group, captured the image digitally, enhanced the file in Photoshop, then sent it off to San Miguel Photo Lab in New Mexico for a gelatin silver print. For more photographs by ASMP/Fine Art members, flip to our portfolio section on page 18.

THIS PAGE: © Susan E. Evans. <www.susanevans.com> Verbal visuals like this excerpt from photographer and conceptual artist Susan E. Evans' panoramic "Views" series have been acquired by the Los Angeles County Museum of Art; the Museum of Fine Art, Houston; George Eastman House and others. Turn to page 20 to read more about Evans and other photographers who are making strides with their fine art careers.



© Robert Erving Potter III

My portrait this month was taken by ASMP General Member, **Robert Erving Potter III**. Robert is a past president and current board member of our Chicago Midwest Chapter. Robert's love of the arts, particularly theater, is the driving force behind his photography. His passion is photographing the creative process with subjects that include dance, theater, fashion and film. Robert strives to reveal, through his images, the emotional experiences he witnesses.

PRESIDENT'S LETTER

DIVERSIFY YOUR SPECIALTY

You are our "specialty," and we have diversified our approach. We have developed multifaceted activities designed to serve our niche market, the independent publication photographer. As an individual photographer, you must do the same. Whether you are a digital guru, have a distinctive style or photograph a particular subject matter, you must create multiple income streams. Specialization is critical for defining who you are, but equally necessary is the need to diversify your thinking about how your niche can serve multiple markets.

Over the past three and a half years, my predecessor, Stan Rowin, and I have used this letter as a platform to candidly discuss the state of our industry. The news, sadly, has often been bleak. The role of the photographer in the food chain of publication work continues to evolve; photographers must actively pay attention, respond and reconstruct their business plans.

In our role as your advocate, we came to a few important conclusions.

- "Just say no" in the photography business does not work any more effectively than it did on the illegal drug market. Out of simple economic necessity, photographers will sign contracts and pursue business relationships that are "bad" for all of us in the long term.
- New technology has virtually eliminated the lower echelon of our industry. Company employees supplied with a decent digital camera can now satisfy a market that was formerly a specialty for many professionals.
- Demand for imagery has increased, but the consolidation of stock image content among a few large distributors has made it increasingly difficult for independent photographers to enter this market. Wholly owned content is the wave of the future for the stock industry. This pushes independent creators further away from realizing long-term profits from their images.
- Royalty free stock has completely solidified as a business model, primarily due to the ease and immediacy of licensing.

Armed with these realities, we now acknowledge that there is not one answer or direction that can pave the way for your success. Just as with our photographs, the true reflection of who we are as a trade association and as individuals often resides in shades of gray.

We backed this new mind-set up with a specific strate-

gic plan designed to better equip you for today's market. Members can view this plan in full at www.asmp.org/membersarea/strgpln05.php. Our primary goals are to inform and educate on relevant business issues, become a resource for connecting buyers with members and for the research and development of new business models.

We are working to keep you informed, through things like NewsWatch and our "It's Your Business" seminars. And simultaneously, we are building concrete tools to aid in your success, the best examples being the enhancement of Find a Photographer and the implementation of the Find a Photograph portal.

In conjunction with these direct member benefits, we are reaching out to other constituencies and industry players. The ASMP Foundation is building a strong relationship with the Society for Photographic Education, putting us in front of more students than ever before. The ASMP is fast becoming an education resource for client-based associations, such as the American Institute of Architects and the International Association of Culinary Professionals. We are carefully building industry relationships, with the most recent noteworthy results being our participation in the development of the Adobe Photographer's Directory and a new dialogue with Getty Images.

The combination of all of these deliberate steps makes the ASMP a stronger association able to proactively serve your needs. We believe our success lies in this variegated approach to fulfilling our overriding mission.

The two examples below illustrate choices your fellow members have made to diversify their income streams.

- The editorial photographer who applies his or her intuitive, candid style to wedding photography, to garner much higher rates than the editorial jobs were paying.
- The advertising photographer who takes the time to become an expert in CMYK conversions, to become a trusted pre-press house for his or her clients and adds dollars to every invoice.

I encourage you to take our lead. Define your strengths and recognize your weaknesses both as a photographer and a businessperson. Turn those advantages into an articulated specialty and work to find new markets and distribution avenues for your talents.

Susan Carr
President, ASMP



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CALL FOR NOMINATIONS

The nomination period for the national board of directors will be open from December 1, 2005, to December 31, 2005.

Any general member may declare his or her candidacy for the directorship. The election will be held from February 15, 2006, to March 15, 2006. Winners will begin their term at the next regular board meeting following their election (expected to be scheduled for April or May 2006). Five (5) directors will be selected for a three (3) year term.

A director's term is three (3) years. Each candidate must be willing to attend a minimum of two (2) board meetings per year, which usually involves a Friday, Saturday, and Sunday. Other duties are assigned by the board to individual directors.

If you wish to declare candidacy, please complete the following and fax or mail to:

ASMP National
150 North Second Street
Philadelphia, PA 19106
Fax: 215-451-0880

I declare my candidacy for a seat on the national board of directors. I am a general member of ASMP and understand that the commitments of a director of ASMP include having to attend a minimum of two (2) board meetings a year, as stated above.

NAME

SIGNATURE

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AMERICAN SOCIETY OF
MEDIA PHOTOGRAPHERS

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www.asmp.org

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ASMP was founded in 1944 to promote high professional and artistic standards in photography and to further the professional interests of its membership by disseminating information on a range of subjects and concerns. ASMP has a membership of more than 5,000 of the world's finest photographers.

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Articles appearing in the ASMP Bulletin reflect the opinions of the writer. They do not necessarily reflect those of the editors, any officers of the Society, the Board of Directors, or the National Office. The Society does not assume responsibility for the individual writer's opinions as expressed in the article.

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For an entry form and additional information go to www.pdnonline.com/contests

[YEAR END 2005]

Check out the new and extensive online guide to copyright on the ASMP Web site. Visit <www.asmp.org/copyright> for full details.

NEWSLINE

SLIDELUCK POTSHOW— A FEAST FOR THE EYES AND FOOD FOR THE BELLY

Go to a slideshow for an eye-popping event. Pictured here, one of Casey Kelbaugh's photos from Carnival in Rio de Janeiro, Brazil.



© Casey Kelbaugh

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For the past five years, ASMP member Casey Kelbaugh has organized a media event that combines an abundance of imagery with great food plus a rich network of viewers and participants.

Kelbaugh started the Slideluck Potshow in Seattle, Washington, early in his career as a commercial photographer. He produced 20 shows throughout Seattle before moving east to New York in 2003. Since then he has organized five New York events.

The event starts with socializing around a potluck feast and culminates in short presentations by up to 50 participants, many of whom are ASMP members. The show has an open submission policy. Kelbaugh instituted a digital work-flow submission requirement with an advance deadline and FTP submissions to facilitate the process.

"We're interested in work with an emphasis on creativity and on craft," explains Kelbaugh about the caliber of imagery presented. "Participants are encouraged to take creative risks, and presentations are often accompanied by music, commentary or other surprises," he adds.

Several of Kelbaugh's original Seattle cohorts now host offshoot events in other cities where they have relocated. These cities include: Buffalo, N.Y., Little Rock, Ark., Milwaukee, Wis., Santa Fe, N.M., and Bend, Ore., as well as the Slideluck Potshow's original home of Seattle.

Kelbaugh's most recent New York event, held on November 12 at Bathhouse Studios, drew a crowd of over 300 photographers, artists, photo editors, reps, curators, journalists and other members of the media.

An upcoming New York event will be scheduled for February 2006. For further details, submission guidelines, and to view past slideshows as well as recipes from the Potluck, visit: <www.slideluckpotshow.com>.

—Jill Waterman

PLUS GLOSSARY GOES LIVE

In October 2005, the PLUS Coalition, a non-profit trade association which seeks to create a universal system to facilitate and simplify picture image licensing, published the PLUS Glossary, a free resource of industry standard definitions for terms used in photography and illustration licensing transactions.

The PLUS Coalition includes experts from all areas of the image licensing industry—ad agencies, application developers, artist representatives, design firms, illustrators, legal experts, photographers, publishers, researchers, stock agencies, as well as all of their trade organizations. The ASMP is among the international group of organizations representing the interests of creatives.

“The goal of our PLUS Glossary is to clearly define a wide range of terms used in image licensing and provide a single, comprehensive resource for those who create, license and use images,” said Jeff Sedlik, CEO of PLUS.

The PLUS Glossary is a searchable database of typical media terms and definitions, which included more than 1,300 listings at its launch. In addition to definitions, as well as synonyms and antonyms, each term gets a ranking for suitability of use. “The intention is to help guide people in the industry as they’re writing a license to use less ambiguous terms,” says David Riecks, member of the PLUS Advisory Council and co-managing editor of the glossary.

The PLUS Coalition is inviting industry professionals to suggest new terms and definitions to add to the database. The PLUS Coalition’s Review Board will vet suggested terms.

For more information about the PLUS Coalition and its mission, or to access the PLUS Glossary, go to the organization’s Web site: <www.useplus.org>.

—Amy Blankstein

ASMP’s newest membership benefit, the Find a Photograph portal, is now available for general members to upload stock images. The portal system, designed for the ASMP by IPNstock, will provide a simple and inexpensive way for ASMP General members to display stock photos for licensing to prospective buyers via the Internet, and optionally, to use its e-commerce function to deliver images and collect payment.

For buyers, the ASMP will soon be retooling the “Find a Photo” link at the top of every page of the Web site. This link currently goes to a page where buyers can fill out a request form that is posted to the Members Only Forum. Once a critical mass of participating photographers and uploaded photos is reached—at least 100 members—the link will be switched to the Find a Photograph portal home page.

To sign up, visit: <www.asmp.org/find-photograph>.

—AB

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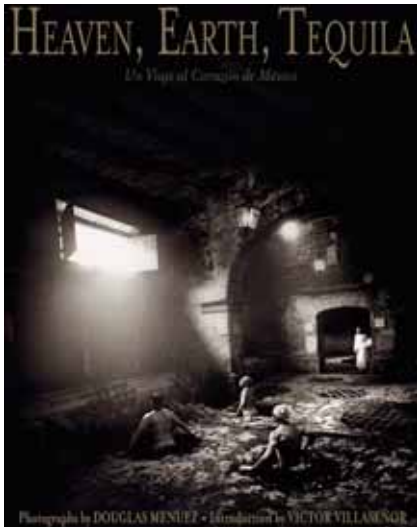
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[BOOK LOOK]



Heaven, Earth, Tequila: Un Viaje al Corazon de Mexico
by Douglas Menuez
Waterside Publishing, 2005
Hardcover, 192 pages, 73 photographs
ISBN 0976680106, \$39.95

TEQUILA TRADITIONS

Award-winning journalist and commercial shooter Douglas Menuez began his journey to explore the history and culture of tequila in the heart of Mexico, the state of Jalisco, both literally and figuratively. After reading a passage in a Salman Rushdie book that described naked men standing waist deep in vats of agave juice, Menuez sought to discover whether this was, in fact, a tradition or simply a legend. Over a period of four years, Menuez and Mexican-born and New York City based art director and friend Andres Zamudio traveled together in search of the answer. They discovered that not only was there a city named Tequila, but that tequila production was an integral part of the culture and pride of Mexico dating back to the Spanish conquest of the Aztecs.

Menuez's beautifully crafted black-and-white toned and color imagery accompanies journal excerpts that detail the tequila-making process from the selection of blue agave seedlings through their harvest. He documents the process in photographs that range from landscapes of the fog-shrouded volcanic summit overlooking the acres where men toil 364 days a year to compelling portraits of individual workers. Discovering that tequila making intertwines of old and new traditions, Menuez provides a glimpse of modern Mexico's contradictions, from hacienda life with a beautiful Latina to the colorful bullfighter's mystique and contemporary city scenes mixed with multicultural religious icons. Since gaining a new appreciation and understanding of Mexico through his travels, Menuez is donating all profits of this book to the Mexican-American Legal Defense and Educational Fund.

—Monica R. Cipnic

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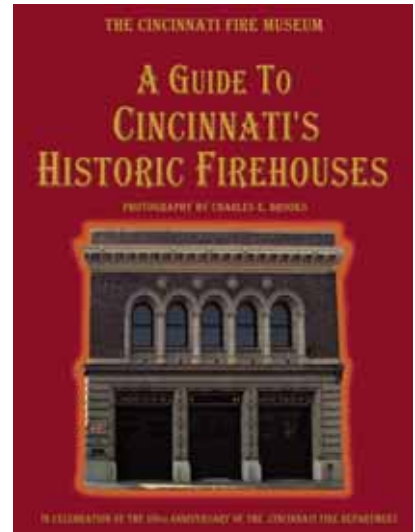
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A NOBLE CALLING

When Charles Brooks was living in Cincinnati, it seemed natural to combine two of his passions: photography and architecture. On a drive through one neighborhood in 1999, Brooks spotted one of the city's oldest firehouses, a striking example of Italianate architecture. In a city that has many fine examples of noteworthy architectural design, its historic firehouses hold a special place of recognition. In 1853, Cincinnati became the first American city to employ a full-time paid fire department and the first in the world to use steam fire engines.

During his search for other historic firehouses, Brooks went to the Cincinnati Fire Museum and found an incomplete guidebook from 1989. He then spent a year visiting old firehouses to photograph their exteriors, which ranged in architectural style from Richardson Romanesque to vernacular and bungalow. He shot interiors that were formerly stable areas, haylofts and dormitories, and interviewed current inhabitants who now run businesses out of these historic sites. In this book, Brooks includes historical imagery along with his contemporary black-and-white photographs, and offers the reader extensive facts about thirty-one historic firehouses. In addition, Brooks wrote about and shot color photographs of twenty-six present-day operational firehouses. Created in celebration of the Cincinnati Fire Department's 150th anniversary in 2003, this comprehensive book details both the proud history of the city's fire departments and the technological modernizations of special interest to firefighters and fire buffs everywhere.

—MRC



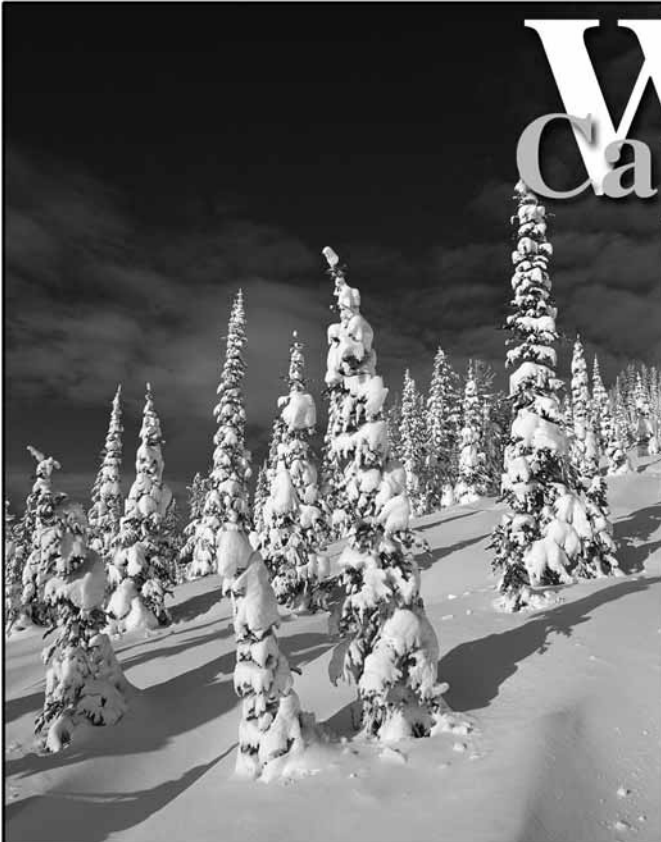
A Guide to Cincinnati's Historic Firehouses

by Charles Brooks

MT Publishing, 2003

Hardcover, 104 pages, 150 photographs

ISBN 1-932439-10-2, \$34.95




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OUTSTANDING VOLUNTEERS

THE ATLANTA PROGRAMMING COMMITTEE

The reach of the ASMP's Atlanta Chapter often extends to members from neighboring states of Alabama, Florida, South Carolina and Tennessee. Crucial to the success of such a far-reaching chapter is its outstanding programming committee.

The chapter's past president Art Rosser is impressed by how the committee functions. "Any time we put on a program, they all coordinate to operate as a true committee should," he explains. "This group is diverse, with members who are brand new to the chapter and others who have more experience," Rosser says.

One committee member deserving of special mention is the current program chair, Mary Kathryn (MK) Coppola. MK began volunteering for events while she was still a student at the Atlanta Art Institute. She took over as chair of programming last year and has been one of the hardest-working people in the chapter ever since.

"MK has made some big programs come off very smoothly," says Rosser. "She is exceptionally good at organizing things and she's good at delegating as well," he adds.

The most recent program spearheaded by Coppola was Atlanta's first ASMP exhibition and competition, held during the month of October at the Be Original Gallery. Coppola kept costs down by tackling the catering, and she also took part in the hanging of the show. Other group members chased down multiple sponsors for three

awards and made sure the event was publicized on the Web. This exhibition showcased members' personal work, and will likely become an annual event.

Bravo to MK Coppola and the Atlanta programming committee for their enriching programs and a great team effort!

—JW

© M.K. Coppola



M.K. Coppola's photograph from the Atlanta Chapters' recent exhibition at Be Original Gallery

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THE PHILADELPHIA CHAPTER BOARD

Around the turn of the millennium, the boardmembers of the ASMP's Philadelphia Chapter found themselves in a precarious financial position when the economic downturn forced several longtime sponsors to pull support. The formerly well-financed chapter was suddenly several hundred dollars in the red.

"There's something about a crisis that galvanizes people," explains former board member Michael Pilla. "We were in a dire situation with no choice but to work together and finagle," he adds.

Former board members Pilla and John Wynn, as well as current members Peter Leon, Iris Richardson, Jack Ward and Rick Davis, worked tirelessly behind the scenes to pull the chapter back from the brink. Davis, past sponsorship chairman and current chapter president, was especially instrumental in putting a system in place to land new major sponsors at different levels and to communicate the tangible benefits these sponsors would gain for their support.

One of the first events organized that garnered new sponsorship, made money at the door and enhanced the chapter's visibility was a popular lecture by digital guru Bruce Frasier, who had presented at the ASMP's Tucson Chapter in the past. An inquiry about this lecture e-mailed to Tucson laid the groundwork for a financially solvent and reenergizing event.

"The folks in Tucson probably had no idea of the dire straits we were in at that time or the profit we made from that one evening," admits Pilla. "But we've tried to keep that good karma in motion," he adds. "If there are no problems there is no reason to reach out."

So congratulations and thanks to the Philadelphia Chapter board for working together and setting an example from which we can all can profit.

—JW



© Rick Davis

Rick Davis's 2003 contribution to the chapters' annual Focus Philadelphia Exhibition

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PRESERVING YOUR VISUAL LEGACY:

Above and beyond considerations about the initial fee for their work, all photographers need to consider the potential future income stream or legacy of an image. Whether generated through stock or print sales, an annuitized royalty stream has the potential to finance retirement and send grandchildren to college even after you are gone.

Early estate planning can help maximize the value of your collection while you are alive and minimize a potential tax burden on your beneficiaries after your death. Below I offer specific estate-planning tips for an orderly and tax-efficient transfer of your assets to your chosen beneficiaries.

ESTATE TAX EXEMPTIONS

The good news is that, as of 2005, the first \$1.5 million of your estate is exempt from the federal estate tax, and by 2009, that exemption is scheduled to reach \$3.5 million. In 2010, the tax is scheduled to be repealed completely. However, in 2011, Congress is scheduled to substantially reduce the exemption. If you're likely to live beyond 2010 and believe that your estate will grow substantially, the sooner you begin planning the better. Otherwise, your family could pay as much as 55 percent in estate taxes and your legacy could fall into the wrong hands.

DIFFERENT OBJECTIVES, DIFFERENT VALUATIONS

Especially if you are appraising a collection for insurance, sale or, in some cases, gifting to a nonprofit institution, you will most likely want to achieve the highest valuation possible. Of course, valuation is not something "you choose"; it's generally what a willing buyer and willing seller would agree on.

Charitable giving, such as leaving your collection to a nonprofit museum, can greatly reduce income and estate taxes. For estate tax purposes, the fair market value of a charitable gift from the estate of a deceased person is directly deductible when determining the value of a taxable estate. Assuming that a nonprofit organization will accept your collection, the additional benefit of this type of charitable giving could be the preservation and enhancement of your visual legacy.

If, however, you were valuing the collection to gift or bequeath to family members or to a for-profit institution, you would want a lower valuation to ease an estate tax burden if the estate is worth more than the estate tax exemption.

If you have a large estate, but its total value falls below the estate tax exemption, you might want to achieve a "step-up" in value for your imagery to maximize the cost basis at which the beneficiary will inherit your collection. Except for the year 2010, the law says that beneficiaries will inherit assets "stepped-up" to their market value at the date of death or six months after the date of death.

For example, if you inherit a photograph worth \$10,000 at date of death and sell it for \$11,000, you will only pay taxes on the \$1,000 profit. The higher the "stepped-up" cost basis, the lower the potential ordinary or long-term income taxes when you sell an inherited asset.



© Art Rosser

As Art Rosser's still life suggests, don't mickey mouse with planning for your estate

GIFTING STRATEGIES

Another strategy for reducing your estate is to make annual gifts. For photographers who run their own stock photo library business, one strategy suggested by Joel Hecker, a prominent attorney working with photographers on copyright and estate planning issues, would be to annually gift shares of the business to a family member, thereby slowly moving the archive out of the estate while you are alive. Currently, you can gift up to \$11,000 per year per person tax-free, with the limit rising to \$12,000 in 2006.

CHARITABLE TRUSTS AND FLPs ENSURE INCOME WHILE LIVING AND REDUCE ESTATE VALUATION

The Charitable Remainder Trust, Charitable Lead Trust and Family Limited Partnership (FLP) are vehicles that could provide different solutions, such as income generation and tax deductions while you're alive and/or the reduction of estate taxes at death. When analyzing these potential solutions, you should weigh the tax benefits against how much control of your collection you are willing to cede upon transfer or gifting of assets into a trust or partnership, both during your life and after death. These solutions are typically useful if you have a large estate and should be implemented by an estate attorney who has experience working with art and other collectibles.

LIFE INSURANCE TRUST: A POPULAR TOOL FOR REPLENISHING WEALTH

Life insurance is a popular estate-planning vehicle for replenishing wealth lost to estate taxes or replacing the value of an asset that has

ESTATE PLANNING FOR PHOTOGRAPHERS

been gifted to a charity. A cash payout from life insurance can also provide liquidity, particularly if your estate consists of illiquid assets such as your photography collection.

The typical photographer's estate consists of a home, qualified retirement account and photo collection. If an estate is valued at \$2.5 million and the estate tax exclusion is \$1.5 million, the resulting tax is \$460,000, which the family might be forced to raise by selling off assets. Life insurance, particularly if placed in an Irrevocable Life Insurance Trust (ILIT), could provide this liquidity.

A life insurance payout is typically included in the decedent's estate, assuming he or she was the owner of the policy. If you place life insurance in an ILIT, you can avoid subjecting the policy proceeds to estate taxes. Keep in mind, however, that by placing the policy in an ILIT, you cede control over the policy during your lifetime.

APPRAISING YOUR ARCHIVE

A formal appraisal is a comprehensive document that should set the value of the collection and clearly spell out the methodologies of valuation. A valuation is typically based on a solid record of sales history. Keep in mind that appraisal methodologies can vary greatly and are as much art as science.

For more information on appraisals, please consult "The Power of Valuation" by Ethan G. Salwen in the Fall 2005 issue of the *ASMP Bulletin*.

ESTATE-PLANNING DOCUMENTS

Most estate planners recommend that you execute the documents below when planning for the future: a testamentary will, a living will, a durable power of attorney and an inventory list of your assets.

While you can create your own will using software, I strongly suggest that you work with a qualified attorney. If you miss one step in creating a will, such as having signature witnesses, the will could be null and void. Additionally, your estate documents should be stored in a secure place that is known and accessible by your beneficiaries, such as a safety deposit box or with your attorney. I also recommend scanning your estate documents both for accessibility and preservation.

LAST WILL AND TESTAMENT

Working with an attorney, you should draft a will, along with a list of assets, to provide clear instructions regarding the distribution of those assets to your beneficiaries. Even if you believe that your estate is not sufficiently valued to warrant estate planning, a will can provide a smooth transfer of your assets and prevent infighting or legal disputes among family members.

LIVING WILL

A living will is a legal document that states your medical wishes if you are unable to speak for yourself if you become medically incapacitated. The recent fight over Terri Schiavo's fate was a very public reminder of the importance of drafting a living will. Because she didn't leave a written directive regarding her health care, she left her family in confusion and controversy.

DURABLE POWER OF ATTORNEY

A durable power of attorney gives you (the principal) an opportunity to authorize an agent (usually a trusted family member or friend) to make legal decisions when you are no longer able to do so yourself, typically for financial and health considerations.

ASSET INVENTORY LIST

It is extremely important to create and regularly update a list of your assets, including real estate, bank and investment accounts, stock and bond certificates, imagery and other collectibles. This list should include account numbers, plus names and phone numbers of your account managers.

You should also keep a separate inventory list of your photography collection that includes only those images that you deem valuable. You could even label "nonmarketable" images as "Family" or "Reference" to indicate that they should not be included in your estate valuation. If the IRS values each image at 50 cents and you have one million images, the value of your collection could total \$500,000. Too many images could generate an estate tax.

If you fail to inventory your assets, your beneficiaries may spend countless hours and dollars trying to track them.

You should consult with a professional appraiser, estate attorney and tax advisor prior to implementing any estate planning. Planning ahead can allow you to control the distribution of your life's work, can help you to build a visual and financial legacy for future generations and can ease the burden of income and estate taxes.

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BLACK & WHITE INKJET PRINTING COMES OF AGE

Black-and-white inkjet printing presents several significant challenges: the ability to produce a neutral color, the ability to maintain a neutral appearance under different light sources (reduced metamerism), the ability to attain graybalance (consistent color throughout the entire tonal scale); the ability to achieve a very dark black (high d-max) without sacrificing shadow detail (low dot gain), and longevity.

Author of *Adobe Photoshop Master Class* John Paul Caponigro is an internationally respected fine artist and a passionate lecturer and workshop instructor whose clients include Adobe, Apple, Canon and Epson. Find out more about inkjet printing by subscribing to John Paul's free e-news at <subscribe@johnpaulcaponigro.com>.

In recent years, there have been many compelling solutions for making black-and-white prints with inkjet technology; some have been fraught with problems (third-party quadtone ink sets clog easily) and others have been expensive (ColorByte's ImagePrint RIP).

With the introduction of Epson's new printer line (2400, 4800, 7800, 9800) and UltraChrome II inkset, black-and-white inkjet printing has finally come of age. Superior quality inkjet printing is both affordable and easily achieved.

With its new inkset, Epson has addressed issues of neutrality, tonality and longevity. The Ultrachrome II inkset has been reformulated to include three black inks. You now have a choice of using either matte black ink or photo black ink with light black ink and light light black ink. Combined with other color inks (cyan, light cyan, magenta, light magenta, and yellow), the printer employs a total of eight inks. In order to produce the best black-and-white prints, you want to use all the inks, since printing with black ink alone produces a visible dot structure.

Using more black ink to make a print does several things:

- It becomes easier to achieve a truly neutral color since the combination of three different black inks uses more neutral ink and less highly saturated ink.
- Graybalance (a consistent hue throughout the entire tonal scale) improves due to the more neutral color of the inks as well as improved profiles and advances to the driver software.
- Density of the black is increased: d-max ratings for Epson's UltraChrome II inkset now equals the dmax of silver gelatin prints (2.2)
- Metamerism (the tendency of colors to shift appearance under different viewing-light

temperatures) is reduced, since black is the least metameric of all colored inks. Using a light light black ink makes it possible to carry very subtle highlight detail with gray instead of yellow, the most metameric and fugitive ink.

- Print longevity increases (up to 326 years before visible fading depending on paper type) because black ink is the least light sensitive, so using more of it makes prints last longer.

If you are searching for an inkjet print that duplicates the look and feel of a traditional silver gelatin print, stop searching. It doesn't exist—yet. Silver suspended in gelatin is highly reflective and ink on paper has yet to replicate its appearance. You may be able to achieve a black as black as silver gelatin with inkjet printing, but the two still look different. On the other hand, the appearance of many alternative processes such as platinum and cyanotype can easily be replicated in an inkjet print. The bottom line is that inkjet printing has its own unique and very compelling qualities. Rather than thinking of it as a replacement for traditional processes, think of it as an addition to them. You can even use inkjet printers to create digital contact negatives for printing with traditional media.

Now that you know the best way to make black-and-white inkjet prints, investigate techniques to make the best black-and-white images by starting with a color original and converting it to black and white digitally. (See my white paper on Adobe.com and the Library Downloads of my Web site). Doing this gives you superior control over the tonal structure of an image.

It may seem strange to start with a color file and to print with color ink to make a black-and-white image. On the other hand, black and white are colors, very specific colors—neutrals. So, after further consideration, you may find this makes a great deal of sense.

USING THE EPSON ADVANCED B&W PHOTO DRIVER SOFTWARE

In tandem with its new suite of inkjet printers, Epson has also introduced a new Advanced B&W Photo feature in its driver software. While you can make a black-and-white print with the Epson driver using either the Epson route or the Photoshop route, try using the Epson route described below for optimum graybalance.

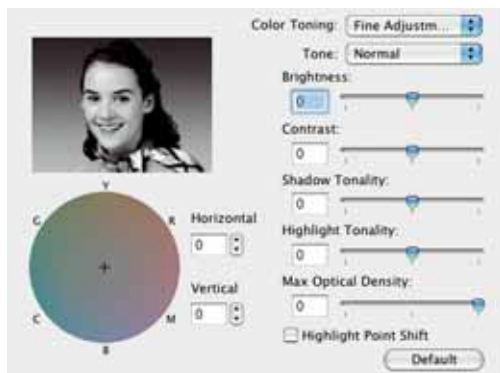
Step 1—Choose Print with Preview. Under Color Handling select Let Printer Determine Colors. Choose a rendering intent (typically Perceptual or Relative Colorimetric).

Step 2—In the pull-down menu for Printer, select the printer of your choice.

Step 3—Change the Copies & Pages pull-down menu to Print Settings. In the pull-down menu for Media Type, select the appropriate or nearest type of substrate you are printing with. In the pull-down menu for Color, select Advanced B&W Photo. Check the radio button for Advanced. In the Print Quality pull-down menu choose the highest printer resolution available. Uncheck the box for High Speed.

Step 4—Change the Print Settings pull-down menu to Color Management. Select Normal under Tone. Optionally, use the color wheel to tint the image.

The Epson Advanced B&W Photo feature will only create a black-and-white print. If you send a full-color file to the driver and use this printing route, the driver will make a conversion and print the image in black and white. While this works well, you can exert more control over the tonal structure of an image by converting to black and white before printing.



Color management using Epson's new Advanced B&W Photo option offers several new features and previews all adjustments to a standard image, the portrait shown above.



© John Paul Caponigro

For John Paul's tutorial on digitally converting a color file to black-and-white for optimal tonal control, visit the ASMP Web site at:

http://www.asmp.org/commerce/business_article_025.php

NEW TOOLS

ENHANCEMENTS TO EPSON'S DRIVER SOFTWARE

Using the Advanced B&W Photo option brings up a new window when you proceed to Color Management. It offers several new feature options, previewing all adjustments to a standard image (a portrait)—not the image you are currently printing. Most of these new features make adjustments by varying ink density rather than changing values in the file being printed.

- A tone feature. This offers five options to adjust the brightness of an image: darkest, darker, dark, normal, light. Watch this feature carefully. It defaults to darker. I prefer to make changes in brightness to an image in the source file, so I choose a setting of normal in this feature.
- Brightness and contrast sliders. Both of these can have adverse side effects. The brightness slider can reduce dynamic range, graying blacks or whites and losing detail in either highlights or shadows. Contrast can be added to an image with greater precision by adjusting a file with curves prior to printing.
- Shadow tonality and highlight tonality sliders. Both work to preserve details in their respective targets and do an admirable job. They're best used for fine-tuning print quality to ensure maximum detail on either end of the tonal scale. Watch them carefully as they have side effects in the midtones. Using the highlight tonality slider adds density to highlights by laying down additional ink. Using the shadow tonality slider opens up shadows by laying down less ink, but can also weaken the density of midtones. Masking the shadows of an image and lightening them in a file before printing keeps the mid-tone density intact. Applying both techniques in tandem can prevent overinking without sacrificing d-max or midtone density.
- A max optical density slider. This reduces the density of black and can render a weaker black and lighten the entire image.
- A highlight point shift check box. Unlike the highlight tonality slider, this offers a one-click solution to preserve maximum highlight detail.
- A color toning setting. This offers the option to add a tint of color (or tone) to an image with default settings—neutral, cool, warm, sepia. Fine adjustment is accessed through the color-toning wheel, where any hue can be mixed in varying degrees of intensity. This is a uniform toning solution and does not offer the ability to cross tone or selectively tone an image. To do this, tone the image in Photoshop and print it as a color image.

All of these features represent a significant step forward. The Epson driver is now offering features that were previously only available in third-party software solutions.

TRAVELING ON THE INFORMATION

The route along the information highway from photographer to client has gotten increasingly complex over the past several years, with a vast array of technical considerations and formatting conventions beyond the traditional sheet of twenty color slides. Larry Angier, an ASMP general member from Northern California, shares his insights below on editing and submitting work for client review.

I've developed a method for making CD submissions that has been well received and, judging from recent requests from my editorial and commercial clients, seems to have become the preferred means for image submissions.

LESS IS MORE

Edit, edit, edit! Twenty images per subject are enough for most clients, unless an editor specifically asks for more for a special request or project.

In the days of film, an editor could hold a sheet of twenty slides to the room light or window and identify the best photo in a matter of seconds, no technology required. Sharpness was determined with a loupe in a few seconds more. In the digital realm, I have to be the gatekeeper regarding sharpness, and I have to be ruthless about it.

I print twenty color thumbnails (with proper corrections for color and density) on a contact sheet with either the caption information or (at a minimum) the file number beneath each image or attached to the proof sheet as a printed text page. This is the digital equivalent of a sheet of 35mm transparencies.

IN THEIR SHOES

Few editors want to deal with the mechanics of viewing a CD regardless of whether it's presented as digital thumbnails, a canned slide show (additional software to deal with) or any other time-consuming viewing mechanism. Printed thumbnails are a fast and easy way for an editor to screen your submission. Some photographers even go to the trouble and expense of producing large, high-quality prints to accompany their digital submissions.

Pretend you are an editor and have a deadline to meet. You've got ten analog submissions of 20 transparencies each

and one CD with low-res thumbnails. You take the ten film submissions, each consisting of one page with 20 slides. You can view each of the analog submissions in a matter of seconds by simply placing the slides on the light table, selecting the best, checking for sharpness and going on to the next. All told, it's taken ten minutes to review ten submissions.

With a CD, you have to start the computer (if it isn't already running), insert the disc and mount it to the desktop (provided it's written in the proper format for the computer), open the folders, start Photoshop or another browsing program, preview each thumbnail, blow one up to check for sharpness and detail (from your slow CD drive) and search for captions, if there are any enclosed. Then you have to contact the photographer to request a high-resolution file, if there's enough time to meet your deadline. Reviewing this one digital submission has taken as much time as the other ten combined.

If you, the editor, are under the gun, that digital submission is likely to be the last in line. So if I want to ensure that you will decide to take a look at my submission, I'd better enclose a great-looking thumbnail page.

IMAGE RULES

As for file quality, most of my regular clients prefer to receive both thumbnails and hi-res files to eliminate the need for a second shipment if an image is selected. The hi-res file needs to be at least publication page size at 300 ppi, either color-managed RGB, or, increasingly, a CMYK conversion, adjusted to the client's printer profiles. Each image needs to be handled in a color-managed environment and tagged to the Adobe RGB (1998) or CMYK color space. My monitors are calibrated regularly to ensure accurate color, but you should never assume that an editor has the latest souped-up 10 GHz

DIGITAL IMAGE SUBMISSION DEMYSTIFIED

HIGHWAY



machine with a 500x CD, Photoshop CS2, and a 50-inch plasma display. It's more than likely he's still working with the oldest, slowest, trickle-down machine that his company has penny-pinched together.

Each image should be cleaned of dust and fairly sharp (but not sharpened in your image-processing routine, unless your client specifically requests it of you). The image should have no burned-out highlights or blocked shadows.

Dodging, burning, density and color balancing are fine, but any additional manipulation must be clearly labeled. You should tag each image with copyright, caption information and any other relevant details. A best practice is to embed this information into the IPTC data of the file.

THE FINAL PACKAGE

Each disc you submit should contain only one subject or job. Include a separate text document with corresponding, numbered captions on the disc, as well as on paper (attached to the color proof sheet), so the editor can easily identify all images. It's also important to include a pdf of the delivery memo or estimate/invoice with your terms, and to make a copy of the entire paper trail for your own records.

The packaging should be kept simple and contain the following:

- A disc with all relevant contact information printed or written on top
- The name of the assignment or subject matter, clearly written on the disc
- A color proof sheet with captions attached
- A printed consignment memo and your normal terms and conditions

The whole submission should fit easily into a FedEx envelope. Make sure the CD is in a container, well protected and surrounded by adequate padding.

Make the process straightforward and efficient for your editor. Now, in addition to the title "photographer" you can add "digital prepress technician." The next step is to figure out how to negotiate a commensurate increase in pay.

FTP

Some clients even need photos faster than "old fashioned" FedEx. In those situations I use both e-mail and FTP (file transfer protocol). Many e-mail boxes are small, sometimes as small as five to ten megabytes. If it is a single image, saving the file as a JPEG at the requested image size and a quality setting of ten is one possible option, but if the image is to be used as a spread then the file can bloat to 50 to 60 mb.

No problem! I use Fetch, a Mac OS FTP client, and log into my client's site quite easily. I simply need the FTP address, ftp.companynam.com, for instance, a user name, password and the preferred directory in which to drop the file. Once logged on to the site, it is simply a matter of dragging the file to the directory and waiting for the little dog to finish his "fetching."

The FTP process is similarly simple with the PC Windows XP client, WS_FTP, but the interface is slightly different. Once you've logged in to your client's FTP site and clicked on the file you want to upload from your computer (the left-hand panel of the screen), choose a directory on the remote computer (this appears on the right-hand panel) to which you want to upload the file. Click on the right arrow button and wait for it to upload.

If more than one file needs to be uploaded, it takes just a little more work. The files need to be organized in a folder and compressed using Stuffit (PC users also have the option to use a ZIP software) before uploading.

Another valuable service to investigate, File Send, operates many times faster than regular FTP.

Fetch Softworks <www.fetchworks.com>

WS_FTP <www.ipswitch.com>

File Send <www.fileflow.com>

Stuffit <www.stuffit.com>

ZIP <www.winzip.com>

Larry Angier travels the rural west to shoot what he loves. Photography has been his lifestyle ever since high school. Angier's work appears in *Sunset* and *Nevada* magazines. His books include *America's Heartland*, *Romance and Reality of Ranching* and he was a photographer on the *California 24/7* and *Nevada 24/7* book projects. His images also appear in calendars on such distinctive subjects as jackasses, cats and outhouses. Angier's commercial and industrial clients include Georgia Pacific, HMF Logistical Solutions and the Amador Council on Tourism. Using the Internet, Angier finds he is no longer isolated as a rural photographer.

[PORTFOLIO] ASMP FINE ART



© Stephen Mallon/Getty Images

Since its beginnings in 2003, the Fine Art Specialty Group has been a boon to ASMP members interested in marketing their photographs for print sales and exhibitions. The art world has its own rules and structure, and it helps to have a support network, whether you're already experienced or new to the field.

The crux of the group is an e-mail Listserv in which members post queries and offer practical information and advice. Popular discussion topics have ranged from basic sources for materials to advice on how to promote an exhibition or set up a Web site to discussions about issues such as editioning prints and digital versus the darkroom.

Maryland based photographer Paul Kline joined the group in August 2005.

"It's interesting to read all the different perspectives from members," he says of the Listserv. "People can send in questions if they have them and they talk about how they do exhibits and solve problems," he adds.

The photographers featured here represent only a handful of members who tap into this specialized forum for advice and support from their peers. To join ASMP Fine Art go to:

<<http://groups.yahoo.com/group/asmfpa/>>

To view an image gallery with more work visit:
<http://www.asmp.org/culture/photo_gallery.php>

— JW



© Susan E. Frost

SPECIALTY GROUP:

PROVIDING PERSPECTIVE ON A SHARED PURSUIT



© Donna Callighan



© Beth Green



© Hal Gage



© Barbara Alper



© Judy Silverstein

- Top left:** Stephen Mallon
<www.stephenmallon.com>
- Bottom Left:** Susan E. Frost
<www.frostphotography.com>
- Top center:** Donna Callighan
<www.dcphtodesigns.com>
- Lower center:** Hal Gage
<www.halgage.com>
- Top Right:** Beth Green
<www.bethgreen.com>
- Middle right:** Barbara Alper
<www.barbaraalper.com>
- Far right:** Judy Silverstein
<www.judysilverstein.com>
- Bottom right:** Michael V. Limbert
<<http://www.mvlimbert.com>>



© Michael V. Limbert

MAKING STRIDES WITH YOUR

FINE ART CAREER

No one pursues a photography career solely for the money. Making a living with your craft often translates into a lifetime of commercial work, but it's the rare photographer who doesn't pursue his or her artistic vision. Some receive recognition in the form of exhibitions and publications, and some are even fortunate enough to make a living off of their art, but as the following photographers who are, to one degree or another, "making it" will tell you, the path to success is rarely as easy or straightforward as it may appear.



© Lynn Saville



© Don Normark

CREATING YOUR OWN OPPORTUNITIES

New York City based Wyatt Gallery would acknowledge that luck has played a role in the progress he's made. "The key is being prepared to take advantage of luck. Luck gets you a heads-up, but I have to be prepared with my own work to get it out there."

He shows frequently, is represented by Watermark Gallery in Houston and has work in private and corporate collections. At the same time, Gallery supports his personal work with editorial and commercial architectural assignments. Pursuing personal projects in tandem with his commercial work, plus the consistent effort he makes to market his fine art can be tough, but Gallery keeps it all in perspective. "You see others achieve success and it looks like it happened overnight, but you don't know how long they've been in the game. You can't expect to reach stardom overnight. You have to be patient, resilient and diligent. You don't give up on your own vision and your own work—you continue to produce."

Some of his opportunities have come about organically—a chance meeting in the street can turn into an invitation to participate in a show—but Gallery makes it a point to network actively. In addition to the networking that happens naturally within the creative community, he submits his work to juried shows, selecting those with jurors he wants to meet or those that will afford him greater exposure, and he participates in portfolio reviews around the country. Although a tough skin is a must to bear the concentrated scrutiny of your work, Gallery feels that these opportunities are well worth running the critical gauntlet—he made the connection with Watermark Gallery at Houston FotoFest in 2004.

The Chicago-based architectural photographer Barbara Karant would agree. Earlier in her career, she actively promoted her personal work, and gained critical acclaim within the Chicago art community. But she says, "If you stop promoting for any length of time, people forget who you are. You have to make it a job, along with your commercial job, to get yourself out there."

Although she's consistently worked on personal projects throughout the years, she only recently has renewed her efforts to push them out into the world.

FINDING TIME AND SUPPORT

In order to get her work out there, Karant submitted a portfolio to attend Review Santa Fe in July 2005. "It was

BEING SUCCESSFUL RARELY MEANS WALKING A STRAIGHT LINE

a way to make contacts that hopefully will be helpful in the future with this body of work,” she says. In addition to making contacts with curators and gallerists who could potentially further her goals, Karant also got a chance to connect with fellow photographers. “It was great for me to be within a community of artists for a period of a few days. It was an opportunity to get feedback about the work from people I really respect. If you’re not in an academic setting, you don’t often get feedback. As a commercial photographer, there’s just not much time to ruminate with colleagues and friends.”

Finding such opportunities is critical for photographers trying to balance their commercial and personal work. “It’s important to build a network,” says ASMP president, Susan Carr. “Having a support system in place is critical, it’s very difficult to keep motivating yourself if exhibitions aren’t coming through.” She suggests building support networks by going to portfolio reviews and joining groups such as ASMP’s Fine Art Specialty Group or the Society for Photographic Education.

Motivation is one hurdle, finding the time to create and promote your personal work is another. In addition to lending feedback and moral support, Carr and business partner Gary Cialdella, both documentary photographers, made it a goal for their architecture/interior design studio to accommodate their personal pursuits. Even with that mindset, it was a while before they could follow through with this objective. “It took about five years to set aside time to make my work a priority,” says Cialdella. “I would cancel personal work to do assignments. Today I’m more careful about that, more apt to book a personal project as an assignment and build in the same emphasis that I would for my commercial work.”

DEFINING YOURSELF AND YOUR MARKET

“I was not represented until I sent my text work, cold, to W. M. Hunt at New York’s Ricco/Maresca Gallery in 1997,” Susan E. Evans relates. “As soon as he received my packet he called me up laughing and demanded to know who I was. He loved the work and has been a great supporter and advocate ever since.”

That support has been most obvious, says Evans, in Hunt’s endorsement of her work, his ability to find opportunities for her that she would not have access to and to help place her work in important shows and institutional collections. But behind the scenes, Hunt—who



© Wyatt Gallery

At Left: (Top) A nocturnal fantasy on the roof of the Metropolitan Museum, captured through the lens of Lynn Saville, (bottom) vintage work from Don Normark’s coverage of Los Angeles’s Chavez Ravine. Above: Wyatt Gallery’s post-tsunami pictures from Sri Lanka have made a mark in the fine art market.

recently opened the Hunt Hasted Gallery with former Ricco/Maresca colleague Sarah Hasted—also provides professional advice, as well as a positive support system.

Not everyone takes to her work as readily as Hunt. Evans’s word pieces, which are black and white text images, push the boundaries of the definition of photography. “It’s really hit or miss because many traditional photographers really hate my work and think of it as anti-photography,” says Evans. As a result, she’s aggressively directed her marketing efforts toward galleries, curators and institutions that are receptive to conceptual work.

Being able to define yourself as a photographer is the linchpin to getting your fine art career up and running. Once you know who you are as a photographer, you can streamline your marketing efforts by identifying the institutions to approach that are best suited to your work.

MAKING STRIDES



© Kim Kauffman

Kim Kauffman's fine art botanicals have gained acceptance in front of a broad audience at a Museum of Natural Sciences.

"You can't be all things to all people," says Carr. "Find out where your type of work is being shown. If you're pursuing funding opportunities, look at the last five years' of who an institution has given money to. Otherwise, it's not worth the effort."

Don't be afraid to look beyond galleries, museums and art spaces, especially if the niche style of work you do may not fit prevailing trends in the art world. Kim Kauffman's camera-less botanical images might not find wide acceptance within contemporary galleries, but an upcoming exhibition at the North Carolina Museum of Natural Sciences in Raleigh will not only enhance her resume, it could also expose her to a much broader audience. The Lansing, Michigan, photographer plans to actively pursue such targeted opportunities in the future.

BE AWARE OF THE MARKET

Because of his dual roles as photographer and gallery owner, New York City based Thomas Werner has a unique perspective on the pursuit of success in the fine art arena. He urges photographers to get an understanding of how the art world is evolving as a business. Just as the commercial photography business model has shifted, so, too, has the business model for fine art. "You have to be willing to work within the framework of the marketplace," says Werner. "I'm not advocating selling out—just understand the nature of the business."

In addition to staying current on broader trends in the art world—especially if you're working in a contemporary style—Werner says it's

vital to a photographer's career to understand the time and financial pressures that drive gallery owners and curators. A gallery owner may personally love your work, but that doesn't always translate into an opportunity to exhibit with the gallery. Given the costs of producing exhibitions, gallery owners need to be confident not only that your work will sell, but that it will build their reputation as curators.

WHEN DO YOU HAVE IT MADE?

By art world standards, Lynn Saville has made it. She has commercial gallery representation in Paris, New York, and Atlanta, shows frequently and makes a solid income from her nocturnal cityscape and landscape photographs. Still, the art market is a fickle place, so Saville maintains her commercial portrait studio. "I don't want to put too much commercial pressure on my art work, it's an important avenue of expression," she says.

Attaining success is rarely a linear process. In 1949, Don Normark photographed a poor Mexican-American enclave in an area of Los Angeles called Chavez Ravine, which was destroyed a year or so later, ostensibly to create public housing, but which ultimately became Dodgers Stadium. It was the McCarthy era, and aside from Normark's inclusion in an exhibition at the Los Angeles County Museum of Art, there was no interest in work that glorified the daily life of a working-class community. The images sat in a box for decades.

In the intervening years, Normark worked as an editorial photographer for *Sunset* magazine, occasionally showing other bodies of personal work. After being laid off from the magazine in 1995, Normark revisited the Chavez Ravine images, and began to research Chavez Ravine's history with the intention of producing a documentary. At the same time, he looked for opportunities to show his work, and in 1996, the Los Angeles Public Library produced an exhibition on the Chavez Ravine using Normark's images. Although the venue wasn't Normark's first choice, the media covered the show extensively, and the images took on a life of their own. The images have been exhibited frequently and in 1999, San Francisco based Chronicle Books published a book on the series. The documentary Normark initiated aired on PBS during the summer of 2005. No one involved in the project profited directly from the film, but the exposure continues to focus attention on his work. "I've been fortunate," Normark says. "They've been in the news and generate their own publicity. I'm not an aggressive marketer, but between what I have done and the nature of the material, there have been results."

Of course, opportunities attract more opportunities. Several years ago, after seeing his Chavez Ravine work, a Los Angeles gallery owner urged Normark to cover the story of a 14-acre community garden in the South Central section of the city. Although Normark is still documenting its fortunes, an exhibition and publication are already being discussed.

Success in the fine art milieu can be elusive, and persistence is a must. Silence or a firm rejection from a curator now doesn't mean he or she won't be interested in the future. And if a gallery owner isn't interested in your work, maybe he or she knows of another gallery who could be and will pass your name along if you are careful about cultivating the relationship. The key is to keep a positive attitude, develop the ability to absorb and learn from both negative and positive criticism, keep following your vision, and above all, be prepared to take advantage of opportunities whenever they come along.



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COPYRIGHT PROTECTION MADE EASY

The photographs you create are protected by copyright as soon as they appear in tangible form. The steps outlined below will enhance that protection. They are inexpensive to implement, easy to follow and will help you enforce your rights if your works are infringed.

THE IMPORTANCE OF REGISTRATION

You would never let your children out in the cold of winter without the protection of proper clothing. Yet most image creators allow their copyrights to circulate without the safeguard of registration.

Registration increases your bargaining power enormously when dealing with an infringer. If your work has not been registered in a timely manner and is infringed, you are entitled to a lost license fee. That fee is the amount that the infringer would have paid if that company or individual had negotiated with you before using your work. That sum is almost never enough to justify the time and expense of litigation. You are also entitled to recover the profits made by the infringer—if any exist—arising from the unauthorized use, but proving those profits is often difficult and expensive.

In contrast, in a court proceeding, a timely registration allows you to recover up to a maximum of \$150,000 in special or statutory damages for each work infringed, if the infringement was willful or intentional. You may also be able to collect your attorneys' fees. An infringer facing a statutory damage claim is much more likely to settle rather than face substantial exposure at trial.

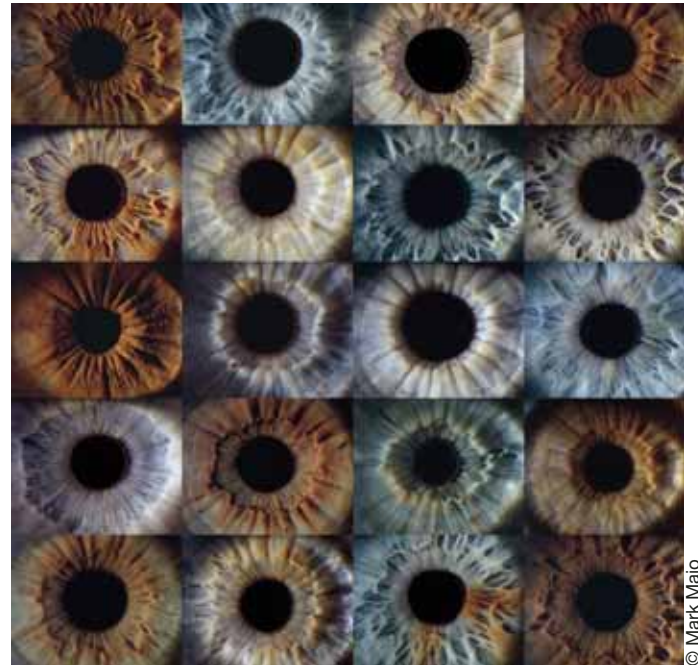
A timely registration is one made any time before the work has been infringed, or if it has been infringed, within three months of the work's initial publication.

SUGGESTIONS ABOUT REGISTRATION

To ensure your works are registered in a timely manner, make it a routine practice. For example, you may want to register at the end of each month everything you created during that period. Take advantage of group registration opportunities to register a large number of unpublished works for a single fee of \$30. You can also register all published photographs that you created in a calendar year for one \$30 fee. When registering a group of works, in addition to using Form VA, you should fill out what is called a "continuation sheet" on Form "GR/PPh/CON." By listing each work you are registering on that continuation sheet, you avoid any dispute in litigation regarding any particular image. You can find all the forms online at: www.copyright.gov.

PREVENT UNAUTHORIZED USE

Some clients will use your work and only later reach an agreement with you about terms of use and payment. The terms may be more sweeping



The collage print 20/20 was the signature image for Mark Maio's exhibit at the Chattahoochee Valley Museum of Art.

than you contemplated and the payment may be less. To avoid that situation, when you deliver your work to a potential client, you should state in a covering note:

"Until we have agreed to the terms under which you will use [describe the work] and have paid me the agreed-upon fee, you have no rights to make any use of this work. Any unauthorized use constitutes a willful infringement."

If your client ignores this warning, it will increase your chances of collecting substantial statutory damages in a later court proceeding (assuming a timely registration).

THE IMPORTANCE OF YOUR COPYRIGHT NOTICE

Infringers often try to limit their damages by claiming innocence. They will argue that they gained possession of your work from a third party who never told them the copyright belonged to you. You eliminate a claim of innocence by visibly embedding your work with your copyright notice. The notice contains the symbol ©, your name as copyright owner and the year of first publication. Because that notice tells the world that you are the copyright owner, an infringer cannot claim that he or she was unaware of your rights.

The Digital Millennium Copyright Act, or DMCA, may also help. The

DMCA prohibits new forms of infringement made possible by new technologies. If the infringer has removed your copyright notice from your work in an attempt to facilitate or conceal the infringement, the infringer may have violated the DMCA. A court may assess the infringer as much as \$25,000 for each violation.

WIN THE BATTLE OF THE FORMS

Your terms and conditions will in most cases differ from those of your clients. When you send your client your terms, you may receive a form back from your client that contains additional or contradictory terms. For instance, your form may not mention Web use, but your client's form may authorize it. If you take no action after receiving your client's form, you may be stuck with its additional and different terms. To win the battle of the forms, cross out each provision that you disagree with from your client's form, initial the right-hand margin next to each deletion, then sign and return the marked-up form to your client.

TERMS AND CONDITIONS

Whenever you give someone the right to use your copyrighted work, you need to set limits. Make them clear so you can easily enforce them. Here are a few examples:

- Always state the name of the end-user of the image: your client or your client's client, as the case may be.
- Always set a start and an end date for the intended use.
- If you don't want your client to post your work on the Internet, include the phrase "no electronic or online use" in your invoice or license agreement.

- If you want to restrict your client to one-time use in a magazine, write "one-time use in print only."
- To prevent your client from using your work for other purposes, state "use for [describe the agreed-upon purpose] only; you must negotiate and pay for all other uses in advance."

BEFORE YOU AGREE THAT YOUR WORK IS FOR HIRE

When you create a copyrighted work for a client as an independent contractor, you own the copyright. The only way your client will gain copyright ownership is if you sign a written document stating that the work is for hire. The document has to use the words "work for hire" or their equivalent, like "all rights in perpetuity." Once you sign that document you forfeit all rights to the work forever. Whatever the value of your work is now, it may be far more valuable in the future, depending on a wide variety of unpredictable circumstances. Therefore, you may want to capture some of that potential value now by charging a premium before you agree to a work-for-hire arrangement.

USE SEARCH ENGINES TO UNCOVER INFRINGEMENT

The Internet is an excellent investigative tool. Search engines allow you to examine billions of Web pages in seconds. Periodically use this technology to police your work to ensure it is not being infringed.

These tips will help you protect your most valuable property—your copyrighted works. Keep them handy for ready reference and, if you have tips that work for you, please pass them along to me at Berger@tanhelp.com for inclusion in a future article.

For more on this subject and to read ASMP's full copyright tutorial, visit the ASMP Web site at: www.asmp.org/copyright/.

MARK H. BARINHOLTZ, P.C.

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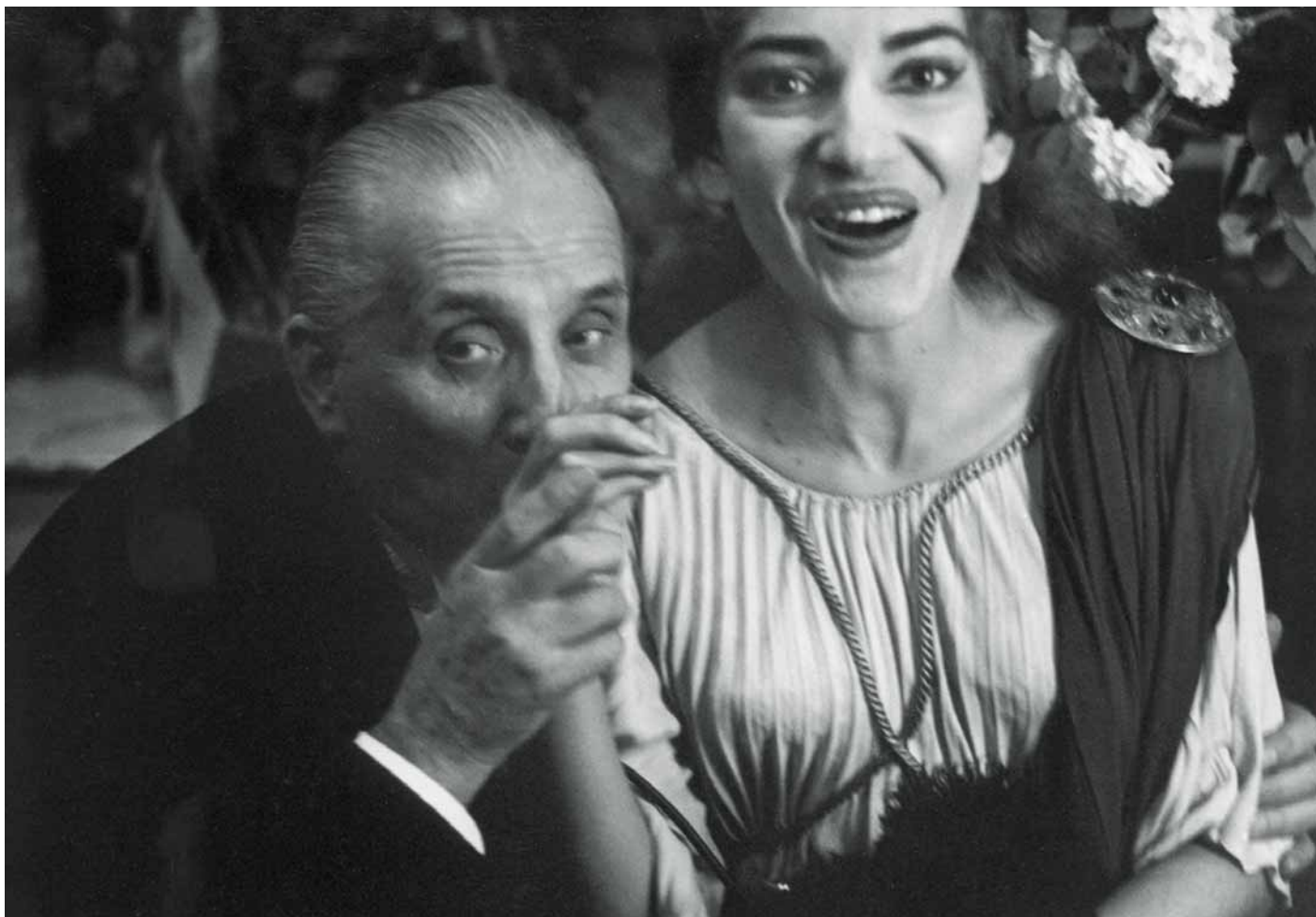
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PAUL SELIGMAN CAPTURED THE DRAMA BEHIND THE GLITTERING FOOTLIGHTS

PARTINGSHOT



© Paul Seligman

It wasn't until after Brooklyn-born Paul Seligman first proved his worth as a political and sports cartoonist for the *Atlanta Constitution* and as a U.S. Army newspaper reporter in the South Pacific during World War II, that he turned his attentions to photography. He sold his first photograph—of Andrei Vishinsky, the Russian UN delegate, buying a suit at the luxe department store Saks Fifth Avenue—to *LIFE* magazine in 1953.

Seligman covered politics extensively, first on paper and then behind the lens—four of his photographs from the 1964 presidential campaign now reside in the Museum of Modern Art's permanent collection.

As a photographer for the New School of Social Research during

the tumultuous Sixties and Seventies, he documented not only a student body at the cutting edge of a society in flux, but also the faculty and guest lecturers Edward Albee, Thelonious Monk and Martha Graham among them, whose ideas helped foment that cultural shift.

For two decades, Seligman, who passed away in May 2002, was also given privileged access to photograph the Metropolitan Opera Company, including the October 29, 1956, debut of diva Maria Callas, pictured here after the historic performance with then-doting husband Giovanni Meneghini—long before Greek tycoon Aristotle Onassis swept her away.

—AB

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