

# **SUBMISSION OF QUALIFICATIONS (SOQ)**

by

**CONFLICT MANAGEMENT ASSOCIATES, LLC  
("CMA")**

in response to

**The Town of Jackson's and  
Teton County's RFQ**

for

**Writing/Editing  
Services for the Comprehensive Plan**

**Conflict Management Associates, LLC  
P.O. Box 8952  
Jackson, WY 83025  
Tel: 203-2045**

**SOQ**

# by **CONFLICT MANAGEMENT ASSOCIATES, LLC**

in response to  
**the Town of Jackson's and Teton County's RFQ  
for Facilitation, Communication, and Writing**

**1. Submitting Entity** CONFLICT MANAGEMENT ASSOCIATES, LLC ("CMA"), is a Jackson-based company, incorporated under the laws of Wyoming. As our name implies, we are dedicated to conflict resolution. We provide services in mediation, negotiation, arbitration, parenting-time expediting, and alternative dispute resolution ("ADR") design. We also provide training and continuing legal education seminars in alternative dispute resolution, which have been approved by the states of Wyoming, Idaho, and Colorado.<sup>1</sup>

**2. Services Offered in this SOQ** This SOQ proposes to provide the WRITING/EDITING services requested in the RFQ. (CMA is submitting 2 separate SOQs. We are also submitting an SOQ for FACILITATION. These have been separated for ease of evaluation. We would be willing to provide either or both of these services.) As a three person team, we would provide valuable back-up to each other should the demand exceed one member's load. Additionally, multi-person input, checking, diversity of experience, and our team approach would ensure quality and continuity.

**3. Project Team** The following individuals would provide these services:

- ~ Gary Weissman -> Writing (and back-up editing)
- ~ Maryjo Weissman -> Editing
- ~ Grace Robertson -> Project Management and Support

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<sup>1</sup> Our website is **conflictmgmtassoc.com**.

## 4. Qualifications

### a. Gary Weissman - Facilitation

1) EDUCATION Gary Weissman has a Bachelor of Arts and a Certificate of African Studies from the University of Wisconsin and a law degree from Georgetown University.

2) RELEVANT WRITING EXPERIENCE

~ ADR Deskbook Gary is the Editor-in-Chief of the Minnesota ADR<sup>2</sup> Desk Book (published in 1998)

~ Handbook Principal Author of the ADR Handbook for Advocates and Neutrals (to be published in April, 2011)

~ Columnist A columnist (of the "Legal Esoterica" column in *The Hennepin Lawyer*) since 1984; he continues to author that column.<sup>3</sup>

~ Law journals Author (or co-author) of published law review articles on mediation, alternative dispute resolution, and data privacy in four discrete law journals

~ Continuing Legal Education Writer of several articles for Minnesota Continuing Legal Education on ethics, family law, mediation, and arbitration

~ Neighborhood newspaper Editor-in-Chief (in the 1980s) of *The Hill and Lake Press*, a neighborhood newspaper in Minneapolis

~ Writers Group Member of the Jackson Hole Writers Group and is in the process of crafting three novels and one non-fiction book (on the origin of place names in Jackson Hole and Yellowstone, part of which is attached as a sample of writing/editing)

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<sup>2</sup> ADR = Alternative Dispute Resolution.

<sup>3</sup> He is the only columnist that the editorial board has ever permitted.

3) LANGUAGES Gary speaks, reads, and writes Spanish

I fancy myself a wordsmith. While many of my former colleagues in government and many of my former lawyer colleagues regard writing as a chore, I always took pleasure in it. My major professor in grade school (history) admonished his students to do research like scientists and to write like English majors. I have consistently acted on his advice.

**b. Maryjo Weissman - Editing**

1) EDUCATION Dr. Maryjo Kores Weissman earned a Bachelor of Arts from the University of Wisconsin, a Masters Degree in English from Ohio State University; and a Ph.D. in English from the University of Maryland.

2) RELEVANT EXPERIENCE Maryjo's qualifying experience includes:

- ~ Teaching English at every level: college (Maryland and Minnesota); high school (California); junior high (Minnesota); elementary school (New Jersey); and adult education (Washington, D.C. and Wyoming). She has a true appreciation for the English language.
- ~ Editor of a national magazine (*OURS*, a magazine for adoptive parents)
- ~ Computer editor at Data Recognition Corporation (Minneapolis), editing surveys, and grading statewide student competency tests for a variety of states
- ~ Proofreader and editor for Gary Weissman's "Legal Esoterica" articles, published in *The Hennepin Lawyer* since 1985.<sup>4</sup>

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<sup>4</sup> A writing sample is appended from those articles -- demonstrating both Gary's writing ability and Maryjo's editing expertise.

I am a strong proponent of the Plain English movement. I worked on a "translation" of a Michigan physician's book full of technical jargon into readable English; and when I was editor of the adoptive parents magazine, I strove to make sure in "proofreading" the contributors' articles, some of them overly obtuse, that they would be understandable to the magazine's readers. If the Town/County select CMA, I would rely on Gary's ability to simplify and translate complex legal and planning terminology into plain English; and I would proofread and edit the Comprehensive Plan so that it was (1) clear and effectively illustrated, (2) fathomable to laypersons, and (3) short enough so that people in the community would actually read it.

In addition, I would prepare an Executive Summary for those readers interested in a summary-level of detail.

**c. Grace Robertson – Project management and support**

1) EDUCATION Grace Robertson has an Engineering degree from the University of Wyoming and a Master of Science in Management from Stanford University.

2) RELEVANT EXPERIENCE Grace is a retired vice-president/general manager of The Boeing Company. She also held that position at McDonnell-Douglas Aircraft Company. In those capacities she:

- ~ Negotiated with suppliers, international customers, and government regulatory agencies
- ~ Participated in strategic planning
- ~ Served on the National Research Council's Aeronautics and Space Engineering Board
- ~ Managed major programs and large organizations

- ~ Explained complex programs and technical matters to media and the public

Before going into management, Grace was an avionics design engineer.

3) **PROJECT MANAGEMENT and SUPPORT** Even though the RFQ does not request this role, the anticipated scope, complexity, necessary coordination and deadlines of the work products warrant competent project management, back-up and support. Grace has the background, skill sets, and experience to provide this to ensure quality, on-time results that minimize efforts required of the Town/County.

All of my experiences required that I be a good team member, doing whatever is necessary to achieve on-time, high quality results. In particular, I will bring these strengths to the teams and the activities:

- A strong sense of *customer focus*. My on-going involvement with, and knowledge of, various Jackson Hole communities would be reflected in all my efforts, as our community is the ultimate customer of the Comprehensive Plan.
- Expertise in *planning and control*, which will be applied to benefit the teams, processes, and activities involved.
- Effective *illustrations, graphs and diagrams* to aid in the understanding and effectiveness of both processes and the Comprehensive Plan.
- Meticulous *attention to detail*.
- *Experience with large-scale, complex activities and products.*

**5. Statement of Availability** All of us live in Jackson Hole and are available December, 2010, throughout 2011<sup>5</sup> and the first half of 2012.

**6. Insurance and Indemnification** We acknowledge that the contract between the Town/County and CMA will include a provision holding the Town and the County harmless from liability and indemnifying the public entities for any personal or property damage injuries arising from our conduct.

Workers Compensation insurance is unnecessary because there are no employees: Gary Weissman and Grace Robertson are co-owners of, and partners in, CMA.<sup>6</sup> Maryjo Weissman is an independent contractor<sup>7</sup>.

Similarly, unemployment insurance is not warranted because CMA has no employees, as defined in Wyoming Statutes, section 27-3-102(a)(vii).

CMA does not currently have liability insurance (because we have not envisioned any cause of action arising from the work we currently do). However, the RFQ has prompted us to investigate procuring liability insurance should we be awarded the contract, and be required to do so. We are currently awaiting the response from an insurer.

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<sup>5</sup> Gary and Maryjo Weissman disclose that they will be in Cuenca, Ecuador, for the month of February, 2011.

<sup>6</sup> Thereby exempted under Wyoming Statutes, section 27-14-102(a)(vii)(B).

<sup>7</sup> Thereby exempted under Wyoming Statutes, section 27-14-102(a)(vii)(D).

## 7. Local Knowledge

**a. Residence** All of us are residents of Teton County. The Weissmans have owned property in the Valley since 1980, were annual visitors here for 27 years, and moved here permanently in July, 2008. Robertson grew up in Casper and has lived in Jackson Hole for 10 years. Prior to that, she was a part-time resident for 30 years.

**b. Community Involvement** We have become involved in the Jackson Hole community:

- ~ Gary Weissman is a member of the Citizens Mounted Unit, a member of the Jackson Hole Writers Group, a member of the Teton Back Country Horsemen, a volunteer at the Visitors Center, an usher at the Grand Teton Music Festival, a volunteer at the City/County Animal Shelter, a tutor at the Teton Literacy Center, a volunteer for Horse Warriors, and is a member of the Management Committee of his [Teton Village] Homeowners Association
- ~ Maryjo Weissman has been a volunteer tutor for the Teton Literacy Program, an usher for the Grand Teton Music Festival, and a volunteer at the Chamber of Commerce.
- ~ Grace Robertson serves on the Teton Literacy Program Literacy Council and is a member of her homeowner association's Architectural Committee. She is a literacy tutor and received the Founders Award for her literacy commitment to the community. She has previously been a member of Global Business Roundtable (Jackson Hole Center for Global Affairs)

**c. Commitment** Even though we have no stake in any *particular* outcomes for the Comprehensive Plan (see Paragraph 8, below), we live here and have a commitment to Jackson Hole. As residents we care -- without bias --- that the processes result in a Comprehensive Plan which arises from a consensus of the town, county, and public, and which guides the future well.

**8. No Conflicts** Neither CMA or either of us has any disqualifying personal, private, or business interest in the outcome of any Comprehensive Plan or policy decisions.

**9. Acknowledgements** CMA recognizes that it will not be reimbursed for the preparation of this SOQ and acknowledges that this application constitutes public data under Wyoming's Public Records Act {W.S. section 16-4-201(vi)(A)&(B)}.

## **10. Letters of Reference**

**a. Gary Weissman** Attached are letters of reference attesting to Gary Weissman's writing/editing skills (and facilitation)from a law professor and a program attorney at Minnesota Continuing Legal Education. (Another letter is pending.) Their contact information is:

Prof. Leslie Sinner-McEvoy, Esq.  
9329 Colorado Ave.  
Bloomington, MN 55438  
(612) 384-4743  
email: [LSinnerMcEvoy@minnCLE.org](mailto:LSinnerMcEvoy@minnCLE.org)

Prof. Linda Mealey-Lohmann, Esq.  
1280 Belmont Dr.  
Woodbury, MN 55125  
(651) 738-4839  
email: [Mealey.lohmann.mediation@comcast.net](mailto:Mealey.lohmann.mediation@comcast.net)

Timothy Morrow, Esq. (letter pending)  
Minnesota CLE

2550 University Ave. W. - #1605  
St. Paul, MN 55114  
(651) 227-8266  
email: [tmorrow@minncl.org](mailto:tmorrow@minncl.org)

Also attached are 3 unsolicited letters commending Gary's writing.

**b. Grace Robertson** Attached are letters of reference addressing requisite skills from the Teton Literacy Program director and Aspen Management general manager (Architectural Committee team member). Contact information is contained in the letters.

Respectfully submitted,

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tel: 203-2045 (business line)  
733-5395 (Robertson home)  
699-4861 (Weissman cell)

November 16, 2010

Attachments:

- ~ Writing Editing samples (3)
- ~ Letters of Reference for Gary Weissman (2)
- ~ Unsolicited letters of commendation for Gary Weissman (3)
- ~ Letters of Reference for Grace Robertson (2)

WORD COUNT: 24,788

# **HOW THEY GOT THEIR NAMES**

## **Place Names in Jackson Hole and Yellowstone**

**by Garibaldi Sabio**

c/o Gary Weissman  
P.O. Box 331  
Teton Village, WY 83025  
307-699-4861  
[weissman.gary@gmail.com](mailto:weissman.gary@gmail.com)

### **Garibaldi Sabio**

is the pen name of a Jackson Hole resident who has been, sequentially, a doctoral candidate in history, a federal employee, a newspaper editor, an attorney, a mediator, and an author. He is a member of the Jackson Hole Writers Group.

## Why this book?

**AXIOM:** There are already scores of books on Jackson Hole and on Yellowstone.

Why add to the pile?

\*

**POSTULATE:** This is the book I wanted to read but could never find. I consulted over 60 sources<sup>1</sup> but wound up deciding that I would have to write the book myself. Few of the books I found deal with the origin of place names, except incidentally. Those that do either bury the place-name derivations in long exegeses or comprise long lists of place names [for just Yellowstone or just Grand Teton National Park or for all of Wyoming], invariably in alphabetical order, each with a pithy explanation of the name's derivation.

\*

**THEOREM:** What this corner of the world needs is a "*Goldilocks*" approach to how places in northwest Wyoming got their names -- not so succinct that it leaves the reader unsatisfied and not so prolix that one quickly tires of the tome. Also, readers are more likely to want to know about place names in geographical, not alphabetical order. That's what this book tries to be -- Goldilocksian in length, geographical in organization. One more thing: This book blends Jackson Hole and Yellowstone, a combo most visitors surely will find to be "normal" but a fusion ignored by most writers except authors of hiking guides.

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<sup>1</sup> I scoured the shelves of the Teton County Library, the files of the Jackson Hole Historical Society, the archives of the Grand Teton National Park in Moose, and the sources available at the Laurence Rockefeller Visitors Center in Grand Teton National Park.

**IF YOU WANT MORE:** I have cited the sources for every factual statement. See the Endnotes and the Bibliography if you would like more in-depth (or less in-depth) readings on the subjects you encounter here.

~ For the history of Jackson Hole, read Robert Betts *Along the Ramparts of the Tetons* or John Daugherty's *A Place Called Jackson Hole*, or Margaret Sanborn's *The Grand Tetons*. There are two books listing in alphabetical order laconic explanations for place names in Jackson Hole: Mae Urbanek's *Wyoming Place Names* and Cynthia Nielsen's (currently out-of-print) paperback *Origins*.

~ For a history of Grand Teton National Park through the biography of its key progenitor, try Daniel Swain's work about Horace Albright, *Defender of Wildlife*.

~ Those who want to know about the origin of the names of the hundreds of geysers, springs, cliffs, creeks, and basins in Yellowstone (all of which I have purposely omitted) should check out either Lee Whittlesey's *Yellowstone Place names* (269 pages) or Aubrey Haines, *Yellowstone Place Names: Mirrors of History* (370 pages).

~ Those more interested in climbing mountains than in knowing how they got their names should consult Thomas Turiano's tome, *Selected Peaks of Greater Yellowstone*.

I have relied on all of them -- as well as the other 60 sources listed in the bibliography.

-- Garibaldi Sabio

## DID YOU EVER WONDER?

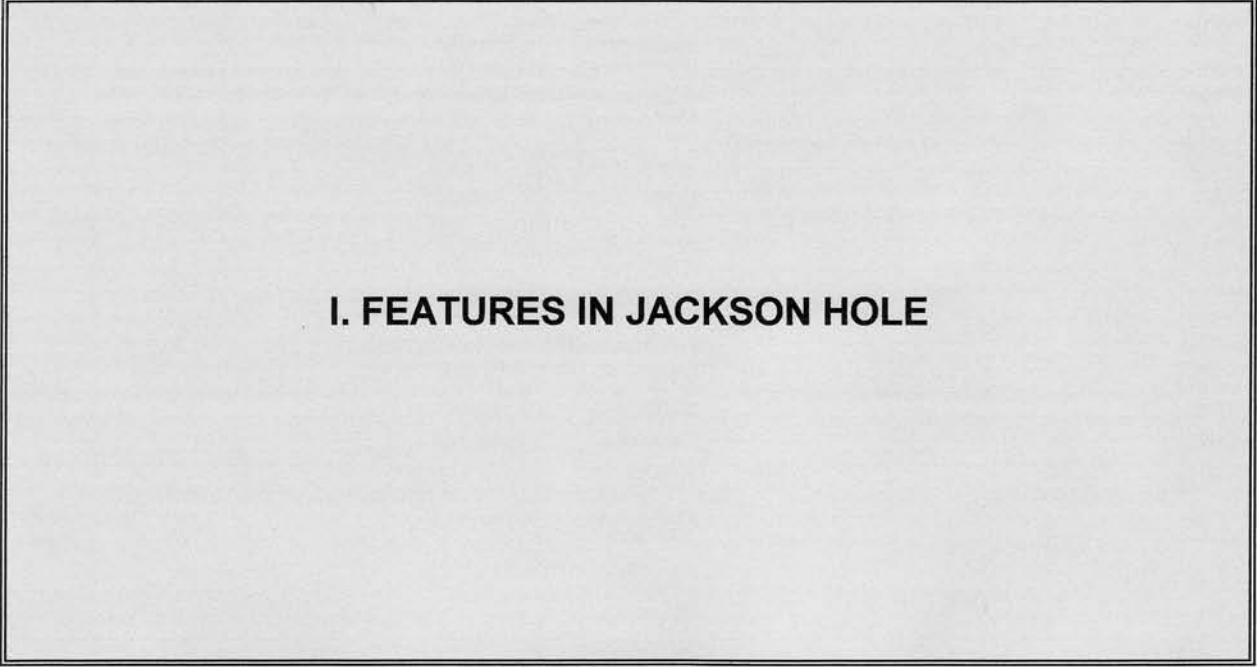
- 1) **JACKSON:** Who was the "Jackson" from whom the town, the lake, and the valley (Jackson Hole) all take their names?
- 2) **LAKES:** Why do the piedmont lakes in the Grand Teton National Park have the names that they do: Phelps, Bradley, Taggart, Leigh, and Jenny?
- 3) **WHO DECIDED** what names all the mountains, rivers, lakes, and communities in Jackson Hole and in Yellowstone should have?
- 4) **PARKS:** Why are Yellowstone National Park and Grand Teton National Park two separate entities when they are adjacent?
- 5) **VIRGINIAN:** Why is that big hotel on Broadway called "The Virginian" instead of "the Wyomingite" or "the Montanan"?
- 6) **MOUNTAIN NAMES:** How come three of the mountain peaks in the Tetons have prosaic names like "Grand," "Middle," and "South," while others have human surnames like "Wister," "Owen," "Albright, and "Moran"?
- 7) **VILLAGE NAMES:** If Kelly and Wilson were named for their founders, was there a Mr. or a Ms. Moose after whom that village is named?
- 8) **DEADMAN'S BAR:** Why the place where you start your float trips has the moniker "Deadman's Bar"?
- 9) **SNAKES:** What kind of snakes gave rise to the name of the major river that flows through Jackson Hole?
- 10) **FRENCH:** Why do the two major mountain ranges in Jackson Hole (the Tetons and the Gros Ventres) have French names?

You'll find the answers to these questions<sup>1</sup> as well as the origins of the names of mountain peaks, lakes, towns, counties, other place names, and historical characters in Yellowstone and Jackson Hole in these pages.

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<sup>1</sup> No. 1 (Jackson) on page \_\_; No. 2 (lakes) on page \_\_; No. 3 (who decided) on page \_\_; No. 4 (National Parks) on page \_\_; No. 5 (Virginian) on page \_\_; No. 6 (mountain peak names) on page \_\_; No. 7 (Moose) on page \_\_; No. 8 (Deadman's Bar) on page \_\_; No. 9 (Snake River) on page \_\_; No. 10 (French names) on page \_\_.



## **I. FEATURES IN JACKSON HOLE**

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## A. The Valley

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### 1. Jackson Hole.

a. **WHAT:** "Hole," a term left over from fur-trapping days, means "high valley surrounded by mountains."<sup>1</sup> Jackson Hole is a 40-mile long (and 15 miles wide) valley, at 6,300 feet above sea level, bordered on the north by Yellowstone National Park, on the west by the Tetons, on the east by the Gros Ventre mountains, and on the south by the Snake River Mountains.<sup>2</sup> Locals refer to themselves as living in "the Valley."

b. **WHO WAS JACKSON?** David E. ("Davey") Jackson, after whom the valley and the Town of Jackson are both named, was a fur trader in the early 19th century. He was born in western Virginia, the son of a Revolutionary War veteran. He himself served as a junior officer in the War of 1812 (in the Ohio Militia) and may have fought in the Battle of New Orleans.<sup>3</sup> In 1822 he struck out for the West to become a trapper and was the field manager for the Rocky Mountain Fur Company founded by General (and former U.S. Senator from Missouri) William Ashley.<sup>4</sup>

Jackson spent a total of eight years (1822-1830) in the Rocky Mountains<sup>5</sup> and died rather young (at age 49); but he managed to squeeze into his life several careers besides trapper and fur trader: He also had been a farmer, a soldier, a miner, a slave overseer, a merchant, a lumberman, a boatman, a clerk, and a horse-and-mule trader.<sup>6</sup>

Although generally characterized as a woodsman (which he was), Jackson and his family had solid ties to the Tidewater Virginia elite: His Uncle George had been a delegate to the Virginia Convention to ratify the Constitution; his cousin John was a Congressman and a brother-in-law to James Madison; and one of his younger brothers, a lawyer,

became the Collector of Revenue for the State of Virginia.<sup>7</sup> Davey was a distant relative of Andrew Jackson, and his nephew, Thomas "Stonewall" Jackson, became a famous Confederate general in the Civil War.<sup>8</sup>

**1) Why was the valley named for Jackson?** In 1826 Jackson and his two partners, Jedediah Smith and William ("Bill") Sublette, bought the fur company from Ashley. Smith undertook long journeys, as far away as California, for which trips he was widely noted. Sublette trapped throughout the West, including in Pierre's hole (the valley on the western side of the mountains, in what is now Idaho); but Jackson favored the more inaccessible, eastern side of the Tetons. Although Indians and trappers had wandered through the valley for years, it didn't have a name until 1829 when Bill Sublette began calling it Jackson's Hole (i.e. Jackson's Valley) after his partner, Davey Jackson.<sup>9</sup> People referred to the valley as "Jackson's Hole" as recently as World War II, but officials shortened the name to "Jackson Hole" because of the ribald comments to which the apostrophized name gave rise.<sup>10</sup>

**2) Whatever happened to the three partners?** In 1830 the three partners sold their interest to a group calling itself the Rocky Mountain Fur Co., whose principals included Jim Bridger and Bill Sublette's brother Milton. Smith was killed by Comanches the next year while all three were part of a stock-selling caravan to Santa Fe, New Mexico;<sup>11</sup> Bill Sublette later moved to St. Louis and invested in land while Jackson moved to St. Genevieve, Missouri, where he operated several businesses. He later bought and sold mules in California.<sup>12</sup> He died of typhoid in 1837 and is buried in Paris, Tennessee.<sup>13</sup>

**3) Rarely disclosed facts.** Precisely because the valley, the town, and the lake are all named for Davey Jackson, most descriptions of Mr. Jackson usually fail to disclose his dark side: First, he was a slave-holder: When he came west in 1821, he brought a slave, identified only as "Jim," with him.<sup>14</sup> Second, he was not a foot-free,

## Coming of age in Kenwood

# Local teenologist: family phase to

by Gary A. Weissman

Elena turned thirteen last week. That in and of itself is not much of an accomplishment; most of you reading this managed not only to reach thirteen but to survive it as well. It is significant to me, though, for it means that my spouse and I now have four (!) teenage daughters.

Actually, we have gleefully awaited this event—not because we are masochists, but rather, because we anticipate, hope, and rely on the desperate conviction that four teenagers must be better than three teenagers and one twelve-year-old. The sweet, well-mannered, and charming little caterpillars have emerged from their pubescent cocoons into gangling, shrieking, narcissistic, and opinionated moths whose capacity for contentiousness is matched only by their ability to tolerate the kind of musical din which Italian terrorists use to mentally harass military hostages.

The extent and tenacity of their opinions seem to correlate directly with the depth of their ignorance. They are innocent of history, literature, art, and current events. Their capacity to absorb information selectively is a source of constant chagrin (to their parents): though unable to list the four states which border Minnesota, they can with aplomb recite the names, actors, and time slots of every network television program; and while befuddled by the simplest computational problems in their math texts, they exhibit an encyclopedic knowledge of the comparative prices of every, designer-labeled piece of clothing as well as the babysitting pay rates and fringe benefits of every family with pre-teen kids in a six-block radius.

Transvestitism (the editors didn't omit a paragraph, it was just a quick transition) is no longer a term applied to females who wear men's clothing, else how explain my gang of peer-group conformists' borrowing my shirts, pajama tops, socks, sweaters, T shirts, even ties (wearing a tie is evidently "in" among the high school level teenage set). This preoccupation with clothing may have something to do with somatic changes, for their episodic growth apparently creates physical dysfunctions. Walking down inclines, for example, is clearly an endocrinologically difficult feat, at least for early-teens. Mine invariably galumph down the stairs two or three at a time, and when they light, they sprawl in a manner which would strain furniture made of Samsonite.

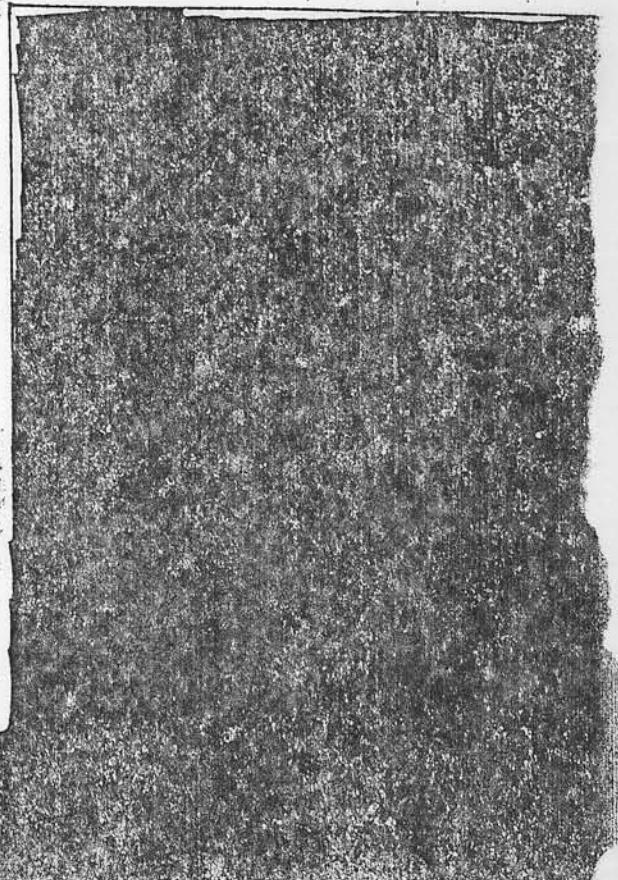
Galumphing, sprawling, or merely talking on the telephone, they communicate (as it were) endlessly with a disturbingly limited vocabulary ("I'm just kidding," "That's dog," "Gross!," "Oh, rude," "Mary," and "Z'apnen?") When they tire of those repetitive chants, they utter expletives which would embarrass a marine drill instructor, or they revert to the comfortable habits of their pre-adolescence (fairly constant whining, punctuated by foot-stomping and piercing squeals of "That's not fair!").

Actually, I've been thinking of asking the State Bar Association to grant me continuing legal education credits for sharing a household with four equal opportunity specialists. I would rather negotiate a contract with the most irascible, grudging lawyer from WASP, HORNET, and DRAGONFLY than have to adjudicate an exchange of chores between two of my teenage daughters. The one who cannot remember where she left her eyeglasses can recall with astounding precision that three weeks ago last Thursday she swapped an as-



sistant dinner-person job for two garbage take-outs on successive Tuesdays following odd-numbered Mondays and one sweep-person assignment, which she subsequently traded to a third sister for a dishwasher-unloading, to be performed on a non-guest Friday, and an unspecified draft choice. Those of you whose teenagers refuse to perform any chores at all probably have no sympathy with our plight.

To be sure, there is a line of demarcation which separates early teendom from middle teendom (We have not yet sustained late teendom as parents and therefore have only hearsay knowledge of its allegedly redeeming qualities.). If a baby is an alimentary canal



March 6, 1982

## last until 1993

with a loud clamor at one end and total irresponsibility at the other, then early teendom combines the clamor and irresponsibility at the entrance and is an acute pain in the exit. Middle teendom's salient feature is the acquisition of guile—and it is such a relief. Stomping and shrieking give way to manipulation, confrontation to withdrawal.

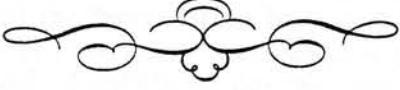
Admittedly, there are some serendipitous tradeoffs for living with teenagers of both early and middle varieties. A by-product of their narcissism is their discovery of the shower and comb; every hour they spend in inane



conversations on the telephone represents an hour less available to tease their siblings; and in between cloud-bursts of anger, fear, and pain, teenagers can be affectionate, insightful, witty, generous, and kind.

For us, a houseful of adolescents is no passing fad. We shall have four or more teenage daughters until November, 1988, and we shall have at least two through the end of December, 1993 (sigh). We have learned to adjust to blizzards, mosquitoes, inflation, unmarketable doctorates, government pettiness, and school closings. We are pumping patience iron and toning up our exasperation muscles to prepare for the decade of commotion and turbulence ahead.

# Legal Esoterica



By Gary A. Weissman

Alfred Tindle was sitting at his desk, nursing a cup of coffee while reading the moronic brief of opposing counsel, when his relentlessly cheerful secretary burst into his office, in tears. She told him that her fiancé had called off the wedding. While Tindle was trying to think of something appropriately consoling to say, she ended the agonizing silence with an interrogative curve ball:

"I don't expect you to solve my personal problems," she began, prompting Tindle to exhale a gust of gratitude, "but," she added, triggering his internal alarm system, "I have a legal question for you: Do I have to give him back the ring?"

Under his breath Tindle muttered a scatological version of "Oh, darn!" Aloud, though, he said, "hmmm," and began accessing brain files long covered with cobwebs about "donative intent" and "conditional gifts." He told her that he would do a little legal research before advising her.

## NOW WHAT?

After his computer turned up bupkis, Tindle phoned Adrian Thistlewhit, his former law school classmate who, inexplicably, became a family law attorney but who, he was sure, wouldn't ask him where to bill the time discussing the matter, as his partners would. Adrian explained that what family law attorneys do comprises divorces, paternity suits, custody battles, orders for protection, post-decretal motions, child support actions, proceedings that involve disputed access to children born without benefit of marriage, and, if you push the envelope, antenuptial agreements and adop-

tions; but "we don't do venetian blinds or replevin actions."

Tindle's heart sank as he wrapped his mind around the loose strings from the concept of a "replevin action." Next, he tried a law professor of his acquaintance,

Colfax Emerson, but instead of an answer, Tindle got more questions: Where does the boyfriend live? In what jurisdiction was the couple at the time he proposed to her? Who caused the broken engagement? What precisely did he say to her when he handed her the ring and asked her to marry him?

Why should any of those questions make a difference?



## DROP BACK 10 YARDS, AND PUNT

Well, it turns out that the issue is one of first impression in Minnesota. We have case law that makes clear that if the parties actually go through the wedding ceremony and later dissolve their marriage, then the engagement ring is the premarital property of the donee.<sup>1</sup> That seems to be the law in other jurisdictions as well: Once the bride and groom exchange marriage vows, the ring is hers forever.<sup>2</sup> But it's not clear to whom the ring belongs if they fail to say "I do."

And it does make a difference in which jurisdiction the proposal took place. The Minnesota Supreme Court has held that the law of the situs of the contract to marry governs.<sup>3</sup>

## HISTORY

The answers make sense only in an historical context. At least since the 17th

century in Britain, an action would lie for the breach of a promise to marry.<sup>4</sup> No doubt because matrimonial matters fell under the jurisdiction of the ecclesiastical courts, the remedy for a breach of a promise to marry was specific performance!<sup>5</sup> Someone broke a promise to marry another, and the penalty was having to marry the jilted, thereby finessing the question of the ring.

In colonial North America, ecclesiastical courts never took root but paternalistic sexism did. The remedy for actions for the breach of promise to marry, which only women could bring,<sup>6</sup> was damages — for mental distress, mortification, and injury to reputation, with punitive damages if "seduction" were part of the consideration for the ring.<sup>7</sup>

## ANTI-HEARTBALM STATUTES

By the turn of the 20th century, a cluster of related torts had evolved, including breach of promise to marry, seduction, criminal conversation, and alienation of affection, which together were referred, derogatorily, as the "heartbalm" torts.<sup>8</sup>

A patchwork body of common law governing whether a contract existed, defenses, and damages emerged. Sexual relations (in the Clintonian definition) gave rise to an inference of a promise to marry; fraud, illness, and illegality were the best defenses; and even though the underlying action was contractual, the damages sounded in tort.<sup>9</sup>

During the Great Depression, several state legislatures began enacting statutes to abolish the heartbalm torts. An early feminist in Indiana, Roberta West Nicholson, fired the first volley, claiming that the breach of a promise to marry

# SAVE THE DATE

## CALENDAR OF EVENTS 1999

APR.

HOCKEY TOURNAMENT

APR. 13

MMCCP AWARDS BANQUET

APR. 21

BAR MEMORIAL

APR. 27

PRESUMED GUILTY

MAY 25

ANNUAL MEETING

AUGUST 13

GOLF TOURNAMENT

JUNE - SEPT.

SUMMER SOFTBALL

SEPT. 17 & 18

MINNESOTA MINORITY  
RECRUITMENT CONFERENCE

put marriage in the same category as a contract to buy a bale of hay.<sup>10</sup>

Other states followed Indiana—but for different reasons. Some legislatures did so for technical, legal reasons (tort damages for breach of contract violated the categorical imperative); most did so because they thought heartbalm torts carried the “potential for blackmail by scheming women.”<sup>11</sup> Some leaped on the Catch-22 justification that “bringing an action to recover golden balm for wounded affections is of itself proof that the wound has healed.”<sup>12</sup>

Minnesota didn’t get around to abolishing the heartbalm torts until 1978.<sup>13</sup>

### AFTER REFORM

Before the anti-heartbalm statutes, public policy focused on protecting vulnerable women from the predations of sex-hungry male victimizers who would promise the women anything, even marriage, for a roll in Ms. Nicholson’s contractual hay.

The anti-heartbalm statutes reflected a shift in attitude where courts now sought to safeguard love-blinded men from materialistic goldiggers who would misuse their sexual power to elicit not just furs but engagement rings from their gullible consorts.

For a while after reform, courts construed the anti-heartbalm statutes to bar actions to recover engagement gifts, including rings;<sup>14</sup> but most jurisdictions eventually permitted replevin actions, deeming them to be outside of the ambit of the torts which the anti-heartbalm statutes had been enacted to abolish.<sup>15</sup> California even codified the distinction.<sup>16</sup>

So, post-reform suits to recover engagement rings, brought by the male donors, turned on that time-tested criterion, fault. The key question was “who broke the engagement?”<sup>17</sup> If the donee broke the engagement, then the donor got his ring back;<sup>18</sup> but if the donor broke the engagement, then the donee was entitled to keep the ring.<sup>19</sup>

Judges who sought simplicity with that formulation usually stubbed their toes—or stepped on those of the victim. As recently as 1986, for example, the Illinois Court of Appeals affirmed the find-

ing that a woman was “at fault” because she broke the engagement, even though the evidence showed that the man had demonstrated himself to be violent during the pendency of the engagement.<sup>20</sup>

### LEGAL THEORIES

Tindle began thinking of the legal theories which would underlie a decision on whether the secretary would have to return the ring.

- *ESTOPPEL* - If we don’t label it as “fault,” the court might estop the fiancé from reclaiming the ring if he is the engagement-breaker. There is at least one precedent, in New York.<sup>21</sup>

- *IRREVOCABLE GIFT* - There was donative intent when he gave her the ring, and it should be as irrevocable as any other gift freely given. Indiana courts would so rule.<sup>22</sup> It is also the law now in England, where this problem originated.<sup>23</sup>

On the other hand, the fiancé’s lawyers will no doubt argue:

- *CONDITIONAL GIFT* - The engagement ring is a gift of a future interest, in contemplation of marriage, subject to defeasance if the underlying condition fails to eventuate. It turns out that about half the states will return the ring to the donor because they interpret engagement rings as conditional gifts.<sup>24</sup> Pennsylvania joined the group in 1997, with a divided panel and in reliance on the law next door in New Jersey.<sup>25</sup> The Restatement of Restitution is in accord.<sup>26</sup> One commentator, Beverly Bartlett, summarizes the law now as: “The ring is a down payment on a bride, on loan until she comes through with an ‘I do.’”<sup>27</sup>

- *UNJUST ENRICHMENT* - Some states will grant the donor’s motion, holding that to leave the ring with the donee, regardless of who broke the engagement, would be unjust enrichment.<sup>28</sup>

Even though the majority of jurisdictions now return the ring to the donor, the judicial ground is quite unsettled. There are countervailing considerations. One argument, that has not yet won judicial favor but is on the cutting edge, consists of *OFFSETTING LOSSES*: If the groom-to-be gets his ring back,

# Mealey-Lohmann Mediation & Arbitration Services

1280 Belmont Drive  
Woodbury, MN 55125  
612-791-2218

[Mealey.Lohmann.Mediation@comcast.net](mailto:Mealey.Lohmann.Mediation@comcast.net)

November 15, 2010

## Letter of Reference for Gary Weissman

Dear Jeff Daugherty,

I am writing in support of the application of Gary Weissman in connection with his SOQ for Facilitation and Writing of the Town's and County's Comprehensive Plan.

I am an attorney in Minnesota and work as a mediator and arbitrator in my own business, Mealey-Lohmann Mediation and Arbitration Services. I am also an Adjunct Professor at William Mitchell College of Law, St. Paul, Minnesota (sixth year), where I teach Alternative Dispute Resolution and Advanced Mediation Skills. I first met Mr. Weissman many years ago through William Mitchell College of Law, where he was teaching ADR as an adjunct professor, until his retirement in 2007.

I believe that Mr. Weissman would be very capable of facilitating (mediating) large groups who are in conflict. Mr. Weissman has both the substantive knowledge and the practical experience. In my capacity as an adjunct professor, I know that for nearly fifteen years Mr. Weissman has taught all aspects of ADR, including teaching both the theory and skills for negotiation, facilitation, mediation, arbitration, and other processes. This has given Mr. Weissman a long period of time to develop his substantive knowledge and skills in this area. As a result, he is considered the "guru" of conflict resolution here and he has had a great impact on the content of the ADR course at William Mitchell and on my (and other's) teaching. I have also worked with Mr. Weissman in connection with an arbitration training he regularly conducts for the Minnesota Continuing Legal Education organization. I have observed that he is comfortable talking in front of and working with large groups of people from varying backgrounds. He is always professional, well-prepared, thinks well on his feet, and maintains a calm demeanor.

In addition to Mr. Weissman's strong reputation as one of the leading trainers of ADR, he also is well-respected as a facilitator, mediator, and arbitrator. He has nearly thirty years of working as a mediator and twenty-five years working as an arbitrator. Based on this significant experience, he has honed his skills for working with parties in conflict and would be very valuable in facilitating meetings among Council, Commission, planner, and citizen stakeholders in trying to achieve consensus.

Finally, I believe the Mr. Weissman would be very capable of writing clearly and precisely. I am currently working with him as a co-author on a new book to be published in 2011 by Minnesota Continuing Legal Education, working title, "The Minnesota ADR Handbook: A Guide to Mediation, Arbitration and Other Dispute Resolution Processes for Advocates and Neutrals." As a co-author, Mr. Weissman is very perceptive and has given me invaluable feedback on my writing with regard to both style and substance. I have also used some materials created by Mr. Weissman in my teaching because they were so well written. I pride myself on having a large vocabulary, but Mr. Weissman has one of the largest vocabulary of anyone I know, yet is able to convey complex subjects in an easily understood way. Based on my experience with Mr. Weissman, he would be valuable to you in rewriting and editing the Plan into understandable English and would be able to develop a strategy for communicating the revised Plan to the citizenry.

I highly recommend Mr. Weissman and I would be happy to provide any other information you may need about him.

Sincerely,



Linda Mealey-Lohmann  
Adjunct Professor, William Mitchell College of Law  
Rule 114 Qualified Mediator and Arbitrator





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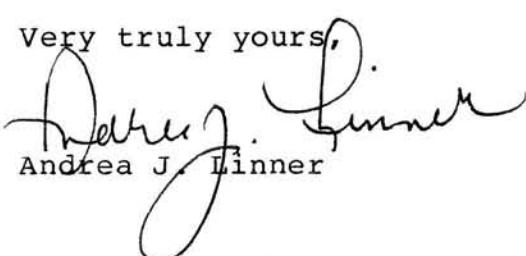
November 29, 1988

Mr. Gary A. Weissman  
701 Fourth Avenue South  
Suite 500  
Minneapolis, Minnesota 55415

Dear Mr. Weissman:

I enjoyed your article "Legal Esoterica" featured in The Hennepin Lawyer November-December, 1988 issue. It was not only enlightening, it was actually fun to read - a rare quality in legal journalism! I hope you will make future literary contributions to the profession. Your article is proof that legal issues can be presented in something other than the boring manner they traditionally are.

Very truly yours,



Andrea J. Linner

AJL/ms t

# MANSFIELD & TANICK

A PROFESSIONAL ASSOCIATION

*Attorneys at Law*

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\*\*\* ALSO ADMITTED IN  
DISTRICT OF COLUMBIA

Gary A. Weissman  
Suite 500  
701 Fourth Avenue South  
Minneapolis, MN 55415

## Re: Punitive Damages in America

Dear Gary:

I always enjoy your erudite columns in Hennepin Lawyer, or nearly always, but I was especially impressed with your most recent piece on punitive damages.

It was written with your usual flair, and had significant substance as well.

Keep up the good work. Best regards.

Yours very truly,

**MANSFIELD & TANICK, P.A.**

Marshall H. Tanick

MHT:111  
cc: Michael Hennen  
Duane Stanley  
16571



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To: Town of Jackson/Teton County

**Subject: Reference for Grace M. Robertson**

Grace M. Robertson has been involved with Teton Literacy Program for 8 years as an adult literacy tutor. She is also currently serving on our Literacy Council. I have worked with her throughout this time.

As a tutor, Grace has been dedicated and diligent. She has been innovative and effective in working with students, each having unique needs. Her communication skills are excellent. Grace has worked with the Teton Literacy staff to utilize and apply all of our resources to produce the best outcomes. She is a pleasure to have on the team.

Grace is also a member of our program's Literacy Council. Her involvement and contributions reflect her knowledge of, and commitment to, improving our community. She works to understand and support our vision and mission in her efforts. She recently volunteered to take council meeting notes and write the minutes. That effort was done well, with a concise, organized, easily understandable set of minutes that faithfully reflected the council's inputs (see attached meeting minutes).

This spring, we recognized Grace's involvement by awarding her the Founders Award (see attached press release).

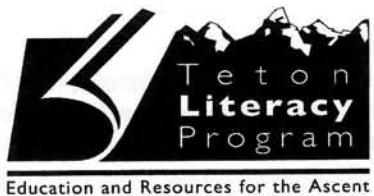
It would be good for our community to have Grace applying her experience, education and skills to assist in the development of the Comprehensive Plan. I highly recommend and support her for this opportunity.

Please contact me if I can provide further support or input. I can be reached at 733-9242, or [valleypeters@tetonliteracy.org](mailto:valleypeters@tetonliteracy.org).

Sincerely,

Valley Peters Bradley  
Teton Literacy Program Director

Valley Peters Bradley  
*Executive Director*  
1715 High School Road, #260  
Post Office Box 465  
Jackson, WY 83001  
Phone: 307-733-9242  
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# PRESS RELEASE

## **Teton Literacy Program recognizes outstanding volunteers with Founders Award and Volunteer of the Year Award**

May 17, 2010  
Jackson, WY

The Founders Award is given to those who embody the spirit of literacy in Teton County: a deep and abiding commitment to the community, a pledge to lifelong learning, and a promise to help others acquire knowledge. This year it has been awarded to Grace Robertson. Grace illustrates the difference that one person's contributions can make. Because she cares about her student's dreams and lives she prepares lessons that focus on their interests and needs. During her time with Teton Literacy Program she has worked with a dyslexic adult learner, a variety of English language learners, and currently, she is working with native Chinese speaker and owner of the Hong Kong Buffet, Susan Lui. Her diligence and passion make a significant impact in their lives. Grace co-taught an Advanced Reading and discussion class from fall 2006 through spring 2007. We thank her for her generous commitment to the Teton Literacy Program.

The Teton Literacy Program also recognizes Bob McLaurin and Teresa Griswold with the Volunteer of the Year Award. The Volunteer of the Year award is presented to volunteers who have shown extraordinary dedication to the growth and education of their students and have made a long-term commitment to our program.

We salute Bob McLaurin's time, dedication, and ongoing commitment to literacy by awarding him Volunteer of the Year. Bob began tutoring because of his desire to build a stronger community. He has worked with five struggling readers in elementary school on comprehension, fluency, and phonics skills. Bob has also recently joined our Board of Directors. Thank you Bob for your generous contribution of time and talent!

Teresa Griswold received Volunteer of the Year for her innovative spirit and the amazing dedication she brings to the Teton Literacy Program. In everything she does, Teresa is passionate about making a positive difference in the lives of others. Her enthusiasm for teaching and mentoring young adults comes from her background as a high school English teacher and her fascination with the world of imagination, books, and writing. Thank you Teresa!

-End-

## Literacy Council Meeting Minutes: October 13, 2010

Attendees: Barbara Trachtenberg (Co-chair), Brian Smith, Sonia Capece, Gail Hahn, Jim Clouse, Claudia Winchell, Biz Doyle, Tony Mendes, Susan Liu, Lisa Jennings, Grace Robertson, Valley Peters

Vision of TLC: *A 100% literate community.*

Mission of TLC: *Changing lives through the power of literacy.* (Literacy Council inputs from last meeting were taken into account in developing this mission statement.)

1. Valley explained that an Educational Forum for the community is planned for February, 2011. It will be a more interactive than lecture event, with goals to *educate and deal with current issues in literacy, and to use it as an opportunity to inform attendees what TLC has to offer.* The Literacy Council provided inputs/ideas for the forum:
  - Would be useful to have “tighter” definition of forum goals
  - Need to convince community of the importance of literacy to our community, and explain the larger vision/mission of TLC and why it is important to the community
  - Need to educate community that individuals do not all learn the same way. Different teaching/learning techniques are sometimes the key to helping struggling students. Different approaches need to be attempted until find something that works for the individual.
    - Teach how parents can contribute
    - Show how TLC can contribute
      - Emphasize private tutoring
  - Forum should be structured to allow break-out groups/workshops for specific interests.
    - People don’t have time to spend on areas not directed to their particular interests.
    - Consider a brief, general introduction speaker, then break-out into workshops.
      - Examples: Children’s writing, adult writing, different learning processes
  - Community consists of various customers, which should be addressed in structuring the forum.
    - Examples: grandparents!, ESL groups, struggling learners, more advanced learners, children vs adults,
    - Be sure to communicate effectively with the various groups in announcing the forum and subjects so that they understand how this can be helpful to their particular needs (eg: Latino announcer at church event)
  - Need to educate parents that literacy is not testing, rather, it is a means to gain information (read, understand, retain & make it useful)
  - Consider partnering with TC Library, or Center for Wonder

A smaller group was established to move the Forum ideas forward, with a **meeting planned for November 3. Group consists of Valley, Barbara T., Biz D., Gail H., and Tony M.**

2. Miscellaneous inputs/comments:

- Teachers/schools don't always refer struggling students to TLC when they could help
  - A process currently exists to inform schools/teachers about TLC offerings, so need to consider its effectiveness, increase efforts
  - Schools/teachers may be reluctant to use TLC, as it may imply that they are failing at their roles. This should be considered in the process of educating them about TLC.
  - Parents need to be informed that TLC provides options if children are struggling in the school system
- Well-done mailing program (3X/yr?) may help inform community about TLC
- Ad in weekly paper may help inform community
- Need more advanced Spanish classes, with progressing, not repeated, curriculum
- Need more advanced classes, similar to Advanced Writing class
- Whenever TLP is doing something (big or small), the newspaper should be called and they will usually come. They can determine if it gets published, when it is not obvious if newsworthy or not.

3. Amangani is sponsoring fund raiser for TLP January 5, 2011. 60-70 person sit-down dinner, \$150/individual, \$250/couple. Author Larry Pearlman will be speaker, and will try to integrate some mystery/intrigue into dinner event.

- Literacy Council is requested to **help by spreading the word/info**
- Valley will send out the names on the current invitee list, and **Literacy Council should review and add any names appropriate**

**\*\*Please note that the venue for the Jan. 5<sup>th</sup> event is now Snake River Lodge & Spa.**

4. JHMR will host Laps for Literacy on March 20, 2011. It will be adding a Nordic event, and a program for kids/sponsors involving the entire season if the grant is approved for it. Additionally, there will be an essay contest with winners receiving full-day lift passes. Last year, team events were very successful and will be done again this year.

- **Literacy Council members should consider how they would like to be involved and email inputs to Valley**
  - Need volunteers for Sunday, March 20, to assist administering event

5. Noted that only one Council member receives TLC e-news. It is intended to provide updates about TLP programs, and especially to share success stories.

- **Literacy Council is requested/welcome to contribute articles or ideas to the e-newsletter**
  - Possible message: Literacy is a continuum, and can be enhanced at any level. Come to us with what you want, and if can't provide it, will consider how.

- Important to pay attention to *when* the e-news letter is sent – for example, don't send late on Friday!
- Again, consider doing a *focused* letter for various customer groups
- **Biz and Gail “volunteered” to contribute articles for next e-news letter (need by 10/20)**

6. Inputs for **next Literacy Council meeting (late January)**:

- 4:30 pm, if want teachers to attend
- Information on what's happening at TLC
- Information on the direction of the Board of Directors, and how they respond to our inputs
- Further focus on the markets (audience) for the Forum
- Definition of the Forum
- More about advanced classes and how they are being done
- Need email prior to meeting announcing subjects so can prepare
- Jan. 5<sup>th</sup> winter dinner event report: results/financial info
- TLC financials/annual report, with evaluation/commentary
- Explore opportunities for collaboration (eg: schools, other community groups)
- What are current TLC challenges in its programs/situations?



# Aspen Management

JACKSON HOLE RACQUET CLUB CONDOMINIUMS  
ASPEN HOMEOWNERS ASSOCIATION

November 15, 2010

To: Teton County Commission/Town of Jackson/Mayor

Subject: Letter of Reference for Grace M. Robertson

I have worked with Grace M. Robertson on the Aspens First Filing Architectural Committee for the past 3+ years (and as a homeowner for the past five years). I am pleased to provide this reference and my commendation for her, based on our experiences and work together.

Specifically, I can commend Grace's work in the following areas:

- Discipline to rules, regulations and requirements. She understands, follows and maintains discipline to our Protective Covenants (CC&R's) and to the Rules and Regulations in all of our Architectural Committee work.
- Clear writing. Grace has been the primary writer for the Architectural Committee, writing letters to the Board of Directors, and homeowners. Her writing style is straightforward and concise, with great attention to detail and incorporation of all inputs.
- Translation and summarization of large, complex documents. Grace developed the first cut (we finalized it as a Committee) of a 2 page, easy to understand and reference, summary of our CC&R's.
- Simplification and ease of use for documentation. Grace instigated and made efforts key to simplifying, removing redundancy, and developing an easy to use checklist, for our homeowner association's Rules and Regulations and Architectural Change Requests.
- Teamwork and coordination. In all of our Committee work, and as a homeowner, Grace does whatever is necessary to accomplish tasks and develop quality products. She coordinates well with others, and is productive and effective as a team member.
- Community responsibility. Grace follows and advocates community protection and awareness. She has been unrelenting in her pursuit noxious weed control in our community, along with lighting control and mitigation.

I believe that Grace will be a great asset in assisting development of the Comprehensive Plan. You will find that she can add much value to your efforts.

Please feel free to contact me for any further input I might provide. I can be reached at ph 733-5518 or [dmerriott@aspen-management.com](mailto:dmerriott@aspen-management.com).

Sincerely,

Darren Merriott

General Manager-Aspens Management, Incorporated

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