

ILLUSTRATORS' NEWS

Issue 2

ILLUSTRATORS' NEWS

June 2000

FEATURE

IS THERE FINE ART TO ILLUSTRATION?

Marshall Arisman, Chair, School of Visual Arts

The majority of art students enrolled in an art school or art college in the United States must declare themselves either fine or commercial artists at age nineteen. Unfortunately, the decision is usually made by using an outdated formula created by the art school faculty.

The chart has never been written down but even when I graduated from Pratt Institute in 1960 the formula for picking your major was well known:

1. Fine Arts is pure.
2. Illustration is the beginning of selling out.
3. Graphic Design is commercial art.
4. Advertising is selling.. period.

The painter that illustrates is suspect. The illustrator who tries to find a gallery is tainted. The Fine Arts world does not want illustrators in their club and when art critics want to punish a painter in a review they call the paintings "illustrations." All painters know that the word illustration is the kiss of death.

This would all be amusing except that these definitions directly effect the status and marketability of the artist. The implication is, of course, who is "selling out" and who isn't.

David Smith, the sculptor, defined commercial art as "Art that meets the minds and needs of other people," and fine art as "Art that meets the mind and needs of the artist."

Under that definition I know a lot of fine artists that are commercial and some illustrators who are fine artists.

Andy Warhol's comment that "the finest art of all is the business of art" seemed to go unnoticed in the art school formula.

I am suggesting that it is possible to be a figurative artist and see illustration as simply one outlet for "work done to meet the mind and needs of the artist," if the artistic vocabulary remains the same in both the illustration and fine art areas. Discoveries made in painting (which is the best place to explore them) can be translated into illustration using the printed page as an entry to explore the possibilities of word and image.

Eleven years ago I started a Master of Fine Arts program at The School of Visual Arts titled "Illustration as Visual Essay" to explore the possibility of personal content concerned with more than an assigned manuscript.



I hired a wide range of figurative fine artists, who didn't have a prejudice against the word illustration, and illustrators who also painted in hopes of avoiding artistic schizophrenia in the students. Faculty members include Tom Woodruff, Mary Jo Vath, Greg Crane, Paul Davis, Carl Titolo, Michael Flanagan, Edmund Guy and Carol Fabricatore.

The vehicle we use is the visual essay in book forms or a series of paintings meant to be seen as a unit.

Working in a series allows the student to introduce the concept of time into their work and pushes them out of the habit of creating single symbolic images, which is the trend in illustration.

The public's consumption of images will only intensify the demand for artistic voices that are personal and not decorations on a wall or a printed page.

I believe it's possible to expand the boundaries where fine art and illustration meet into an image-making process, redefining our tired old definitions and replacing them with figurative art that is simply good or bad art—wherever it appears—on a printed page or a gallery wall. ■

Illustrators' Partnership Of America

Why?

Every time you hear "Satisfaction" on the radio, Mick Jagger makes more money. That's not because he's so smart, but because years ago, others were.

A century ago, songwriters had to produce a steady stream of songs to make a living. They sold these outright to sheet music publishers, then watched in frustration as middlemen got rich from their hits. Broadway composers also had no way to monitor the use of secondary rights to their music. Then came the phonograph and the radio, and what had once been a secondary market for songs became a new primary market.

So in 1914, a few composers and music publishers banded together to form ASCAP (American Society of Composers, Authors, and Publishers). In 1940, others formed Broadcast Music, Inc. (BMI). Today these collective rights organizations are dominant market forces, licensing music and collecting and distributing royalties for the benefit of their members.

A New Opportunity For Artists

The Internet, like the phonograph and radio of the past, arrives with great promise for illustrators. The information revolution offers us a new opportunity to better serve our existing customers and to develop new secondary markets for our work. But like the technological revolutions of the past, the Internet also arrives with great perils for illustrators. Large, commercial stock houses already are harnessing these technologies to their own advantage, leaving artists out the cold.

Contemporary stock and clip art business is designed by middlemen for their own profit. Large stock houses sell art at steeply discounted prices, eroding our primary markets. Following the easiest and cheapest business model, these large companies are good at marketing art but lack the talent to produce it. By contrast, artists have the talent to produce art but to date lack a competitive business model for the information age. To respond to these fundamental changes, many artists believe that the time is right to organize a trade association of our own.

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■ WHERE HAVE WE BEEN?

C.F. Payne, Dave Lesh, Brad Holland

It's been nine months since Santa Fe and admittedly we've lost much of the steam we generated there. But the delay was necessary to shore up the irregular infrastructure cobbled together to produce the conference. The reconstruction took longer than planned and was more difficult than we imagined. But it's done. On December 30, 1999, the old board dissolved itself by majority vote, and picked replacement members. That new board is now in place and although it will be at least a year before the next conference, they have the money to produce it and all future decisions will be their's to make.

□ *What about the CVC "Gathering?"*

In March, many people on the conference mailing list were solicited for a "Gathering" in Santa Fe to address "The Future of Illustration." Prospective attendees were promised guidance from "experienced trainers" and videos for \$720 if you couldn't make it. To clarify confusion: This event is not associated with the First Illustrators Conference held in Santa Fe last October in any official way. None of us were aware of it in advance and we've received only limited information from the sponsors since. One of them told us they've been in business since before the First Illustrators Conference, and added: "Conferencing is a relatively new idea for most illustrators, unlike designers who attend 4-5 seminars and conferences a year." We wouldn't disagree with that statement and we wish them well in their venture.

□ *What's the deal with the Illustrators' Partnership?*

In Santa Fe, the three of us were assigned the task of preparing the Business of Illustration panels. At these seminars we proposed to create a licensing society for illustrators. We promised when the conference was over we'd look into it. Independently, Dugald Stermer asked attendees if they'd volunteer \$200 apiece to fund the inquiry. He got a nearly unanimous show of hands. We didn't ask for money then. But now we are. Although we first intended to work under the conference umbrella, various legal reasons have forced us to incorporate separately as The Illustrators Partnership of America (IPA). IPA is the non-profit parent body from which we hope to create a for-profit licensing society. Information about the IPA is available elsewhere in this newsletter. But we should make it clear that we, too, are not officially associated with the First Illustrators Conference. Although we hope to work closely with the new conference board, we are formally a separate group and the one board member we share with the new conference board is prohibited under the by-laws from participating in any vote which might involve a conflict-of-interest. ■

■ ILLUSTRATION CONFERENCE

□ *See you in Santa Fe 2001!*

The New Board of Directors of the Illustration Conference, Inc. have been officially seated to continue the mission of the founding board. The date of the next Illustration Conference is June 24-27, 2001, and will again be held in Santa Fe. Space will be limited to 500 (last year it sold out), so mark your calendar now! The New Board members are: Cathie Bleck, illustrator, Cathleen Toelke, illustrator, Anthony Russo, illustrator, Jack Unruh, illustrator, Dugald Stermer, illustrator/educator, Jon Conrad, illustrator, Alice "Bunny" Carter, illustrator/educator, James McMullan, illustrator, educator, art director, Anita Kunz, illustrator, Moira Cullen, educator, and Marc Burckhardt, illustrator/educator. For more information on the upcoming conference and to communicate with others about the event, utilize the Ispot Illustration Conference Follow-Up chat room. (www.theisplot.com, in the Art Talk section) ■

■ THE STOCK ROUNDTABLE

Brad Holland

The first Stock Roundtable, produced by the Illustrators' Partnership of America and hosted by Parsons School of Design, was held April 21, 2000 in New York City. Nearly two hundred students and professionals attended. Tapes of the event will be available for sale through the Illustrators' Partnership and the money raised will be used to distribute copies to art schools across the country. I moderated and began by defining our scope: "The issue of stock, is not about stock. It's about the entry of large corporations into the illustration business." I pointed out how these large stock houses are positioning themselves as "image providers" and their business practices have changed the nature of competition for freelancers. I suggested that panelists discuss the ways they, as individuals, have responded to this challenge and how we can all legally band together to concentrate our influence on the market.

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■ ILLUSTRATORS' PARTNERSHIP OF AMERICA FOUNDED: NEW ORGANIZATION WILL FOCUS ON THE BUSINESS OF ILLUSTRATION IN THE INFORMATION AGE

Washington, DC - March 16, 2000

Responding to the challenges and opportunities of the information age, a group of professional illustrators has formed the Illustrators' Partnership of America, a non-profit organization dedicated to the promotion of the business of professional illustration and its products.

One of the first tasks of the new organization, which is headquartered in Washington, DC, will be to investigate and prepare a full report to its members on the changing business environment for professional illustrators, including emerging opportunities in electronic licensing and publication.

"The Illustrators' Partnership is an unprecedented effort to bring together the nation's leading illustrators to make their creative works more widely and easily available through electronic media while maintaining the integrity of the illustration industry through fair pricing and business standards," said Brad Holland, one of the founding members of the new group. "For most of its history, professional illustration has been a kind of cottage industry, with individual illustrators working in isolation. That world is gone, a casualty of the information age," Holland added. The new group also has plans to educate professional illustrators, as well as students, regarding their intellectual property rights, raise public awareness of the business of illustration, and represent the views of professional illustrators before Congress and international organizations.

The founding members of the organization are Brad Holland, Bruce Lehman (former Assistant Secretary of Commerce and U.S. Commissioner of Patents and Trademarks), Dave Lesh, Dugald Stermer, Michael Shapiro (former General Counsel of the National Endowment of the Humanities), and C.F. Payne.

Anyone requesting further information can contact Dave Lesh at boardwalk@iquest.net. Further developments and news will be forthcoming. ■

To respond to any comments or articles written in this publication, forward a letter to:

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■ CREATORS' GROUPS UNITE TO BLAST BOSTON GLOBE

Debra Cash, Boston Globe Freelancers Association

Five major organizations of writers, graphic artists and photographers have united to denounce The Boston Globe's attempt to cram an unfair contract down the throats of its loyal freelance contributors. The organizations are the American Society of Journalists and Authors (ASJA), Authors Guild, the American Society of Media Photographers (ASMP), the Graphic Artists Guild and the National Writers Union.

The contract attempts to do the following:

1. Let the Globe get away with making many uses of a contributor's work while paying for it only once. This unfair practice is in direct conflict with the spirit and intent of U.S. and international copyright laws.
2. Coerce the authors and artists into retroactively ceding to the Globe, with no additional payments, rights to work previously published in the Globe. This would enable the Globe to seize material from contributors that potentially is worth millions of dollars. It also is a desperate backdoor attempt to bypass a recent United States Appeals Court decision. The ruling known as the Tasini decision stated that publishers who made additional uses of a contributor's work without contractual permission were in violation of the copyright law. And the Globe's new contract does nothing to remove the newspaper's liabilities.
3. The coercive message continues with a "take it or leave it" demand by the Globe that contributors either sign the unfair contract as is, or never contribute to the Globe again. The spirit of give and take negotiations, as envisioned by the framers of the copyright law, has been elbowed aside by the Globe's preference for the "spirit of take."

The ASJA, Authors Guild, ASMP, NWU and the Graphic Arts Guild, on behalf of their 18,000 members, urge the Globe to rethink its remarkably unfair and misguided contract. Professional, reliable, self-respecting artists, writers and photographers will not sign these contracts. The editorial quality that Globe readers have come to expect will suffer. The liability caused by years of wholesale usages without permission will not evaporate. It is a wrong-headed attempt to build a bridge to the 19th century. And it is shortsighted since technology now enables true, painless revenue-sharing. ■



IN ● ILLUSTRATORS' NEWS ON RIGHTS

WORK-FOR-HIRE CONTRACTS ARE ABHORRENT

C.F. Payne

Strong words with reason. Work-for-Hire contracts are punitive and take the position that whatever the creativity or inventiveness you bring to a project does not belong to you. As a matter of fact you were never part of the process. You have no more claim to the ownership

of your own work than a pencil, pen or brush can claim to that same work. In the eyes of the Work-for-Hire contract you are an employee of the company for the duration of that specific assignment and any future assignment you

may contract for. Technically you should receive insurance and retirement benefits but the clients know you won't fight them for the pennies of benefits you earn on the job you contracted to produce in those four or five days of work. This part of the Work-for-Hire practice is up front and clear. Does this alone make Work-for-Hire contracts abhorrent? Maybe not. After all in a short-term relationship with a client, how can this hurt anyone? So the issue of whether to sign these contracts is an individual decision each of us has to make. I offer you some thoughts on the matter of Work-for-Hire contracts for you, the illustrator, to consider.

Anyone who has read a business publication understands that business people are about creating new business. Business people are about growth and new opportunity. Of course, this growth and new opportunity is usually reserved for themselves. In the efforts to create this new growth and new opportunity, business people must have a plan. Often times they have short-term plans and they have long-term plans. I think it is safe to say that the folks at Disney have a few ideas about what their next animated film will be. I also feel it is safe to say they have a number of scripts they may consider producing over the next fifteen to twenty years. Disney is not alone. The Air Force jets we see flying overhead, use technology that was developed at least twenty years ago. None of this is unusual or in itself bad. But let's look and see what could take place in our illustration world with these Work-for-Hire contracts in place.

Let's take a company, XYZ Publishing Company, with some twenty publications under its umbrella and have them acquire a few associated business entities, just for fun. Now the XYZ Publishing Company has a new Work-For-Hire contract. Now maybe some big shot illustrator won't sign that contract. So what, "we'll waive that stuff" for him or her, but any young illustrator with little leverage

may be compelled to sign. The idea of

being shut out of all twenty publications is overwhelming. Besides, who can this hurt, it is only one illustrator. All you have to do is multiply this scene by fifty, remember the contract is for that specific work and all other future works, and this could be a problem. With a little

forward-thinking the XYZ Publishing Company can, with relative ease, create a whole new visual library of images to which they own all rights. With the technology of today and tomorrow, the XYZ Publishing Company can hire its own staff to create at will whole new works of art without the need for illustrators to "gum up the works." In doing this, there could be a decrease in the availability of commissioned work, thus keeping downward pressure on prices for illustration. In addition, because ownership of the artwork belongs to the XYZ Publishing Company, they could sell the work, like any other asset they own to anyone else, i.e. a stock illustration company for resale to your customers.

In presenting this scenario, I do not wish to be looked upon as some Orwellian conspiracy freak. I do not have inside knowledge for any of this "rant." But I do have a brain and all I ask is, is this out of the range of possibility? People in business are not stupid. In a capitalistic economic environment, profits and profit margins are important. If one can find success with the model I propose, who is to say it won't become reality. And in the end, who will be hurt by this hypothesis? The very strong of us may be OK, while the very vulnerable will be exploited, leaving behind the vast majority of us to take the brunt. It is for this reason that I find the Work-for-Hire contracts before us abhorrent. It is why I will no longer sign them. (I think I did sign one a long time ago, it was before I decided to pay attention.)



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Why Partnership?... continued from page 3...

Artists Taking Control

To reach their economic goals, artists must be equipped to effectively compete in a rapidly changing business and technological environment. First, artists must retain control of the intellectual property rights in their works. Second, artists must begin to exploit the important secondary markets that are opening up for their works, including posters, limited edition prints, greeting cards, postcards and calendars. Third, artists must learn more about how to use new business and technological models to control and exploit their intellectual property rights and content in the networked environment. Organized by and for professional illustrators, the Illustrators Partnership is responding to these issues and many more.

Values and Vision Of The Partnership

- Assert the value of an artist's portfolio as an asset of the creator, not a source of free inventory for others.
- Educate artist on how to protect and manage their intellectual property rights.
- Conduct research and prepare a comprehensive report on how illustrators can take advantage of the emerging opportunities in electronic licensing and publication of their works.
- Engage in research on the development of authentic secondary markets for artist's work.
- Define and uphold professional standards among illustrators to protect them from unethical business practices.
- Raise the visibility of illustration through a public relations campaign.
- Link isolated members through a newsletter and website.
- Provide educational and promotional materials to the general public.
- Conduct regular illustration conference and occasional programs on topic of interest to the field.
- Promote museum exhibitions of illustrations.
- Provide insurance and retirement plans.
- Achieve group rates for membership in other professional organizations and for members to avail themselves of professional services.



Membership Categories And Goals

The Partnership encourages applications from professionally accomplished illustrators whose work has been accepted to any of the following national competitions: The Society of Illustrators, Annual Exhibitions; Communication Arts Illustration Annual; American Illustration; The Society of

Publication Designers Annual; The New York Art Directors Club; AIGA, Communication Design Annual, and GRAPHIS Annuals. In addition, artists may be accepted as members on the basis of the quality of their work as reviewed by the Founding Members or because of special contributions to the field of professional illustration.

Founding Members

The initial Board of Directors of IPA is seeking to expand the number of Founding Members to include approximately 100 of the nation's leading illustrators. During the formative years of the organization, Founding Members will be asked to take an active role in making decisions on a broad range of issues critical to the future of professional illustration in America. Only Founding Members will be eligible to vote in the next election of IPA's Board of Directors in 2003.

General Members

During its inaugural year, the Illustrators' Partnership is encouraging applications for General Membership, including any artist who attended the First Illustration Conference in Santa Fe, New Mexico, October, 1999.

Student Members

Full-time enrolled students also are eligible to join and to apply for General Membership upon graduation and the fulfillment of the above requirements.

Special Membership Categories

In addition to editorial, book, institutional and advertising illustration, the IPA plans to feature special membership categories in such areas as medical, humorous, science fiction, fantasy, and romance illustration. The IPA is currently working with leading artists in these fields to establish appropriate membership criteria.

Membership Fees

Founding Members are being asked to make a one-time contribution of \$1,000. Thereafter, the general annual membership fee of \$300 will apply. Your contribution permits you to play an active role in the affairs of the Partnership and to vote during the next election of the Board of Directors in 2003. By becoming a Founding Member, an illustrator is making an investment in his or her future in the business of professional illustration that should pay dividends for years to come.

General Members are being asked to pay an annual membership fee of \$300. During IPA's inaugural year, the Board of Directors has approved a reduced membership fee of \$200 if received before August 1, 2000. General Members are entitled to all the rights and privileges of IPA membership. However, General Members do not have voting privileges.

Student Members are being asked to pay an annual membership fee of \$50. Student Members are entitled to a limited number of benefits before becoming eligible for General Membership. Examples include reduced fees for IPA seminars, free IPA newsletters, and access to educational materials.

The Path Ahead

The goals of The Partnership are ambitious, and they cannot be achieved easily or overnight. But the Board of Directors strongly believes that the time is right and the window of opportunity, though small, is open for illustrators to reposition themselves in the marketplace. The Partnership is devoted to fulfilling this mission, thereby giving professional illustrators a vehicle to join together and promote their long-term professional and economic business goals in a rapidly changing business and technological environment. We invite you to join us.

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Q & A'S REGARDING IPA

What is the Illustrators' Partnership of America?

The Illustrators' Partnership is a non-profit organization incorporated to promote professional illustration and to protect and promote the intellectual property rights of its members.

How does the Partnership plan to do this?

One of our first tasks will be to investigate and prepare a report for our members on the changing business environment for professional illustrators. This will include emerging opportunities in electronic licensing and publications. In addition, we plan to educate professional illustrators and students regarding their intellectual property rights through seminars, pamphlets and tapes.

What role is there for another non-profit illustrator's organization?

The IPA is the non-profit parent body from which we hope to create a profit-making society to license artwork and collect royalties. This licensing society would be similar to ASCAP or BMI in the music industry. If we can accomplish this goal, the society will be administered in an appropriate entrepreneurial manner.

Will the IPA adopt the ASCAP or BMI models?

No, because people don't buy illustrations the way they do music. Our model will have to be tailored to our specific needs and the needs of our clients. Our goal will be to compete effectively in our primary markets and develop authentic secondary markets for our work.

How will artists raise the money to do this?

The talent gathered into the Illustrators' Partnership

Why Partnership?... continued ...

will constitute an ASSET. We can use this asset to raise venture capital.

Why will this require so much money?

So as to brand and promote the licensing society in a marketplace where conglomerates like Getty and Corbis are already spending millions to reach potential clients.

But why venture capital?

Otherwise, as artists, we cannot pool enough money to place the Partnership in a competitive position.

Isn't it risky to involve outside investors?

Yes, and this makes it imperative for artists to retain majority control. We've retained a prominent and influential legal team in Washington to represent us. We are creating a board of "Founding Members" to consult on major decisions.

Will a licensing society be a stock house?

No, but it will serve clients in a similar fashion. A licensing society is one of the few legal ways we can band together to meet the challenge posed by giant stock houses. A licensing society will offer clients a large and varied selection of pictures for commercial usage, just as a stock house does. But the organization will be structured and operated for the benefit of artists.

How will it differ from a stock house?

Artists will keep their rights, set their own prices, profit from their sales (minus a service charge) and have access to their clients. A licensing agency presumes any picture might sell one or more times over the course of the artists' copyright (lifetime plus 70 years). The licensing agency will NOT try to sell an artists' work as many times as possible at discounted prices as stock houses currently do.

Does stock really pose a long term threat to assignment illustrators?

We need only note the extent to which stock houses have devastated assignment photography to demonstrate the challenge they pose to us. But unlike photography, stock houses have only got their feet in the door of illustration. It's not too late for us to unite to protect our long-term interests. As the creators of illustration, we are entitled to insist that nobody has the rights to sell our work except on our terms and for our best interests.

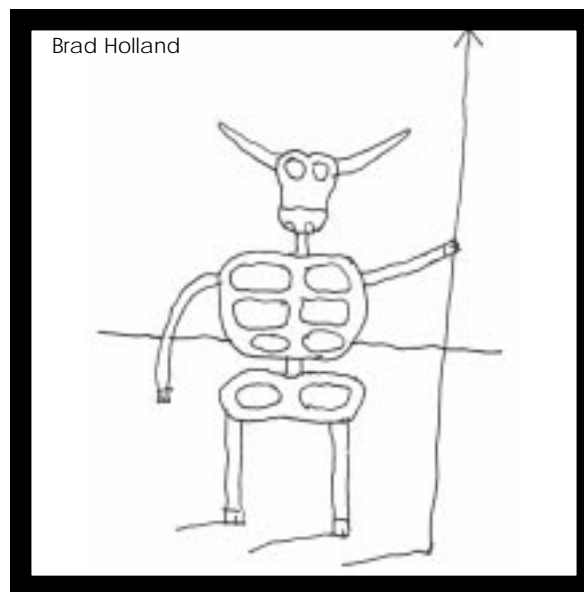
What guarantee is there that the Illustrators' Partnership will succeed?

None. Indeed, it's important to stress that this is an untried venture and that stock houses have the early advantage. But the fact that large corporations are spending hundreds of millions of dollars to enter our field is the best reason we have to protect our rights and create a mechanism to compete with them.

What about artists who don't want to sell "stock"?

Why should they commit themselves to the Partnership? Artists may or may not use the licensing agency to sell the secondary rights to their work. That will be their choice. But we each do work over the course

of our careers that we're proud of. There's no reason these pictures should be published once and never used again. Each of us should be free to determine (with our primary clients) when, where, how, on what terms and in what venues we can dispose of those rights. A licensing society would establish an artist's past work as an individual asset. It would provide him with a mechanism to archive the work and regulate sales if he chooses to do so. If he prefers not to, his work will still be protected against unwarranted usage by others.



But shouldn't secondary rights be sold for less in order to protect assignment fees?

Not necessarily, for several reasons: a.) Most artists do work early in their careers for "beginner prices." As their reputations grow, the value of their work should increase, not depreciate as it now does under the current stock house practice; b.) Clients who buy "stock" can see what they're getting and have it fast. In any other business rush service means premium pricing. Why not in illustration, as well? c.) Assignment fees have stagnated for 30 years while the cost of living has quintupled. There is some evidence to suggest that the individual artist who prices stock on a par with assignment fees might drive his assignment fees upward, and we believe he is entitled to; d.) What if some artists choose to discount their own fees? A licensing society cannot stop artists who want to lowball their own prices. But by decentralizing the decision making procedure, it can keep stock houses from institutionalizing the practice; e.) Will the Illustrators' Partnership be a union? No. It will be a trade association

Why not a union?

Under existing law artists can unionize only if they accept the legal definition of "employee" and surrender the rights to their work to the companies that pay them. The Graphic Artists Guild would like to change this law. So would we. But this could take years and the marketplace is developing rapidly beyond our control. We believe the most prudent course is to act boldly under existing laws.

What can the IPA do that the Graphic Artists Guild isn't already doing?

The Graphic Artists Guild is a venerable organization with a broad mandate to improve artists' rights across a broad spectrum. The Illustrators' Partnership will be dedicated to the specific goal of protecting each freelancer's intellectual property as a long-term asset.

How will IPA membership differ from membership in the Guild?

In addition to representing professional illustrators, the Graphic Artists Guild also represents freelance and in-house designers. Many designers do and will continue to patronize stock houses for cheap art. We believe this presents a potential conflict-of-interest for those illustrators who see cheap illustration fees as a threat.

But GAG membership is inclusive. Why limit IPA membership to professional illustrators only?

The Illustrators' Partnership will welcome and maintain student memberships. But we believe it's important to uphold professional standards. Our industry can only be harmed if stock houses continue to amass a work force of semi-professional artists, who are willing to supplement their day jobs by working on spec and earn "a little extra money" in their "spare time." A union might protect these people by elevating their status to that of an industrial worker. But to ask the rest of us to sacrifice ownership of our work would undermine the entrepreneurial spirit that has characterized our business for so long.

By accepting only "professional" illustrators, won't Illustrators' Partnership be "elitist"?

Only if you define professionalism itself as "elitist." Since IPA membership will be based on acceptance into national juried competitions and since those competitions will be conducted by unrelated organizations, the Illustration Partnership of America will have no direct control over the majority of our members. Moreover, since any artist will be eligible upon acceptance into any future competition, IPA membership will be wide open to any future deserving candidate.

Will the Illustrators' Partnership compete with the Graphic Artists Guild?

No. In fact, many of us are and will continue to remain members of the Guild. We plan to work with the Guild to improve artists' rights. We hope they'll work with us on our specific venture.

How will Illustrators' Partnership differ from direct stock services such as ispot-Showcase or Workbook?

We currently have no mechanism for selling "stock", or promoting members' work as these privately owned companies do. The business model we devise will require us to learn from and work with those who have already established a presence in the marketplace. Our immediate goal is to strengthen the voice artists have in business decisions which affect our futures. ■

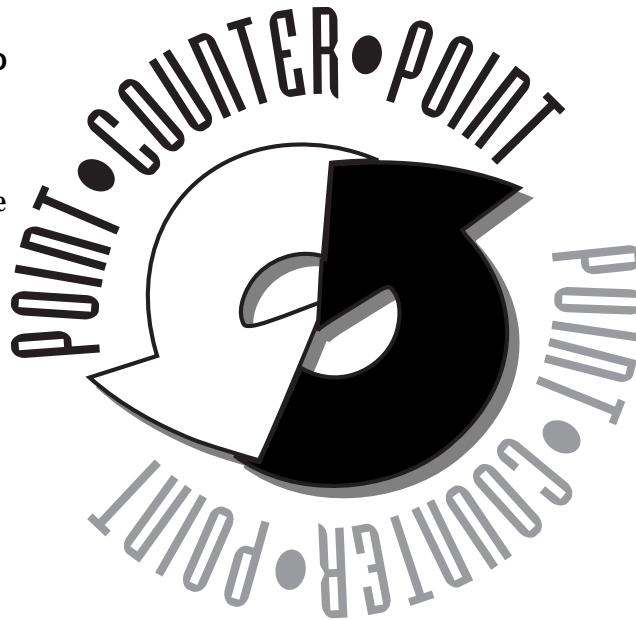
Ken Dubrowski and Marc Burckhardt addressed the following comments to artist's sourcebooks in January of this year. They received four replies, two of which are published here.

One of the most controversial events at the Santa Fe Illustration conference was the session entitled "Making The Most Of Your Advertising Dollar". Billed as a discussion on marketing, it was neither informative nor successful, and was the only event that failed to produce real results. The panel, made up overwhelmingly of sourcebook salespeople, focused primarily on pitching ad space, while ignoring the many other promotional avenues available to today's illustrator. Some of their less than surprising suggestions included the idea of long-term commitment: In other words, in order to determine the effectiveness of a source book, an illustrator should commit to at least five years of repeat advertising to honestly judge how well the book has performed. Assuming an average cost of \$3000 a page, illustrators would invest somewhere between \$15,000 and \$30,000 of marketing capital before deciding if a book has virtue.

Year after year, the familiar mating dance of the sourcebooks start. We're greeted with calls from potential suitors looking for a piece of the marketing pie, replete with tales of "the largest distribution" and "best possible deals". Early discounts are used to help close the sale, often before the previous year's directory has come out. We jump from book to book looking for the magic formula that will both entice clients and suit marketing constraints. If, on the morning after, we find we've chosen a frog instead of a prince, we're left to blame no one but ourselves. Failure is never the result of the book's inadequacies, but our own for having chosen the wrong images, a single page instead of a spread, or the wrong book entirely. Thus we start the next dance with a different partner. We redesign our pages, choose more "marketable" images, spend more money, and hope we won't be placed next to work that clashes with ours.

Sound familiar? This much seems clear: the effectiveness of sourcebooks has been on the decline for the past few years. No longer is the arrival of a directory an "event" that art directors look forward to, searching for new talent and admiring new work. Instead the books— and there are so many of them!— have become massive doorstops, crammed with illustrators, and lacking focus. Art buyers are increasingly turning to the Web and the multitude of stock books to search for images, saving both time and money in the process. And yet, the cost of a directory ad continues to grow.

One of the most common endorsements illustrators make for their pages these days is "I made my money back". Making your money back is not a goal; it's possibly the simplest formula for business failure one can think of. Placing ads on the basis of testimonials and arbitrary distribution claims seems



just as foolish; anyone can pick out a success story from a pile or trot out a huge mailing list. If we, as illustrators, invest \$10,000 a year or more in advertising, we should base those decisions on facts and figures, like any other businessperson would.

There have been suggestions of boycotting the books in order to make their publishers listen. This seems unrealistic; one has to look no further than the stock house debacle to see why. Some see a need for change, while others have no interest. The changes have to come from the directories themselves, and in an increasingly competitive environment, the incentives seem clear: The book that responds first is likely to capture the biggest audience.

Below are some suggestions that we hope the directories consider. With luck, we can move forward with their implementation.

1. Vesting illustrators: discounts for illustrators who have been in the book 3 - 5 years in a row. If we're willing to make the long-term commitment, how about you?
2. Standardize information on the circulation and market reach of the sourcebooks. We've all heard the "biggest circulation" story from virtually every book, so how about an independent source or standardized accounting method from which all books draw their statistics?
3. Control production costs. Most books have exorbitant production charges for custom pages and multiple images that make final page costs substantially higher than advertised rates. A notable exception to the multiple image cost is the GAG book, so why can't others follow suit?
4. Discounts for multi platform advertising. Web sourcebooks, stock source books, mailing lists, promos— virtually every book offers these services; why not discount for bulk buyers?
5. Discounts for illustrator groups. If reps get group rates, why can't groups of individual illustrators? As

long as the group is willing to accept responsibility for every member's page cost—like a partnership—this kind of offering has no downside for the seller and only limited risk for the advertisers (know your partner before signing the group contract).

6. Limit the size of the directory. Preferably before it rivals the New York phone book for number of listings. The reason for growing page counts is obvious— more money— but the effectiveness is diminished with every page over 500. You can't justify bigger books and higher page rates at the same time.

7. Control the quality. It may be true that one man's art is another man's eyesore, but even in art, some things are objective. If a book wants the respect and consequent dollars of illustration advertisers, it has to be willing to say no sometimes. We all know what we're talking about here, and no one wants to end up across the gutter from it.

8. Sit down with a group of art directors, illustrators, and source book designers. Discuss ways to make changes in the books. Ask what art directors would like to see in them. Ask some of the more notable designers in our fields what they would do to make the books better and publish all the comments for people to read.

9. Finally, and most controversially, how about a juried directory? As a means of bringing the "event" status of directories back, and providing size and quality control as well, could a judged directory work? It could allow illustrators to show multiple images if their work is accepted, and lend an air of selectivity to potential buyers. Food for thought... ●

From Glenn R. Serbin, The Directory of Illustration

You bring up valid concerns and I appreciate the opportunity to address them as best as I can. Every week we receive "thank you" calls from our advertisers about big jobs that they have received from their ads. This is the best part of my job. Because the illustration market is now so competitive, an illustrator must do more to retain current customers. Do not look to a source book or a representative as the only vehicle for new business. A variety of marketing tools will generate new business and a source book is an important part of this program. However, a source book cannot be held entirely responsible for generating new business; I don't know if it ever could. According to the art directors I have spoken with (hundreds) very few illustrators have a marketing program to keep in touch with current and past clients.

The core of any illustrators marketing program should be about monitoring and improving relationships. Unfortunately most illustrators just do not do a good job cultivating their past and current clients.

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Please find my answers to your questions. I would appreciate that these answers be published without editing.

#1. “Discounts for illustrators who have been in the book for 3 to 5 years”. The majority of the Directory of Illustration advertisers consists of past advertisers. Our renewals set a record this year. As far as I know, most of our advertisers who have been in the Directory of Illustration for 3 or more years are in our book because the Directory is generating work for them.

Because the Directory of Illustration is already a great marketing value, by choosing the Directory of Illustration, illustrators are receiving immediate discounts; they do not have to wait 3 or more years to get a break. Our page rates are already priced 45% below our competition.

Early on I made a commitment to the Graphic Artists Guild to provide a source book marketing program with the best rates and distribution.

#2. “Standardize information on the circulation and market reach of the source books.” Good point! I believe each of the source books should be audited by a professional audit firm to confirm distribution. As far as I know, the Directory of Illustration is the only illustration source book that is audited. We publish and make this audit every February. Last year we sent the audit out with our media materials.

Our audit firm is Verified Audit in Los Angeles. Let's get the others to audit as well, advertisers deserve this.

#3. “Control Production Costs.” Thank you for acknowledging the good job the Directory of Illustration does on this topic. We work very hard to keep our production costs to minimum levels.

#4. “Discounts for multi-platform advertising.” If an advertiser buys more than one publication, they should receive a discount. When illustrators buy a page in the Directory of illustration, they receive \$500 off their CA Image advertising (CA Image is another source book we publish). We also offer advance payment discounts and other multi-buy discounts.

#5. “Discounts for illustrator groups.” We already give discounts to members of the Graphic Artists Guild. Our discounts to rep blocks are relatively small.

If individual illustrators want to purchase 3 or more pages we do offer them our rep group price structure.

Regarding discounts for individual artists acting as a group, I am open to discussing how this might work. Certain conditions would have to be met, including one artist taking full financial responsibility for the entire contract of the group.

#6. “Limit the size of the Directory.” I agree that there should be a limit to the size of the source books.

Because the Directory of Illustration has been extremely successful in generating business for

illustrators, we have experienced significant growth. Word of mouth marketing has made the Directory of Illustration experience 25% growth last year. Half of last year's growth came from representative groups.

Though we have not limited the size of the Directory in the past, we have invested money back into the book and increased our distribution 3 times during the last six years! When we took over the Directory of Illustration distribution was 18,000, it is now 22,500 to buyers of illustration, one of the largest in the industry.

For this year's edition, we will not allow the book to grow more than 8% or 70 pages. If this growth is achieved, we will establish a waiting list.

#7. “Control the quality.” All submissions are carefully reviewed each year. The most difficult part of my job is rejecting illustrator's artwork. Every year we reject thousands of dollars of advertising, which we determine is not appropriate for the Directory. Interestingly, we often see rejected work in some of the other national source books.

Please remember that art is subjective. This year we had an advertiser who was upset being placed opposite another artist. However, that particular artist has been very successful in generating work through the Directory of Illustration. We can never expect to please everyone.

#8. “Sit down with art directors and find out what they want.” Though we do issue survey cards every year, this is another good idea; we will explore this further. One thing art directors have said is that they like larger books. It allows them more choice and makes the book more comprehensive.

#9. “Juried Directory.” This already exists to a large extent. Both the Society of Illustration Annual, Communication Arts Illustration Annual, and American Illustration are juried. When you start to allow these illustrators to show more work, you begin to dilute the impact of the juried work. I believe these annuals are good resources for the art director and illustrator.

Finally, the Graphic Artist Guild has been running ads promoting the use of illustration for many years now. If you need more information on this contact Paul Basista.

When you reference the Graphic Artists Guild's Directory of Illustration please do not use “GAG”. We do not brand the Directory of Illustration as “GAG” so it is confusing to the market.

Again, thank you for allowing me to answer some of these points. Please give us a subscription to your newsletter. I'm not certain what it costs, but we want to subscribe. Wishing you well for the New Year ●



From Alexis Scott, The Workbook

The Workbook has always been about quality. Our goal is to attract the very best illustrators as advertisers. We have not raised the advertising rates in 5 years. In fact, we've lowered them. Adding in the free separation (\$135 credit per page) and exposure of the entire book at www.workbook.com, the costs have gone down not up.

We also don't make deals. Our prices are printed in the rate card, and we stick to them. There are two reasons why we chose to do this: 1.) I think it's fair. If I were an advertiser, I wouldn't want to find out that the guy down the street paid less than I did just because he shouted louder. 2.) I hate lying. I couldn't tell someone a certain price and then tell someone else something different. We do give organization discounts (10% to the Society of Illustrators, Graphic Artists Guild, regional organizations, etc.). We also give multiple-page discounts: The more pages you purchase, the lower the rate. And this can also be added to the organization discount. An advertiser can also save an additional 10% by getting their artwork in on time and paying the entire amount by June 2nd. We also offer rep discounts. And there are a couple of reasons why we do this: 1.) Reps often pay a portion of the artist's page cost; 2.) It takes a lot of time and energy on the part of a rep to get all their artists to commit to advertising in a directory; 3.) Many reps design and handle all the production of the ads for their artists; 4.) Many reps sign the contract and make all payments for their artists. These discounts are our way of thanking both artists and reps for their commitment to The Workbook. So now to answer the questions:

1. Vesting Illustrators. Giving extra discounts to long time advertisers. The business has changed. Illustration, for whatever reason, is not being used as much as it used to be. Between the increased use of photography and the growth of both rights-protected and royalty free stock, and the increased pressure on agencies to save costs rather than be creative have all added to this crisis. And because of this, we too have had to change. We've increased our advertising budget tremendously over the past few years, added direct mail to the program, and developed a viable web site as another advertising medium. We've also developed an illustration awareness/educational program entitled “Put the Art back in Art Director” to be presented as a three part series beginning in January in New York specifically for art directors, then spreading into other cities. And we've increased our commitment to support the various illustration organizations by sponsoring their meetings, mailings and speakers programs. (The Illustration Conference was just one of those organizations we sponsored.)

2. Standardize information on the circulation and market reach of the source books. The Workbook is somewhat different than other directories because

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TRUE CONFESSIONS

Alan A. Comport

One important task of an artist's representative is to support and inspire good business and marketing decisions for our talent. So after taking to heart the challenge of my business consultant to find new avenues of income for my illustrators that didn't require drastic price increases or overwhelming numbers of assignments, the idea of selling stock seemed like a beautiful thing. The year was 1993 and we had just heard about The Stock Illustration Source and the concept seemed like a win/win deal. The first illustrator from my group to jump in was my wife, Sally Wern Comport. We had hundreds of images filed away and SIS could make these images available to companies that previously might not have been able to buy art because of time, money or expertise constraints. The stock company would handle everything, the transparencies, the billing, collection, even getting printed samples. We would simply receive the residual income. We thought that this would make higher quality illustration available to new buyers, after all, there were many great illustrators and images showing up in the early catalogues. We felt it wouldn't hurt assignment illustration, it would enhance it. More art to more people would open up new markets.

On several occasions we met personally with the owners of SIS and found them to be gracious and very good business people. I believe that there has never been any malicious intent on their part. To the contrary I think that they were visionary with their service and the demand for their product and services are evidence. Sally has made a good return on her

stock images, but it became increasingly clear that there were larger issues to confront.

The effect of stock house images, that is, illustrators relinquishing control over copyright, pricing and use of their images has been unhealthy for illustration as a whole. It has hurt business, creativity and most of all it has damaged the value of art, in both the eyes of the artist and the client.



Sally Wern Comport

Over the past several years, we have begun to see disturbingly large numbers of our former clients now buying Sally's images from SIS. And why not? We used to joke with clients about the three things we could offer: quality, timeliness, and cost. Which one

were they interested in? But the way stock is being offered, a client can have it all. So many of our best and consistent clients, across all areas of editorial institutional and advertising, were buying from the stock agency for less, a lot less. We have received a check for as low as \$21.36 for an image.

But it took an article written by Michael Gibbs for SKETCHES, a publication of The Illustrators Club of Washington DC/Maryland/Virginia in the spring of 1999 to finally wake me up from my sloth and greed.

I owe Michael a great deal of the credit in laying out his argument clear enough for even my stubbornness to be penetrated. I had become romanced by the checks. Even though we are no longer adding images to the SIS bank, we must wait years to recover the copyrights we signed away. This turn of events is our doing, we created it. The lesson for me is that there are no shortcuts to excellence. Artists who want to sell stock need to control price, usage and terms of the transactions. There is value in stock and it should be priced accordingly. Doesn't having the perfect image, already done and ready to use, and being able to deliver it instantly or overnight to a client have value? The pricing should reflect that convenience. We also need to remember the value of creativity, spontaneity and innovation. The process of illustration is often the very thing that makes it so fun and exciting, both for the illustrator and client. Clients can once again choose illustrators, not simply an image to plug a hole. It's time for illustrators to dictate the prices and value of their work, not the prevailing winds of stock houses. I don't believe that the existing stock house/RFCDD's model can be modified to give artists the appropriate rights and control. It's too late for that. This is our responsibility, our business. There... that's my confession, now its back to the pew to continue my penance. ■

SOMEONE TO WATCH OVER...WHO? OR STOCK PHRASES: THE LANGUAGE OF STOCKHOUSE AGREEMENTS

Claudia Sargent

Most artists aren't salespeople or lawyers by nature. We'd rather leave the nitty-gritty details to other people—ideally, people or agencies who can be trusted to protect our interests, and who can make enough money to keep everyone happy. After all, it's the artist's job to create the artwork that provides the income stream—and art takes time to make.

In order to find those trustworthy folks to handle all those time-consuming details of art commerce, we artists have to be aware of what constitutes a fair deal. What makes a good—or bad—agency contract? What is all of that nasty fine print? Why should we care, when what we really want to do is “paint”?

Let's answer the last question first—if you don't care about the details (at least enough to have an idea of what it is that you are signing), you may find yourself

competing against yourself in the marketplace. Your business can be damaged beyond repair.

Agencies (or stock houses) want to make LOTS of \$\$\$ selling the artwork that's “gathering dust in your files”, and they all have agreements they want you to sign. Avoid potential pitfalls by looking out for key phrases in those agreements.

Here are some of those “stock phrases” and what they mean:

“Artist agrees to grant to (Agency) the right in perpetuity”... or “Artist hereby irrevocably appoints (Agency)”...

This means forever, and you can't take it back. Only your mother will honor an “irrevocable” promise made to you “in perpetuity”... maybe.

“(Agency) shall have the sole and complete discretion to negotiate and determine the terms of reproduction and/or use of any of the (Contract Images), without any requirement to consult with Artist.”

In agreeing to these terms, you relinquish the right to negotiate fees and terms of usage for your work. Who do you trust that much?

“(Agency) shall be entitled to grant rights in any of the (Contract Images) for a period of time in excess of the term of this Agreement.”

However many years you may intend for the Agency contract to endure, this clause means that the individual deals made by the Agency can extend beyond that time. You can find your images committed to a ten year license under a 5-year contract. Hey, if that works for you...

“Artist agrees to grant to the (Agency) the non-exclusive right to sell usage of the (Contract Image) following the termination of this contract.”

Granting a non-exclusive right to another party for an open-ended term impairs your ability to transfer any EXCLUSIVE right to the artwork. You can't license this work through another stock agency—even an artist-controlled one—if the new venue expects to be the exclusive source of a contract

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Someone to Watch... continued ...

image. If you intend to license this image to a client yourself directly, you can't grant any exclusive usage to the image—which damages the image's saleability.

Signing a contract with this phrase places you in direct competition with yourself in the marketplace—except yourself is represented by your ex-agency.

Who's going to protect your best interests — you, or an agency with whom you no longer do business?

“Usage of (Contract Images) will be for sale ... to third parties for resale, throughout the world and through any and all media.”

When you grant an Agency the right to sell your artwork to third parties for the purposes of resale (a.k.a. “third-party sublicensing rights”), you are not

only giving them the right to compete head-to-head with YOU in the marketplace, using your images—you are allowing them to grant that right to other folks anywhere in the world, using any media they desire. Now, imagine a negotiation where you were bidding against any number of third parties who also had the right to make a deal using your images.

Who's going to negotiate the fairest price for your work? Who's going to negotiate the lowest price? Who's going to make that sale?

(Agency) shall have the right to assign any or all of its rights and obligations pursuant to this Agreement. Artist may not assign this Agreement in whole or in part.

That's how you end up under contract to organizations you'd rather not do business with. That's how artists who signed an agency contract with an artists' rep in the Pacific Northwest came to find themselves under contract to Getty, and their images up for sale on the Getty One website.

In general, if you can't assign your responsibilities under a contract, you shouldn't allow the other party to do so. Unless you don't mind waking up next to a stranger...

This list is by no means exhaustive—but it'll provide a starting point. Find out more about the language of contracts—you can do so at the Graphic Artists Guild's website, www.gag.org. Follow the contract monitor links to access our glossary and to download archived issues of the Contract Monitor Newsletter. Sign up there for a free subscription—in the near future, we'll be reviewing the Getty One/Illustration Works contract and the new New York Times contract too.

It's nice to have someone to watch over you—but first, watch out for YOURSELF. That's how you'll know who's out to help you, and who's not. ■

Claudia Karabaic Sargent's e-mail: cksargent@mindspring.com

Point Counterpoint... continued from page 7...

we print over two-thirds of our distribution in our directory/phone book. Every advertising agency and design studio with two or more art directors/art buyers, who see portfolios, gets books. (We also recognize that there are some companies with only one art director who generates a lot of assignment work, and they too receive complimentary books.) A list of our corporate/editorial distribution, which makes up the remaining one-third, while not printed in our directory, is available to any advertiser for the asking. There are independent companies that audit distribution. But what they can't do is verify that the person on the list is really an art director/art buyer who purchases art.

3. Control Production Costs. Production costs are not a money-making area for The Workbook. More and more advertisers each year are saving money by submitting supplied film (no production charges) and hi-resolution files (only \$50 production charge). The charges for separations are \$135/each (minus the one free separation per page). We feel this is a fair price because of the high standards that we have in producing our book. We spend MORE on production and printing than any other book. That's because we are committed to quality. We require our separators and printers to work hard. We're known in the printing industry as “THE HARD BOOK” because we are so demanding. We think it's worth it by the reputation that The Workbook has earned.

4. Discounts for multi-platform advertising. We do give multi-platform discounts. Illustrators who commit to The Workbook 2001, Stock Workbook Illustration 2 and www.workbook receive an additional 10% discount on top of all the other discounts available.* We also offer discounts to our advertisers on mailing labels (*An additional 10% discount is not available on The Workbook 2001 only to illustrators who receive the multiple page discount of 8 or more pages as printed on the rate card).

5. Discounts for illustrator groups. This must be further clarified. Will there be anything (group name, logo, phone number) that signifies that this is a group? Will there only be one contract? Who will be making payments? Is this just a group of friends?

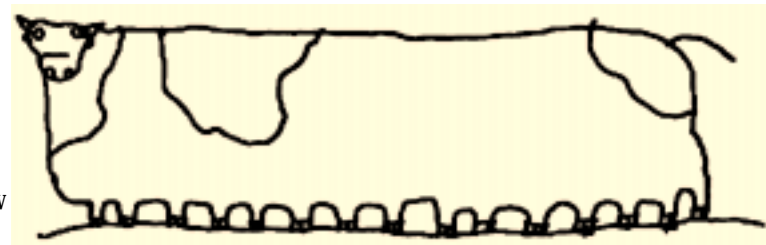
6 and 7. Limit the size of the directory. Control the quality. While I know it doesn't look that way, we do. The Workbook Illustration has remained the same size for the last three years. Why is it so big? The answer is not simply “\$”. How did we get this big in the first place is a really good question: A.) When we were smaller, we were told by potential advertisers that they wanted to be in “the bigger book”; B.) Artists have a way of not committing to advertising until the very last minute. We never really knew how many pages were in the book until we laid it out and sent it to the printer. That's one reason we created our “Win a free page” contest. Any illustrator who signs his/her contract by the first closing is automatically entered. This way, we now have an estimate as to how many pages we have and can close advertising sales early; C.) How do you tell a representative who has supported you for years that they cannot buy another page? D.) How do you tell an illustrator who has been in the book in the past that he/she can't come back.

8.) Have a discussion with art directors, illustrators, and designers. We continually do that. In fact, that's how and why the book has evolved to where it is today. We talk and listen to our advertisers and users. We send out questionnaires and do phone surveys asking specific questions about how art directors use the book, what they want and don't want in it, and how to make it better.

9.) A Juried Directory. Definitely a complex question. Specifically because of the way juried books

have been produced in the past. An illustrator pays a small entry fee, and if chosen, gets included in the book. The books are then SOLD to art directors. Since art directors get directories for free, most do not buy the juried books.

To do a juried book and make it effective, it too would have to have a large complimentary distribution. That would be the only way to guarantee exposure. Therefore, all illustrators who chose to submit work would also have to commit in advance, if selected, to buy a page or two. This would make the timing really difficult. You'd now not only have to sell the potential of having to buy a page, you would also have to add in the time it would take for the judging to be done, and the time to design each page. It could probably work the first year, but the second year would be tough. Because it would require such a long lead time (at least six months longer than the directories), people in Book 1 would have to commit potentially, if chosen again, to buying pages in Book 2 before Book 1 was even printed. It also seems that the same people tend to win awards year after year. After a while, would this book start to lose its edge? And what about the rep who wants to be able to show all their talent? What happens if only four of their artists are selected for inclusion in this new book? Or the independent



illustrator who is really talented, but for whatever reason, is excluded? Would we not be hurting these illustrators who were not chosen? Would their careers suffer? Lots of things to think about. ●

BULLISH ON THE STOCK MARKET

Jack Harris

The debate among illustrators regarding the appropriate “place” in our business for stock illustration and how best to use our assets (previously created art) without devaluing or cannibalizing future sales of commissioned art (which is generally more lucrative, and frankly, a lot more rewarding) has generated a heated and often silly verbal ping-pong match among the practitioners of our profession. The bulls seem to see dollar signs and refuse to consider any other point of view. As long as they are doing well now, the structural impact on the economics of the industry are of little concern. The bears, on the other hand, seem timid and apprehensive. Maybe they haven't done as well, and wonder now whether contributing to the growth of the stock illustration market hasn't created a climate that could very well posit a future of economic uncertainty.

As always in these kinds of discussions, in my estimation, everybody is right, nobody is wrong. The challenge is to (as an individual) evaluate the degree to which each side is right and pick and choose from the available points based on your individual needs and goals. In other words, we won't change each other's minds. The goal for each of us is to be as informed as possible, make choices that fit us best. And to realize that such an evaluation could take place from year to year or day to day. And we must be prepared to adjust our course.

I am an early adopter. I signed my first contract with a rather large and very well known stock illustration organization in 1993, with the book appearing in 1994 (its first issue and the first serious attempt at marketing stock). While the work I was doing wasn't particularly well-suited for stock, my strategy at the time was that this was the equivalent of a less expensive directory page (compared to the Directory of Illustration or Showcase) through which I would generate commissioned art. If I sold an odd piece for stock here or there, it would just be gravy. I signed my second contract and created ten images specifically for stock based on very early (and in hindsight) premature evaluation of the success of the first set of images. I actually generated what I considered to be a fair return on my investment and received a single commission from a client (AT&T) that I probably would not have been able to get without the exposure from that first book. I had one image in particular that sold over and over and over. My return on investment from the first two years was about 10 to 1. Not too bad for an unknown, third-string illustrator.

By the end of second year, sales dropped off dramatically, but I was still generating a profit. But it got me thinking that maybe the proliferation of this “instant” art had a downside that I hadn't fully considered. By the third year, the number of sales remained relatively constant, but the average price for an image dropped seventy-five percent. I was receiving checks for as little as twenty-five dollars for the re-use of an image, not to mention the fact that absolutely no inquiries (that I am aware of), much less commissions, were being generated by my presence in the book. I declined to participate in the publication of subsequent issues and began to develop my own web-based solution to offer images to the art buying audience.

Meanwhile, the volume of sales of the images in the first two stock collections continued to decline, an expected development since I was now not represented in the new issues of the book, but I again reasoned that anything else generated from those first two books was pure profit and that there was no harm in that.

Boy, when you're wrong it's not easy to see how wrong you can be.

Stock had come of age. No longer referred to as “clip art” and no longer created by second- and third-stringers (many illustrators, including internationally respected artists like Guy Billout participated), it seemed capable of eclipsing the commissioning of original art. This was due in large part to a number of significant structural, professional, cultural and economic changes occurring in both the advertising and

Hal Mayforth



editorial markets. Competition increased exponentially. Every designer with Illustrator and Photoshop in his software arsenal was now a potential competitor. Deadlines were compressed and have since collapsed into a creative black hole where the need for freeze-dried, overnight solutions is essential. Illustration seemed to be increasingly used as filler for pages, as purely decorative elements, with much less emphasis on provocative conceptual work (i.e. Brad Holland), and as a way to create images that photography could not cost-effectively accomplish.

We've also experienced a vast homogenization within the discipline as illustrators turned to digital tools to create their images, due to market pressures and other factors. This homogenization has contributed to the perception that what we create as illustrators is more and more a commodity. An illustrator's “look” has to be dramatically different to separate him or her from the pack, but then the speed of communication and proliferation of the use of these images only serves to further “commoditize” that new “look” and assimilate it into the ubiquitous. Some of these “looks” are so dependent on the software that imitators are spawned as soon as the latest software upgrade appears.

So, where does this lead us? First, stock is here to stay, is not inherently evil and does not necessarily have to cannibalize commissions and assignments. The necessity here is for every illustrator to gain control of the pricing of his or her work. The problem isn't stock. The problem is that your work is being valued, not by market conditions necessarily, but by business people who are strictly motivated by volume of sales. I personally would rather sell one stock image for \$1000 than ten images for \$100. I think the logic of this is self-evident.

this leads me to the first article of the Stock Illustration Bill of Rights: THE RIGHT OF REFUSAL. Do not sign a contract with a stock house that does not give you right of refusal on a proposed fee for a piece of your art. If they won't concede this point, find another stock house or sell stock yourself. Whatever you do, don't allow yourself to be placed in the position I find myself in now, where my average stock sale for 1999 was \$128. Hardly a professional wage in anybody's estimation. And all of you art directors, designers and art buyers out there: How secure do you think your job will be if buying art is as simple as picking cross-indexed, spoon-fed, generic pablum out of a twenty-pound catalog? It is your taste, expertise and training that has contributed to a century of great illustration and illustrators. The work and the profession are greatly diminished by the loss of the creative collaboration between art director and illustrator.

Let's face it, the computer has changed the way we do our jobs at the most fundamental levels. Most of us who practice the discipline of design would agree that the quality of work has suffered since the art and craft of typesetting was made obsolete by PageMaker

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and Quark. When was the last time any of you actually used a real typesetter? And are there really any left, except maybe in the book world? For that matter, service bureaus came and went in a matter of three or four years. They were born out of the technological revolution and died because of it.

Illustration is finding itself moving down a well-worn path: Much of the bread and butter of an average design firm in 1982 (simple newsletters, single page selling sheets, technical data sheets) have disappeared and are being done by individuals with “desktop publishing” experience. Some of you may argue that it’s work that isn’t particularly desirable, but my argument is this. That work disappeared because business asked itself a simple economic decision—was it really worth paying a designer \$100 an hour to produce something like that, when the boss’s “artsy” secretary could do it in his or her spare time using Microsoft Word? Business’s answer was a resounding NO. However, most of us would argue that our skills add value, even to those lowly types of projects that my mom and her twelve typefaces and a rudimentary knowledge of PageMaker can’t provide. The same economic questions are now being asked about illustration, and stock plays a large role in the answer.

With all of that said, let me propose the Second Article of the Stock Illustration Bill of Rights: THE RIGHT TO MONITOR USE. Amend your contract to obligate the stock house to providing you with a sample of every use of your art. This will eliminate another problem I’ve had with my stock representative. Because I am also the principal in a design firm, I get paper promotions from the major paper manufacturers and I received a sample from a major paper house that had used one of my illustrations as the primary component of a double page spread. First of all, the fee I received for this was not commensurate with its usage (I would never have agreed to allow this usage for the paltry fee that was paid—see the First Law) and some clever designer modified the image in a way that I would never have agreed to. This was an egregious assault on my moral rights, under U.S. Copyright Law that protects my work from being modified without my knowledge and permission. And the stock representative has no vested interest in protecting my rights.

I have had a large trade publishing client get rid of all of the art directors and designers, replace them with lower cost production people and use, almost exclusively, stock illustration. We all have a stake in these changes for self-serving economic reasons, but more importantly, the future of the quality and value of an entire industry is at stake. Now is the time to stand up and be counted. ■

GETTING PAID FOR YOUR WORK

Maria Piscopo

The spirit of the copyright law is to give *you* control over the profitability of what *you* create. Pricing is then selling the use of your work, and you must educate yourself on all aspects of usage pricing for freelance work. These usage rights must be clearly stated at the beginning of any project. When no rights are stated, no rights are transferred and the client is just paying for the pleasure of working with you! This is a very vulnerable position to put your clients in and potentially a legal “mine field”. For example, when your client decides to use the work for other projects than what you had in mind, you’ll be forced to bill them or even start litigation. It is much easier to get these details handled at the beginning of the project on a contract.

To get the best price for your work, try the following techniques. Please remember everything you do and say when you first talk “price” with a client will be carved in stone and very difficult to change later.

#1. Remove the “You” from discussion when price comes up. It is difficult to price “You”. Talk about what “The project” is worth, not what “You” are worth. You are likely to be more objective and professional about a project than about your worth.

#2 Use industry standard forms with legally adopted terms and conditions. Don’t re-invent the wheel! Get your relationship off to a professional start by acting like a professional. If you haven’t purchased the *Graphic Artists Guild of Pricing & Ethical Guideline, 9th Edition* (North Light Books), do it today. In addition, the American Institute of Graphic Arts (New York) publishes standard forms for estimating and invoicing for graphic designers. Know your industry business practices and standards. If a client abuses you on price or copyright because of your lack of knowledge, you have no excuse. The Guild and ALGA have worked very hard to bring you this information.

#3 Determine if you are in a competitive or comparative pricing situation from the beginning. In a competitive bid, the client (often government contracts) hires the lowest bidder. In a comparative situation, the best person or firm for the project gets the job. Competitive bidding can be very lucrative but you must make a profit. In a comparative bid, creative professionals have the chance to “sell” their work and get their price with an irresistible benefits package.

#4 Find out who is really in charge. Does the person that has both the responsibility to find you have the authority to hire you? If not, find out who makes the final decision. Make sure everyone involved has an original copy of your proposal.

#5 Good pricing situations are built on what the client really needs, not necessarily what they say they want. For example, a client on your first collaboration asks you to illustrate a direct mail brochure. Without determining their marketing objective, you could give a price on the wrong project! Ask, “What is your purpose, goal or objective? What do you want the customer to do?” If the answer is, “We want everyone in the industry to recognize our name”, perhaps it would be better to suggest a trade magazine ad illustration.

#6 Your packaging of cost proposals with the benefits of working with you can be the difference between getting the job or not. The increase of projects put out “to bid” by the client means closer scrutiny of each and every proposal. It means more people involved in this examination of your price. A thorough “benefits” package that describes your professionalism, expertise and abilities will help the client decide to hire you at your price. State clearly what your proposal does not include (such as endless comps or retouching) so that your client knows what other information is needed for a complete cost. You should also state that your client would receive an estimate amendment when they make any changes or revisions to the original job description.

#7 Finally, the proposal package should include relevant samples of your work, especially with new clients or big jobs. Plan to visually re-establish your professional credentials. Your client probably has other bids and they will likely have to “sell” your price to some higher-level committee, their own client or boss. Help them help you get the project at the price you want!



Maria Piscopo is an author, photo rep and consultant specializing in marketing and management for creative professionals. She teaches both the “Managing Creative Services” and the “Freelance Success Strategies” classes for Dynamic Graphics Educational Foundation. For a Spring 2000 class schedule, visit Maria at <http://e-folio.com/piscopo> or contact her at Mpiscopo@aol.com.

MAKING NOIS

Cathie Bleck

We, the community of illustrators are a key ingredient in the sumptuous world of ideas and communication today. Each of us carries our piece of creative energy and insight to the feast. What we do both individually and collectively is unique. However, our profession carries many common threads, and how we share this information is vital to the changes and process that shape and influence our profession.

When we met in Santa Fe it was a historic event. Five hundred illustrators came together hoping to effect change. We left enlightened about how to better negotiate our contracts having learned about the vast differences between a licensing organization and a stock company, and about the issues of integrity and ethics facing our profession. A dialog has begun and those that attended have come away with a vision of our illustration community as much more than the sum of each of us working alone.

When we returned home many of us felt compelled to share the music that was playing in our heads with those who were unable to attend. Music played on a new instrument, sensitive to global unifying cords and harmonies in our profession. Music that can only be played when we, as individual professionals come together to teach, to learn and to seek out opportunities for change and growth.

I began to hear this music four years ago when a small group of illustrators came together in northeast Ohio to form an illustrators group which we call NOIS (Northern Ohio Illustrators Society, pronounced noise). We envisioned NOIS as a local resource for

illustrators in our area, focusing on the interests and needs of our profession which went beyond the opportunities created by other successful organizations such as AIGA, GAG, and The Society of Illustrators. We first assessed the needs of the local illustration community to see what was lacking and



what we could do to strengthen it. We then began with a general meeting not unlike the Santa Fe conference. Over time, we have evolved into an important leading role in the visual community. One vital aspect of a regional illustration group is to develop relationships with the local illustration and design departments of schools and universities. Design departments particularly need to understand what it is that we do if they are to prepare students to work with illustrators. We were able to get free space to meet, at the Cleveland Institute of Art in exchange for free membership to their students. Through our

gallery shows members have pushed their work and produced a member's directory that has been used for marketing purposes. We have come to have better insight and understanding of our profession through the lectures and meetings that we have tailored to our organization. Initially, we invited lecturers that lived close to our area, but worked nationally. Later we invited friends who lived at a distance. They were

gracious enough to come, despite our low budget standards, staying in our homes and staying over a Saturday night so that we could save on airfare. We slowly have acquired some corporate sponsors who respect our focus on professional development. In order to have a better understanding of the copyright law we invited a local attorney who now serves as a valuable local contact. Members have presented information on how to build and design websites and on how and where to market our work. Our membership has grown to about fifty members which has increased what we are capable accomplishing. Recently we have posted a NOIS web site (NOIS.com), which highlights the work of our members, locally, nationally and internationally. If this interests you in your community, the key ingredients are to define your goals and develop a core group of five or six people with varying organizational skills that can create a vision, make phone calls, and produce publications. You must be willing to make mistakes and to be

forgiving of others. No one person can own it and all must share in the credit. There are rewards of all kinds, but none greater than your own personal reward of knowing that you have given back to your profession and have ended your isolation.

NOIS is making music or "noise" in our community, but only on a small scale. "Chamber music" for a grateful few. I wonder, and I hope, that the music we heard in Santa Fe will keep playing in our heads, forming the first movement of a greater work, one that may link many more of us together. The melody has started, shall we create the orchestra that can do it justice? ■

ORCHESTRATING UNITY

Are you interested in a professional organization of illustrators in your community? If so, here are some suggestions of how to get started:

1. Identify a few illustrators in your area who feel that socializing, networking, educating each other, and interacting with students is an exciting idea.
2. Meet informally with this core group of founders on a regular basis for a few months to discuss important issues. For example: a support group, education and standardization of business practices, networking, legal guidance, student mentoring, workshops, guest speakers, etc.

3. Write your mission statement- two or three sentences that summarize the most important things your group hopes to accomplish.
4. Decide how often and where to meet. Consider approaching a centrally located university or art school that will give you free space in exchange for free membership to your organization. Solicit help from an illustrator who perhaps teaches at that particular school.
5. Decide who is interested in doing what. Choose an organizer who is reliable, diplomatic, a good listener, and spokesperson the group feels comfortable with. But don't expect them to do everything. Assemble a potential member's list from

illustrators, local art directors, or check periodicals that may have names listed.

6. Arrange your first meeting with potential members as an open forum for discussion of an illustrators group. Charge a small fee at your first meeting to cover postage, food and drinks. At that initial meeting, encourage artists to bring their portfolio and ideas. The meeting could start with artists reviewing each other's work. Then present the mission statement to the group and the possible scope of what the organization might provide. Discuss what they would like to have in their organization, the possible name, how often and what days and time are best to meet. Solicit for more people to join the core leadership group and define what you

Stock Roundtable ...continued from page 2...

Panel 1: What Is Stock And How Does It Work?

Artists' rep Tammy Shannon began the first panel by describing how artists have licensed the rights to their work in the past and how stock houses have recently gained control over the rights to much of that work. She expressed her belief that the entire illustration business is ripe for a "hostile takeover" unless artists and reps act soon to protect their rights. Artists Cathleen Toelke and Sally Wern Comport related their personal experiences with stock houses, what they've learned from them and why they've chosen to take back control of their work. Anita Kunz amazed the audience with her story of how a stock house had registered her domain name and names of other illustrators for some undisclosed internet usage. Ken Dubrowski, editor of the Illustrators' News, and Claudia Karabaic Sargent, editor of the Graphic Artists Guild's Contract Monitor, discussed the effect of stock sales on assignment work and analyzed the business practices of stock houses and stock house contracts. Finally, Jami Giovanoplous, client service manager of thespot-Showcase, explained how artists could use artist-controlled direct stock outlets to control their own stock sales. She explained how this would let artists set their own prices and keep their own clients. All the panelists agreed that discount stock houses have created a buyer's market which rewards middlemen at the expense of artists. But they also agreed that artists can--and need--to develop a better business model to serve our interests and protect our intellectual property.

Panel 2: Making Stock Work For You

The second panel saw six panelists address the various ways we can institutionalize our efforts. Dick Weisgrau, executive director of the American Society of Media Photographers, described the "tragic" effects of stock on photographers over the last 20 years. And he suggested ways in which illustrators could avoid a similar fate. Artists' representative and creator of thespot, Gerald Rapp discussed the virtues of direct stock sales with Alexis Scott, publisher of Workbook and Workbook Stock. And Paul Basista,

executive director of the Graphic Artists Guild, explained the evils of royalty-free stock sales, in which artists surrender all rights to their work to stock houses for absurdly low fees. C.F. Payne expanded on the theme of changing competition, pointing out that stock houses are not "bogeymen," but simply entrepreneurs whose business strategies place their interests in opposition to ours. And finally, Bruce Lehman, president of the International Intellectual Property Institute, explained how musical composers had formed ASCAP (the American Society of Composers, Authors and Publishers) to protect their individual interests. Then he outlined for us how illustrators can create a similar licensing society through the auspices of the IPA (the Illustrators' Partnership of America). And there were others who spoke:

Barbara Nessim, a pioneer in the use of computer illustration and chair of the Parsons Illustration Department, who hosted the Roundtable, described this issue of Creators' Rights as central to the future of our business.

Guy Billout, who described his past involvement with a major stock house and addressed the audience briefly from the audience, served as witness to the adverse impact the discounting of stock illustration has had on the business. Guy declared that he, like all of us, must now assume more responsibility for how we conduct our business and protect our rights.

Greg Voth, another stock house veteran, ended the afternoon by reading, in a shaky voice, a letter he wrote over three years ago and mailed to various illustrators. It was this act which ignited the grassroots movement that has led to the Illustrators Conference in Santa Fe and the efforts now under way by the IPA to create a licensing agency. Following the panel we taped additional interviews with Bruce Lehman, Jerry Rapp, Alexis Scott, Dick Weisgrau and Michael Shapiro (Executive Director of the IPA). These interviews addressed the specific questions of how we can compete, and will be included with the panel discussions on tape #2. For

those who attended the Santa Fe conference last October, this was a combination of old news and new.

Since the event was intended as a Stock primer, we stuck to the basics and went through the issue step-by-step. But, the personal details, stories and revelations about stock house business practices brought gasps from the audience as many heard--some for the first time--the extent to which these corporations, with their volume sales at discounted prices, have affected freelancers everywhere.

All panelists agreed that unlike photographers, who have seen their profession "decimated" by these discounters, illustrators still have an opportunity to prevail over current trends. But all emphasized that the aggressive movement of corporations like Getty and Corbis into our industry compel us to act quickly if we want to meet the challenge. These panels were the first of a series. The IPA will host others starting in the Fall, again in conjunction with Parsons School of Design and The New School. This Roundtable was taped by Rosenblatt Productions, whose clients include CBS, NBC, FOX, MTV, and A&E. Copies should be available by July 2000.

Advance orders can be placed by contacting:
Illustrators' Partnership of America
201 Massachusetts Avenue, Suite C-3
Washington D.C. 20002
phone (202) 544-6690 fax (202) 478-1955

Ask For Panel 1: "Stock: What Is It & How Does It Work?" And/Or Panel 2: "Making Stock Work For You."

Tapes are \$20 apiece, or both tapes for \$30 plus shipping and handling. Remember that the money raised from sales will be used to distribute tapes to art schools (although we invite art schools to purchase tapes as well), and to fund further taped events of this sort. ■



Work-For-Hire, continued from page 4...

The decision to sign or not sign is a personal decision, not to be taken lightly. The decision you make today may have great consequences many years from now. You choose. ■

Editor's note: By the time this article was printed, that which Chris Payne envisioned is happening. Artwork now in the public domain, previously created by illustrators whose copyright has expired, have been claimed by other illustrators, cleaned up in software programs and resold to stock houses under new copyrights. It is not too far-fetched to predict that companies with Work-for-Hire collections will become sources from which stock houses replenish their inventory after illustrators stop renewing their contracts, and in the end, profiteers of images long since thought collecting dust in the Work-for-Hire basement. Stock houses will be able to sell those images for as little as they choose without having illustrators "gum up the works" anymore.

are looking for. Have a sign up sheet to record who attended, and nametags.

7. Design a 6 to 12 month calendar that states your activities and speakers. Send out the calendar with a request for dues.
8. Have some flexibility within the growth phase, it will evolve.
9. Core group essentials: Meet at least once a month, outside of the regular meetings. Divide responsibilities and define the titles of those jobs, thus building your officers. It is essential to have a recording secretary at every meeting who distributes minutes to every core member. Anyone who can't perform his or her job must feel free to solicit assistance from another core

member. Build trust in each other and allow core members to do their designated job. If you are not able to fulfill your responsibilities, resign or find a replacement.

10. Establish a voting procedure on making decisions. No doubt with all of these creative minds there will be difference in opinion, listen to all sides and vote on the issue.
11. Write your by-laws, submit for nonprofit status and hold elections so the organization can sustain itself.
12. Encourage involvement of younger illustrators. They are your organization's future. ■

THRIFTY FEES

Sean Kane

A few years ago while browsing in a neighborhood junk shop, I found a piece of illustration gold: a brilliant humorous color drawing created by Charles Saxon (a frequent contributor to *The New Yorker* and other publications in the 50's, 60's and 70's) for which I paid only \$12.

Not only is the picture a great example of his seemingly effortless line work, but the back of the illustration board is just as interesting. The writing on the back reveals that the image was used as a spot for the *McCall's* March '79 issue. Fee for usage, \$550.

Looking around at some of the invoices I've sent out for editorial work in the past few weeks, I realize that the fees are roughly the same as when Chuck put pencil to paper back in the 70s. Of course, veterans of the business already know that prices haven't moved much in the right direction for some time. Seeing my Saxon original hanging on the wall reminds me of the stagnation of illustration fees and keeps me thinking about how to improve the situation.

Increasing fees for the industry seems to start right at home: asking for more when the phone rings. With a "cost-of-living increase" of 3 percent a year over each of the past 20 years, the fee for editorial work akin to what Charles Saxon produced should have almost doubled by now. Obviously, just requesting a higher fee doesn't mean pocketbooks will automati-



Robert Neubecker

cally open, and I'll end up having only my pencils to eat if I plan on budgets ballooning overnight. But it doesn't hurt to ask (and to explain why an increase is merited), as fees obviously aren't going to rise on their own.

An upward pressure on fees seems a little easier with established clients. Having consistently produced quality, on-time work for them makes it easier to ask for a raise once in a while. I'll bet most of the publisher's other vendors raise their prices occasionally, so why not me?

Artists are also adding value to the imagery we create when delivering the sized art ready to drop into a client's layout. The fact that many artists are delivering digitally-created work or scanned traditionally-created work on disks and via e-mail is saving publishers money on FedEx fees, scanning fees, and production fees. These services (both in savings to the client and in increased tasks for artists over and above image creation) are worth something.

Making a viable living doing editorial work these days seems to mean doing a volume business as well. Since fees aren't keeping up with inflation and costs for maintaining a competitive business continue to eat into profits, more work has to be created to meet previous income levels. When I'm busy with assignments, reaching my maximum output of paintings for a given week or month, I realize that unless industry prices go higher, I could be painting away like this in 20 years and be earning only what I'm making today. This realization helps me recognize how important it is to do something simple, like ask for an increase in a project's budget.

On the other hand, when I have lots of time to stare at my framed Saxon drawing because the phone isn't ringing or when the art director says the budget ain't budging, turning down low-paying work can be a difficult choice. Knowing that another illustrator or stock house will get the call on a passed job isn't an uplifting feeling either. Working to pressure prices upward can be a daunting task. Proving myself through quality work, adding value by focusing on service and asking for a raise now and then is a continuing struggle, but it's got to be easier than finding another thrift store illustration treasure. ■

CONFESSIONS OF A STOCK ARTIST

Robert Neubecker

When Stock first knocked on my door my first impression was why would anyone except an old has-been or a second-rater ever do it? The argument went like this: Stock was a minor niche that would compete with stock photography for the low budgets of obscure nonprofit publications and the like. People who couldn't afford to commission work could buy second rights to first-rate art. Anybody who could afford custom art would continue to commission it as a matter of course. And, sure enough, this proved true. Everybody wins. The Stock founders envisioned themselves as second-rights brokers to an elite group of quality talent (and still do). Needless to say, the internet didn't exist and collecting a group of artists into an expensive catalog was the only way to do this. Poring over sales reports from my tiny corner of the illustration market, I felt this all seemed pretty much as advertised. The fees, though low, matched the small and obscure clients.

However, elsewhere in the larger picture something quite different seemed to be happening. The stock thing was successful beyond anyone's wildest

imaginings. When one can buy a finished picture for less, based on his ability to pay, he will. The corporate market has been especially hard hit. This all seems perfectly clear in hindsight. SIS and other stock houses, to their credit, still sell pictures one at a time, never royalty free, and can raise or lower rates at will. Due to pressure from within and without, they have raised their prices. I and others have made them aware of the concerns voiced at the conference, especially regarding pricing (many would say dumping). We'll see how they act on these concerns. I'm not so sure how morality or ethics fits into this. Offering a better product at a cheaper price is the very soul of the American capitalist system. At present prices, the likelihood of continued product quality remains to be seen. I think it becomes more about wise or foolish choices. Everyone, stock houses included, sees the risks of royalty-free. Most of us who have placed work with stock are certainly questioning the wisdom of our choices.

Marketing stock independently, if one chooses to, is now easy and effective and makes this whole stock house question moot. It is still my experience that what clients are looking for, for the most part, is quality art, and they will come directly to us for it

and pay honest prices. I wish everyone could have been at the conference and heard Milton Glazer and other senior professionals. We'll learn from our mistakes. If we simply take control our own stock, this can be a win-win issue.

All this news about Getty and others getting into stock, especially royalty-free illustration, is pretty disturbing. Their contracts, from what I've seen, have required that any work given them will end up royalty-free. But illustration is a much smaller field than photography, their mainstay, and it is very personal. If we don't give them our inventory, they won't have it. Clearly, being independent is the way to go.

Art directors will find us. It's their job to do so. They enjoy finding new and special talent. Brad Holland just ran an ad in *Print* for his stock collection on the I-spot. Guess what? Mine's there too. Other independent illustrators maintain individual web sites selling stock. Reps too. Keep the good stuff private. Clip art has succeeded only to the extent its cost benefits have outweighed its tacky appearance.

I've continued to sell a moderate amount of independent stock well-priced. Other artists I've talked

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SOUR NOTE

Fred Goodman From *Rolling Stone*, May 11, 2000

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Angered at the tactics of record-company lobbyists in obtaining new legislation that may allow labels to permanently retain rights to their artists' work, a group of musicians led by Don Henley and Sheryl Crow is forming a coalition and plans to employ its own lobbyists in Washington, D.C.

"It's time the artistic community looked after its own interests," Don Henley told *Rolling Stone*. "We've always been quick to organize for the environment or for human rights or for charities, but we haven't done a damn thing to organize for ourselves." The artists' ire was sparked by a last-minute congressional amendment to the Copyright Act last November, reclassifying sound recordings as "work for hire."

Previously, ownership of master recordings reverted to the artist after thirty-five years. If recordings are works for hire, however, a label could potentially retain permanent ownership. "I look forward to the day record companies are obsolete," says Henley. "We've been getting sodomized for years. Warner has made around a half-billion dollars on the Eagles recordings, and it's time I got them back for my grandchildren." The work-for-hire issue could have major ramifications for artists and record companies in the future. And it has awakened artists to the need for their interests to be voiced in Washington – particularly as the explosion of the Internet blurs the contours of the music business. Henley, along with Crow, has sent a letter to approximately 100 artists and managers seeking their participation in the new advocacy group. Billy Joel, James Taylor and



Mary Chapin Carpenter are among its first members, Henley says. The group's first order of business is likely to focus on public hearings tentatively slated for May 25th that will deal with the work-for-hire issue. Under copyright law, a work-for-hire is a work done by an employee and is either a contribution to a collection or a collaboration without a single author, such as a motion picture. In the music business, there is disagreement over whether an artist's recordings should be considered work-for-hire: Some believe the process is not akin to the collaboration in a movie; others say defining a recording as a work-for-hire is a way to assure that engineers, producers or session players will not claim authorship. The hot point, however, is what a work for hire can't do. Under the revised Copyright Act of 1976, which went into effect in 1978, authors have the right to reclaim their work after thirty-five years unless it's a work for hire. Potentially, without the reclassification of recordings, ownership could revert to

artists beginning in 2013, forcing labels to renegotiate for any they want to retain. This is viewed by some artists as the reason that the record industry's lobbying group, the Recording Industry Association of America, successfully sought the provision. Aside from the implications of the provision, the RIAA has drawn criticism for the way the change was enacted: The amendment was inserted, without debate, into a 1,740 page omnibus appropriations bill in one of the last days of Congress' first session. Additionally, Mitchell Glazier, who was instrumental in approving the work-for-hire language for the House Intellectual Property Subcommittee while serving as its chief counsel, subsequently joined the RIAA as a lobbyist. "The way this came down was shocking," says Lisa Alter, a copyright attorney specializing in music with the New York firm of Shukat Arrow Hafer & Weber. "We were in the dark."

While the RIAA continues to champion the changes, its president, Hilary Rosen, has supported holding public hearings on the issue. Rosen, who characterizes the provision as a technical rather than a substantive change, remains in favor of it but has come to appreciate the angry reaction of artists and managers. "I'm surprised by people's willingness to believe the worst, but I'm sympathetic to the buttons this pushed," says Rosen. Whether the provision stands or is removed, it may prove to be the issue that spurs rock performers to lobby for their own interests – and that could prove far more nettlesome to the RIAA. "In the near future," Henley and Crow wrote to prospective group members, "there will not only be issues of copyright ownership, but a host of other concerns such as marketing, distribution, performance rights and 'gatekeeping' in cyberspace. . . The companies for which we record are certainly not going to do what is best for us. . . If we don't stand up for ourselves, nobody else is going to do it for us."

to have had a similar happy experience. The same people come back and commission work as well. All is not lost. I have had experience both with stock agencies and with marketing independently. Speaking strictly for myself, my records show independent marketing blows away stock house sales. I've earned far more dollars on a tiny fraction of my sales. I ask full commissioned rates for stock and I

usually get them. The stock agencies have never sold an illustration of mine, even to advertising, for more than \$1000, of which I receive \$500, minus expenses. Most sales are much lower, even under \$20 in Europe. Independently I've sold images for far more than that, even before there were any independent venues for showing work. Now there are many good alternatives available. It's my belief that even if stock

agencies were totally benign and didn't undercut the market, they are unnecessary.

It's nice to sell a great editorial illustration done a few years ago for five figures and keep the money for your family. The old dream of illustrators earning royalties from existing work is very much alive. It's simply a question of whose pockets we put that money in. ■

ILLUSTRATORS INTERVIEWS

Editor's comments:

Stock houses have been able to take advantage of illustrators because we are an isolated and disconnected group of individuals. That's no longer the case. Since the Santa Fe Illustrators' Conference many who have never talked about this topic finally had their voices heard. The current discussion surrounding advertising and illustration magazines is a perfect example of artists trying to create positive change.

How many of us subscribe to trade magazines like Print, How, and Communication Arts? Many of these publications have yet to cover some of the issues discussed in Santa Fe, such as the effects of stock art on the industry.

Here's a chance for individual artists to create a dialogue about the issues of advertising money. Royalty-free CDs and stock houses. Help create an artist's platform on what you believe and ask that these publications devote space to these topics. If after you read the following you agree with its position, sign and fax back to me at 781-837-3457. Or sign and mail it to the publication you subscribe to. Or add your name and comments to explain your opposition.

PROPOSAL TO THE INDUSTRY TRADE MAGAZINES

Over the past two years, illustrators have come to understand the challenge to our industry from stock houses and royalty-free publishers. We have gone to great lengths to raise the awareness of these companies as to how they are affecting our businesses. These established and newly-formed companies are able to use their vast financial resources to advertise in trade magazines. But since no one illustrator or group of illustrators can

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compete with those resources, we find ourselves at a disadvantage. Because of this disparity, we request that these magazines consider opening an ongoing debate as part of the editorial content in their magazines. Many younger illustrators who read these publications may not know enough about this topic and may see these ads in an industry trade publication as endorsement of a service, although this may not be the intent.

We ask these publications to remember that illustrators provide a fair share of their content and comprise a healthy share of their subscription base. We ask all industry trade magazines to please consider how much damage a single promotion of stock and royalty-free companies can cause an illustrator.

We suggest the following points for consideration:

1) We have no intention to ask these magazines to decline advertising, but ask they consider the effects of accepting ads in their printed editions and on the web from stock illustration houses and royalty-free illustration publishers. In doing so, we ask for more content on this topic in their publications.

2) Consider prominently displaying a disclaimer stating that these advertisements do not constitute an endorsement. If possible, each publication might offer pro-bono or discounted advertising rates, similar to the "Say NO to Stock House" ad that ran in the 1999 CA Illustration Annual, for start up "artist friendly" companies. Until we become more established and can advertise equally, art directors and designers need exposure to the current debate and the effect these issues are having on our industry.

3) Most importantly, consider more editorial coverage on the detrimental effects stock houses and royalty-free publishers have on illustrators' careers. Cover the alternatives to stock houses and run articles about artist-controlled stock solutions such as stock sourcebooks, artist-friendly web sites like the 1spot, individual artists, and the artist licensing agency.

Artists need much more than advertising slogans in order to make informed decisions, and we need the help of these publications to do it. All of us, working together, will benefit from creating a fair debate.

You may add your name to this petition to the trade magazines by faxing a signed copy to me at 781-837-3457.

Please e-mail or fax the petition to other illustrators!

BULK RATE
U S POSTAGE
PAID
Permit # ____
Marshfield, MA



C/O Dubrowski
845 Moraine Street
Marshfield MA
02050