

Each month we report to you moves among, within and between publishing houses, stock agencies, photographers, photo researchers, ad agencies, and design firms.

CHANGES

HOLT, RINEHART AND WINSTON

(1120 S. Capital of Texas Highway, Austin, TX 78746) Diana Suthard's name and e-mail has changed to: Diana Goetting, Photo Researcher, dgoetting@hrw.com.

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STANDARD PUBLISHING (8121 Hamilton Ave, Cincinnati, OH 45231) former contact and e-mail: Sandra Ziegler, sziegler@standardpub.com; current contact and e-mail: Rod Brunson, rbrunson@standardpub.com.

HORTICULTURAL PRINTERS (3638 Executive Blvd., Mesquite, TX 75149) former contact and e-mail: Ben Philips, Director of Horticulture Photography, bphilips@hplprnt.com; current contact and e-mail: Larry Maupin, lmaupin@hplprnt.com.

THE GRACE PUBLISHING GROUP (P.O. Box 3070, Fort Myers Beach, FL 33931) former phone: 1 941 765-1590; current phone: 1 239 765-1590.

FERGUSON PUBLISHING COMPANY, former company name, address and fax: FERGUSON PUBLISHING COMPANY, 200 W Jackson, 7th Fl, Chicago, IL 60606, 1 312 692-0190; current company name, address and fax: **COLLEGE AND CAREERS MAGAZINE**, P.O. Box 13103, Chicago, IL 60613-0103, 1 773 871-1423.

SQUARE ONE DESIGN, former address: 560 Fifth St NW Ste 301, Grand Rapids, MI 49504; current address: 242 Carlton Rd SE, Grand Rapids, MI 49506.

DIVERSION MAGAZINE (1790 Broadway 6th Fl, New York, NY 10019) former contact and e-mail: Evelyn Cordon, Photo Editor, ecordon@hearst.com; current contact and e-mail: Christine Casiano, Photo Editor, cca-saino@hearst.com.

CALIFORNIA SCHOOL EMPLOYEES ASSC (2045 Lundy Ave, San Jose, CA 95131) former phone: 1 408 263-8000; current phone: 1 408 473-1000.

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THE CREATIVE COMPANY (123 S Broad, Mankato, MN 56002) former contact: Mary Englar, Photo Research Manager; current contact and e-mail: Megan Moore, Photo Research Manager, moorem@hickorytech.net.

KRT SPECIAL SECTIONS (790 National Press Building, Washington, DC 20045) former contact and e-mail: Debra Leithauser, Deputy Managing Editor, dleithauser@krtinfo.com; current contact and e-mail: Becky Sher, Managing Editor, bsher@krtinfo.com.

COPYRIGHT

for stock photographers

GET IT RIGHT... WORK FOR HIRE

One of the most important copyright concepts for photographers is "work made for hire," and it's one that many photographers do not fully understand.

A fundamental copyright principle is that copyright ownership originally belongs to the creator — the person who fixes the work in tangible form. Generally, the person who clicks the camera shutter owns the initial copyright in the resulting photograph.

The major exception is if the photograph is a "work made for hire," which can happen in two ways. First, if the person shooting the photograph is working within the scope of employment — for example a newspaper's employed staff photographer — the work will be a "work made for hire," owned by the corporation.

IN WRITING

Second, a work may be a "work made for hire" if the photographer and the person ordering the work expressly agree in writing that the photograph is a "work made for hire." In such case, the photograph must also be "specially ordered or commissioned," and must fit within one of the categories listed in Section 101 of the Copyright Act (a common category involving photographs is that the photos are a contribution to a collective work, such as a magazine or newspaper). Because a court may

find a work not to be a "work made for hire" even if that's what the parties intended, a good "work made for hire" agreement will state that if the work is deemed not to be a "work made for hire," the agreement will create an assignment of ownership from the photographer to the person ordering the work.

A trap may occur if a photographer does business through a corporation. In such case, the photographer must make sure that any copyright registration is consistent with how the business operates. For example, if a photographer takes "work made for hire" photographs as an employee of his/her corporation, the copyright registrations for such photos should indicate that the copyright is owned by the corporation. A court recently dismissed a photographer's copyright infringement case because the copyright registration listed the photographer as owner, when the work was a "work made for hire," and the corporation should have been listed. *Morgan, Inc. v White Rock Distilleries, Inc.*, 230 F. Supp.2d 104 (D. Maine, 2002).

For more information on "work made for hire," see United States Code, 17 United States Code Section 101, 201(b), *Community for Creative Non-Violence v. Reid*, 109 S.Ct. 2166, 490 US 730, 104 L.Ed.2d 811 (1989), and Copyright Circular 9, <http://www.copyright.gov/circs/circ9.html>.

Copyright (c) 2003 Stephen Filler. Stephen Filler is an attorney (www.nylawline.com) whose practice focuses on intellectual property, copyright, trademark, technology, media, contracts, corporate and photography law. His office is located at 303 South Broadway, Suite 222, Tarrytown, New York, 10591, 914-332-4114, sfiller@nylawline.com. This column is to be used for informational purposes only is not legal advice. For legal advice, please consult an attorney.

THOSE STOLEN CREDIT CARDS

— Is this a problem on the Net? The risk to consumers is rare. Know anyone who has been ripped off? It's actually very difficult to steal a credit card number traveling across the Net. It's easier to grab a receipt out of a trashcan at a restaurant. Hackers have broken into databases - the incidents are exciting to hear about, but rare. Presently, e-commerce merchants are trying out a new protection technique. On phone orders and some mail orders, the merchant is asking for the "CID" printed code number on the back of MasterCard, Visa, and Discover cards and the front of American Express. (Remember, though you're not liable for more than \$50 in fraudulent credit card usage, and credit card companies are known to forgive even the \$50). So where's the problem? Credit card fraud is actually a major issue for many Net merchants. But credit card companies and banks are not about to admit it. Why? The question of consumer confidence. Financial institutions downplay the problem. Consumers will lose faith in the Net if they

feel it is not secure. Does all this apply to stolen photos? In our stock photo industry we have 'big brother' protection by the large corporate stock agencies, who each have an oak table and swivel chairs filled with attorneys searching out cases of misuse of their photos. If they find a case, it's to everyone's benefit when they publicly expose the situation, so potential future infringement attempts can be decreased. RE

A VISIT WITH ARNIE IN MINNEAPOLIS--

