

INSIDE	Page
Newsletter	3
Management Firm	4
Inaugural Conference	5
Geneva Training	6
Student Personnel	7
Committees	8
SEC Ruling	11
Bridging Two Cultures	14
IOA History	16

# WELCOME

## to the International Ombudsman Association!

**"ALL PROGRESS IS PRECARIOUS, AND THE SOLUTION OF ONE PROBLEM BRINGS US FACE TO FACE WITH ANOTHER PROBLEM." — DR. MARTIN LUTHER KING, JR. (1929-1968), 'STRENGTH TO LOVE,' 1963**

On behalf of the Board of Directors and President **Judi Segall**, welcome to the International Ombudsman Association (IOA). In this, the inaugural issue of *The IOA Newsletter*, we would like to reintroduce you to your Board members and let you all know that as a Board, we are firmly committed to maintaining an engaged and motivated organization.

The IOA Board is made up of 17 elected representatives, including Officers, Directors and an Associate Member Representative. Because Board members are representatives of the whole of IOA, we are available for members to contact with any question or concern. You will find a list of the current Board on page 2 of this newsletter.

The Board is proud of its accomplishments in this year of transition. Throughout the many challenges we faced, we were mindful of our common goals and purpose: to serve the membership, our organization, and the Ombuds profession. Much thought, discussion and diligence have gone into the work of the Board this year, some visible, some not.

Along with the typical work of a Board, we have faced additional challenges as we "settled in" following the merger of TOA and UCOA. This process involved not only the merger of two organizations and two Boards, but also the blending of two organizational cultures. The Board has striven to set a tone of collegiality and openness among Board members that we hope will be echoed throughout the entire organization.

To this point, the Board has embarked upon a period of reflecting upon what we have become as a merged organization. We have spent considerable time establishing goals and priorities for the organization based upon membership needs as well as a

vision for the future of the organization. The Board hopes that IOA will continue to grow upon a solid foundation of its accomplishments and achievements.

*(continued on page 2)*



**The Board has striven to set a tone of collegiality and openness among Board members that we hope will be echoed throughout the entire organization.**

**(Welcome continued from page 1)**

Some of the priorities that we have identified include measure and study of the upcoming initial membership application cycle, creating and strengthening IOA's identity and presence, planning and executing the Inaugural IOA Annual Conference, preparing for the development of an organizational strategic plan, and continuing to provide training, resources and support to IOA members and those interested in the Ombuds profession.

The quote by Dr. Martin Luther King, Jr. at the beginning highlights this letter's idea that as progress occurs, there are new challenges born. This is certainly true as we continue defining our new culture that reflects those of both TOA and UCOA, a task that will long be a work in progress.

While we are aware that everyone has personal and professional commitments that take up much of their time, we encourage members to contribute to IOA in any way possible. Please consider participating with a committee, contributing an article to *The IOA Newsletter* or facilitating a session at our annual conference. From the most experienced ombuds to those new to our profession, we each have something to offer to IOA and the Ombuds profession. Again, the IOA Board welcomes you! ■



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## A Note from the Newsletter Editorial Team

Following on the heels of the TOA/UCOA merger, members of the new Association are excited by the potential of the combined organization. This is certainly true in relation to the future of the Association newsletter.

As the new editorial team for the newsletter plans for future editions, we invite all members to consider contributing to the newsletter, both in terms of articles and suggestions. Since we are all volunteers, your support is crucial in our efforts to make this newsletter a "must read." As we move ahead, please consider what topics you might like to write about that would be of interest to the membership. Our editorial team will be reaching out regularly to solicit your assistance.

In future editions of the newsletter we plan to include a **Letters to the Editor** feature to allow members to comment on articles from prior newsletters or to comment on issues relating to the Association or the profession. The feature will not supersede the listserv as the primary vehicle for dialogue and discussion among members. We have established the following guidelines for letters that are submitted for possible publication:

- Letters should not be anonymous
- Letters should be submitted in the spirit of promoting an exchange of information and ideas to further the profession and/or IOA
- Letters should not attack any individual or group
- Letters will be published at the discretion of the editorial team, space permitting

We hope the newsletter can serve as a robust source of information regarding the status and initiatives of the Association and as a conduit for individual members to share their knowledge and experience to help educate other practitioners. Since many Ombuds work in somewhat isolated environments, the newsletter is an important tool to bring us closer together and strengthen the profession through sharing our experiences.

To provide feedback, suggestions and articles, please feel free to contact any of the co-editors: **Michael Eisner** [mediatormikee@aol.com](mailto:mediatormikee@aol.com), **Tom Barnette** [tom.barnette@aexp.com](mailto:tom.barnette@aexp.com) and **Nicholas Diehl** [ndiehl@princeton.edu](mailto:ndiehl@princeton.edu).

Many thanks. ■



The **IOA Newsletter** is published quarterly by The International Ombudsman Association to provide information on developments in ombuds practice, association news, and other topics of professional interest to members and associates of IOA. Articles and advertisements do not necessarily represent the position of IOA. Copyright 2005, IOA. No material may be photocopied or distributed without express written permission of IOA. This newsletter is produced by Professional Management Associates, L.L.C., a full-service association management company.

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## What's in a name? (How about \$50)

That's what the winner of our **name-the-newsletter** contest will receive.

You see we don't have an official name of this newsletter, so we need your suggestions.

Here's how the contest will work:

Please send your suggestions via e-mail to **Nick Diehl** at **ndiehl@Princeton.EDU** by January 15. The newsletter editorial team will reach a consensus (subject to approval of the Board of Directors) and announce the winner in the next edition.

All members of IOA are eligible to enter (except for the editorial team).

In the event that more than one member submits the winning entry, the winner will be the originator of the e-mail that was received first.

The winner will receive a \$50 American Express Gift Cheque donated by American Express. ■

## PMA Selected Management Firm

As our members are well aware, earlier this year The Ombudsman Association and the University and College Ombuds Association merged and became the International Ombudsman Association (IOA). IOA is now the largest international association of professional organizational Ombuds practitioners in the world, representing over 500 members from the United States and across the globe. Professional Management Associates, L.L.C. served as TOA's association management firm from 2000 – June of 2005 and has just been selected as the IOA's management firm, effective November 1<sup>st</sup>.

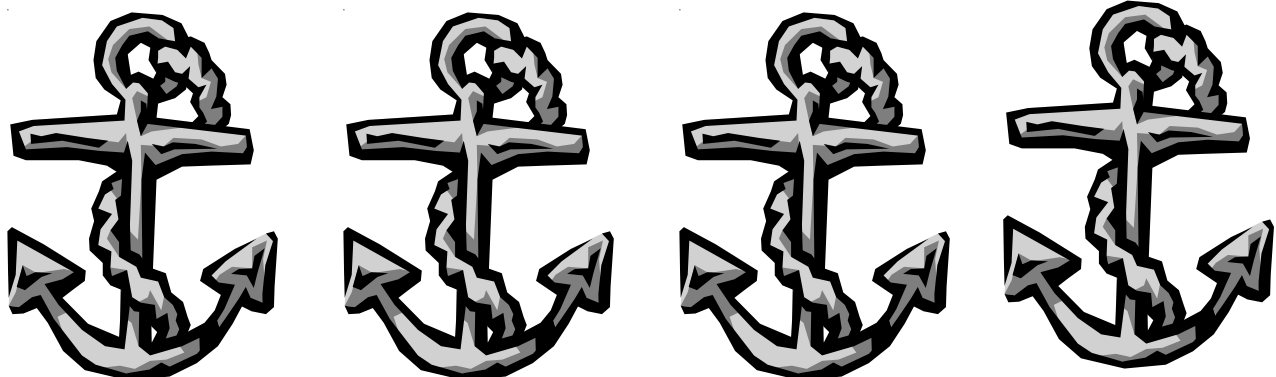
"As a newly merged organization, it is very reassuring to know that we can rely on PMA's expertise to help us establish our administrative and management infrastructure. Their expertise, responsiveness and dedication to our success as a newly-formed professional association is an enormous benefit that will go far in helping establish IOA as a respected and vital organization," said **Judi Segall**, IOA President, in announcing the selection of PMA.

Professional Management Associates, L.L.C., is located north of Princeton, New Jersey, halfway between New York City and Philadelphia, with easy access to Interstate 287, the New Jersey Turnpike, and other major arteries.

Founded in 1984, Professional Management Associates, L.L.C., is a full-service association management company specializing in the management of trade associations, professional societies, user groups, business networks, and membership organizations.

PMA is a Charter Accredited Association Management Company, a designation conferred by the 25,000-member American Society of Association Executives to only twenty-two association management companies in the country. PMA is also accredited by the International Association of Association Management Companies; this is a standard approved by the American National Standards Institute. PMA is one of only sixteen companies in the world to achieve dual accreditation.

"We're thrilled to be once again working with the dedicated volunteer leaders in the Ombuds profession," said **Joanne J. Cole, CAE, CMP**, Managing Member of the firm. "We look forward to partnering with the IOA for mutual success and look forward to a long, productive, and prosperous relationship." ■



## ANCHORS AWEIGH Charting a New Course for Organizational Ombuds

The Board of Directors of the International Ombudsman Association and the Conference Planning Committees want to extend a sincere invitation to all IOA members and their guests to attend the first annual conference of the International Ombudsman Association to be held April 2-5, 2006. Conference headquarters will be the La Jolla Marriott Hotel where Pre-Conference Courses will be held on Sunday April 2 as well as sessions all day Monday April 3 and until noon on Wednesday April 5. Sessions on Tuesday April 4 will take place 5 minutes from the Marriott at one of America's most beautiful campuses, the University of California San Diego where ombuds Judy Bruner will be our host. To get a sense for the area's natural beauty, please click on <http://lajolla.com>.

Conference registration fees for IOA members will be \$380 that includes a spectacular opening reception and talent show (Sunday), fabulous breakfasts (Monday, Tuesday, Wednesday), an informative Annual IOA Business Meeting & Lunch (Monday), a stirring Annual Awards & Recognition Lunch (Tuesday), and all plenary and concurrent sessions Monday, Tuesday, and Wednesday. We encourage all attendees to make hotel reservations early for the La Jolla Marriott that is offering a special IOA rate per night of \$139 + taxes. Please check the IOA Website [www.ombuds-toa.org](http://www.ombuds-toa.org) for details on how to register for the conference and reserve accommodations at the La Jolla Marriott.

IOA Conference Committees are working diligently to deliver the best conference ever for organizational ombuds. **Joanne DeSiato** and Committee are creating an offering of Pre-Conference Courses second to none. **Don Noack** and the Programming Committee are searching worldwide as they construct the best possible array of plenary and concurrent sessions that will stimulate and renew all conference attendees. **Judy Bruner** and friends are planning spectacular (and affordable) events for Monday and Tuesday evenings, April 3-4. The IOA website [www.ombuds-toa.org](http://www.ombuds-toa.org) is the best way to stay informed about conference programming particulars.

Submissions for program proposals/presentations as well as ideas for speakers, topics, sessions, and panels are due no later than December 15, 2005. Please address those communications to **Don Noack** [ddnoack@sandia.gov](mailto:ddnoack@sandia.gov), **John Carter** [john.carter@citadel.edu](mailto:john.carter@citadel.edu), or **Vicky Brown** [vbrown@mail.ucf.edu](mailto:vbrown@mail.ucf.edu).

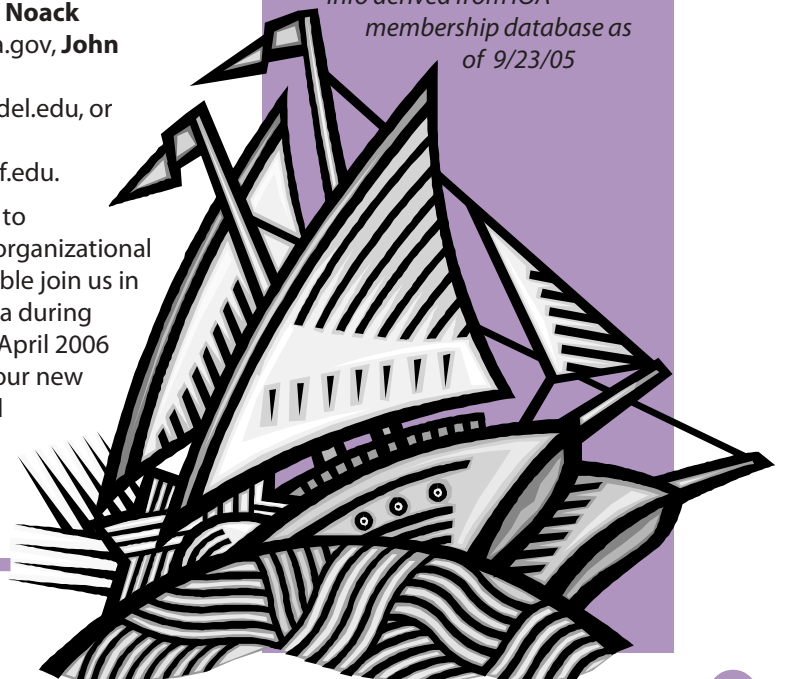
We look forward to having as many organizational ombuds as possible join us in La Jolla, California during the first week in April 2006 as we celebrate our new organization and learn together how to be better, more productive professionals.

## Membership Miscellany

**With the merger of UCOA and TOA, did you know that...**

- IOA has members from 16 countries on 6 continents?
- IOA has members from 44 states in the US and Puerto Rico, the District of Columbia and the US Virgin Islands?
- 50% of all IOA members are from Canada, the District of Columbia or one of six states in the US- California, New York, Texas, Massachusetts, Florida or Maryland?
- IOA membership consists of about 62% women and 38% men?
- Approximately 44% of members are from the academic sector, 26% are from for-profit organizations and 30% from the government /other sector?

*Info derived from IOA membership database as of 9/23/05*



# IOA Geneva Training

BY WILBUR HICKS

**T**he International Ombudsman Association is international in more than just its name. The membership now includes members on all of the habitable continents. In addition to the training offered in many U.S. cities, IOA has provided professional development opportunities in several cities in Canada. IOA has also extended its international reach to Europe.

IOA returned to the beautiful site of its first successful European offering, Geneva, Switzerland. In 2004, the flagship course, **Ombudsman 101**, was the only course offered. This year, in addition to **O101**, IOA offered two specialized courses, *"Working with Difficult People"* and *"Complex Case Handling."* Both courses drew 12 participants. Nations represented in the courses included Japan, New Zealand, Great Britain, Switzerland, The Netherlands, Italy, Austria, and Canada. The **O101** course was held at UNDP, an agency of the United Nations. The two specialized courses were held at the historic Palais des Nations, the headquarters for the forerunner of the United Nations, the League of Nations. The Palais now houses offices of the United Nations. IOA members were instrumental in acquiring the donated space for the courses.

"I could not help but feel that there was no more appropriate place to teach ombudsmanry and conflict resolution and alternative dispute resolution. As I walked the halls of



**Participants and instructors from the Ombuds 101 course held in Geneva, Switzerland. The photo was taken outside of the United Nations Development Program building, the site of the training.**

the Palais and gawked at the magnificent examples of the art deco movement, I thought of the many meetings and discussions that must have taken place here in an effort to promote world peace," said **Wilbur Hicks**, **O101** coordinator and Ombudsperson at the International Monetary Fund. The other members of the **O101** team were veteran instructor **Dr. Howard Gadlin**, Ombudsman, National Institutes of Health; and newcomer to the IOA teaching faculty, **Dr. David Miller**, Ombudsman, World Health Organization.

In reflecting on his Geneva experience, Howard Gadlin noted the high

level of sophistication and diverse backgrounds of the participants. "The breadth of their work histories and the thoughtfulness they brought to the training, made the teaching experience one of the most challenging yet exhilarating that I have ever had."

Gadlin added, "What I love most about participating in the international training courses is how much I learn from the participants. There are always differences between their cultures and mine and between their organizational settings and mine which force me to think in new ways about the answers to the most basic questions of the field. In addition,

*(continued on page 7)*

*(Geneva continued from page 6)*

many of these people are living and working in a country other than their country of origin. Not only are their life stories very intriguing, but the complexity of their personal histories seems to have enriched their thinking. It is almost as if perceptiveness is second nature to them because they are always comparing multiple perspectives on any situation they encounter."

David Miller also noted the quality of the participants as he looked back on the courses. "The diversity and depth of experience is really enriching the profession. The challenge is to capture such richness while maintaining a focus on the core principles that make our work possible."

Miller talked further about Gadlin's comments on perception. "The value of a good idea is equal to the ease of its perception. It was a privilege to be among some of the best and most creative practitioners from established and new forums for Ombudsman work, and to see such experiences so well expressed. We enjoyed total participation and commitment from the group, and everyone seemed very reluctant to leave the course! It is particularly exciting to experience training as a two-way process which affirms and enriches all participants and facilitators, while also broadening the many horizons within the group. I came away feeling new pride in our profession, and new hope. I am grateful to the participants for the richness of their contributions and to IOA for affording me this opportunity."

The future for international training is bright. IOA plans to return to Europe next year with more professional development opportunities. Sites being discussed in addition to Geneva are Paris and Rome. IOA is

## Outreach to the National Association of Student Personnel Administrators

BY CLAUDIA D'ALBINI

Colleagues and friends of Regions V and VI of the National Association of Student Personnel Administrators reconnected in the relaxing landscape of the Sonoran Desert in Tucson, Arizona, at the newly built JW Marriott Star Pass Resort & Spa November 10-12.

The conference theme, **Sustainability & Partnerships**, was sparked by the planning team's own experiences of being in a profession that requires endless hours, experiencing rewards that can only be seen through university and college students' accomplishments, and an endless cycle of creating a successful learning environment with limited resources.

University of Arizona Ombuds, **Claudia D'Albini**, **Jim Drnek** (NASPA conference Planning Team Leader), **Michael Dues** and **Carla Nunn** presented a workshop titled, **"Turning Problems into Opportunities."** The goal of the interactive, but informative, workshop was to educate student personnel administrators about the value of ombuds to

their institutions and the services the International Ombudsman Association provides to existing ombuds programs or to institutions that would like to establish ombuds programs on their campuses.

The conference gave student personnel administrators from twelve western and southwestern states the opportunity to reconnect and exchange ideas, to recreate practices and concepts by sharing and exploring both effective and new ideas, and to renew their dedication to students, institutions and our communities.

It is our hope that universities that already have ombuds programs at their institutions became more informed about the greater benefits of ombudsing, and that those universities that do not have ombuds programs learned what their institutions are losing. Administrators were also encouraged to take advantage of the opportunity to attend IOA's inaugural conference, which will be held in La Jolla, California, April 2-5, 2006. ■

just beginning to develop a European faculty, and is looking to Miller to head this effort. "We first met David as a participant in the **O101** training at the 2004 Geneva offering." According to Hicks, "We were all impressed with his many skills, abilities, and talents. He is a scholar, an excellent teacher, and an expert in conflict resolution. When we had

our class at WHO last year, we noted how his colleagues warmly greeted him in the halls and accorded him great respect as the ombudsman. When Howard and I were looking for someone around whom to develop a European faculty, we both agreed that Miller would be the ideal choice." ■

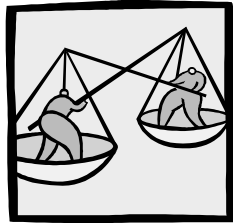
# COMMITTEE REPORTS

## Nominations and Elections Process

BY MARY CHAVEZ RUDOLPH

The IOA Nominations and Elections Committee (NEC) rolled into gear in early November with a call to the members for recommendations for nominations to the IOA Board of Directors and Associate Member Representatives. This call for "recommendations" may seem a bit strange to those who, previously, were members of TOA. The IOA Bylaws state that the Nominations and Elections Committee will select the nominees from the suggestions made by the members versus all nominees being placed on the ballot. NEC will utilize the following criteria when nominating candidates for positions to be filled.

- Balance of board with respect to gender, ethnicity, race, sector, and region of the country;
- Strengths and skills needed by IOA (e.g., expertise in legal, finance and accounting, research, etc.);
- Leadership experience;
- Experience on IOA (i.e., TOA/UCOA) committees and task forces and feedback from committee chairs about reputation for integrity, ethical behavior, honesty, and ability to work with others;
- Strong commitment to IOA vision and success;
- Time availability;
- Support (i.e., administrative support, organizational support);
- Nominee should not have, nor appear to have a conflict of interest that would interfere with his/her ability to represent the interests of IOA.



The IOA Bylaws also state that the current Board of Directors must approve the slate of nominees prior to conducting elections.

Another difference that some may notice — particularly those from TOA — is the addition of Associate Member Representatives to the Board. Two Associate Member Representative positions will be filled this year. According to IOA Bylaws, Associate Member Representatives to the Board of Directors will be

entitled to speak at Board meetings; will be expected to communicate issues and/or ideas to other Associate Members; will not be eligible to vote on matters before the Board; and will be listed separately from the listing of the Board members.

The election of Board members and Associate Member Representatives will be conducted separately in accordance with the IOA Bylaws. The elections will be held at the same time and will have the same nominating committee but the ballots will be separate as Associate Member Representatives will be elected by Associate Members only. Board members will be elected by the Members and Associate Members.

Recommendations for nominees for Board members and Associate Member Representatives were due December 12, 2005. Nominees who meet eligibility requirements (e.g., renewed their membership, agreed to serve if elected, nominated by at least two members, and had been a member of TOA/UCOA for at least two years) will receive a packet with

information about IOA and are asked to submit a statement. Look for the IOA Ballots in early January!

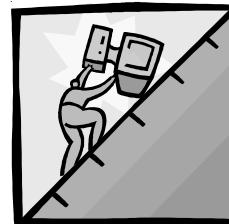
## Conference Oversight

BY MARGO WESLEY

The Conference Oversight Committee was appointed by IOA's Board to oversee long-range planning and policy development for IOA's annual conferences. Members are **Margo Wesley** (Chair), **Mary Chavez Rudolph**, **Lynn Connley**, **Judy Guillermo-Newton**, **Donna-Jean Loudon**, **Sandy McDermott**, and **Trey Reckling**. One of the duties of this committee is to appoint co-chairs for each year's Conference Planning Committee, the team charged with implementing the conference for a given year. The Conference Planning Committee co-chairs are, by virtue of this appointment, also members of the Conference Oversight Committee. Co-chairs for the 2006 Conference Planning Committee are **Vicky Brown**, **John Carter**, and **Don Noack**, who have been working with great skill, energy, and enthusiasm to plan for the 2006 conference in La Jolla.

The primary mission of the Conference Oversight Committee is to develop a vision for IOA's conferences and then to engage in long-range planning, oversight, and assessment to assure that conferences support that vision. Specific tasks fall into three areas:

1) **Policy Development:** The committee will develop policies regarding site selection, sponsor-

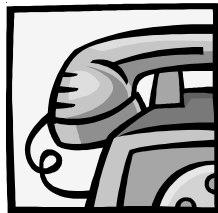


ships, financial matters (fee schedules, scholarships, complimentary invitations, etc.), external relations, and other topics as needed.

2) **Site Selection:** The committee will work with IOA's management association to select sites for the annual conferences and ensure execution of comprehensive, timely contracts.

3) **Oversee Annual Committees to Assure Continuity and Effectiveness:** As liaison between the annual Conference Planning Committees and IOA's Board, the Conference Oversight Committee appoints co-chairs for each year's Conference Planning Committee and provides any necessary oversight and orientation. We will develop a means for passing on, from one year's Conference Planning Committee to the next, a set of materials, including suggested sub-committee structures, relationships with other IOA committees, budgetary information, assessment tools, and lessons learned. This information will probably be in the form of a conference planning handbook. Continuity will also be assured by having IOA's successive Vice Presidents chair the Conference Oversight Committee, and by asking a co-chair of the current year's Conference Planning Committee to serve on the next year's Conference Planning Committee.

The Conference Oversight Committee would be delighted to receive your suggestions for making IOA's conferences as effective and exciting as possible!



## Communications

**BY CLAUDIA D'ALBINI AND MOLLY MCAVOY, CO-CHAIRS**

The IOA Communications Committee quickly identified an abundance of ongoing projects, as well as new challenges, from the basics of creating a new member directory and listserv to the complexities of constructing a new website. We determined that our priorities needed to focus on the immediate needs of communication to the membership. Thus, the listserv, website development and construction, and the newsletter have been the center of our attention this fall.

We look forward to providing you with a comprehensive web tool in the very near future. The IOA website will soon evolve into a functioning resource for communication, information and tools for both members and nonmembers. The site will reflect the combined vision and direction resulting from the recent merger and will help us to look toward the future as one organization.

As soon as the new site is ready, new usernames and passwords will be distributed to all members. Please bear with us while we work to provide an outstanding web resource for IOA members and those interested in the Ombuds profession and in IOA.

Our most recent outreach activities have included representation at Mediation Settlement Day in New York City and a workshop presentation to the National Associa-

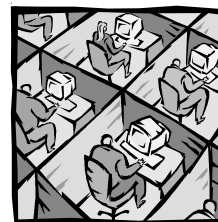
tion of Student Personnel Administrators, Regions V and VI, titled, *"Turning Problems into Opportunities,"* where we introduced student personnel administrators to IOA and the value of Ombuds to their institutions.

We would like to thank Communications Committee members **Michael Eisner, Tom Barnette** and **Nicholas Diehl** for volunteering to serve as Editors for our Newsletter. If you have ideas for future newsletter articles or contributions you would like to submit, please contact Michael, [mediatormikee@aol.com](mailto:mediatormikee@aol.com), Tom, [tom.barnette@aexp.com](mailto:tom.barnette@aexp.com) or Nicholas, [ndiehl@Princeton.edu](mailto:ndiehl@Princeton.edu).

We have other projects that are waiting to be moved up on the priority list. If you would like to get involved, please contact **Molly McAvoy** ([mmcavoy@gw.hamline.edu](mailto:mmcavoy@gw.hamline.edu)) or **Claudia D'Albini** ([dalbinic@u.arizona.edu](mailto:dalbinic@u.arizona.edu)). We welcome your participation!

## Uniform Database Categories

**BY TOM SEBOK**

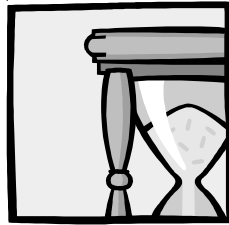


Following its presentation at the 2005 Atlanta Conference, the Uniform Database Categories Task Force is continuing its work in developing a list of categories that might be useful to ombuds across sectors (corporate, higher education, government agencies, and international agencies) in classifying the kinds of issues for which people use ombuds services.

*(continued on page 10)*

*(continued from page 9)*

Feedback from those attending the 2005 conference session was quite positive and this inspired the Task Force to conclude it was on the right track in its work. Several Task Force members have commented that the monthly Task Force discussions have, in themselves, been a rich professional development experience for members as developing such taxonomy requires a broad and deep look at the myriad of issues with which ombuds are asked to provide assistance.



The current draft of the project includes eight broad categories,

each with a number of subcategories. The Task Force is currently in the process of test piloting this draft with ombuds from all four sectors in North America and in Europe. Those piloting the current draft of the categories are asked to: 1) use the categories to try to classify their own case data from a previous year and/or 2) use the categories to classify a number of their current cases. An Excel spreadsheet is made available to give "pilots" an opportunity to provide feedback on each category and subcategory. A brief questionnaire allows for additional feedback about the usefulness of the categories or

subcategories, areas of confusion, information thought to be missing, etc. Any IOA member who would like to participate in the pilot by trying out the current categories is encouraged to contact **Tom Sebok** at: Sebok@colorado.edu.

The Task Force hopes to make recommendations to the IOA Board and present a final draft at the Spring '06 conference in San Diego, CA.

Task Force members include: **Beatriz Dale** from American Express, **Joe Ganci** from the Inspector General's Office at the US Dept. of Labor, **David Miller** from the World Health Organization, and **Tom Sebok** from the University of Colorado at Boulder. ■



**Redmond, Williams  
& Associates, LLC**

*Designers of Effective Risk Mitigation, Ethics and Change Programs*



After speaking with many of our Ombuds colleagues in all sectors, and understanding their needs and wish lists, we have designed OmTrends®—a case management, analysis and reporting software for the Ombuds community. OmTrends is helping Ombuds to:

- Spend less time on data management—more on cases, awareness and issue prevention
- Create professional-looking presentations
- Instantaneously obtain answers to questions about Ombuds' cases, for example:
  - § How many cases are brought from each department?
  - § What are the types of issues?
  - § Who is bringing these issues?
  - § What percentage led to change?

If you would like to have more information, please contact us.

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*Arlene & Randy*

# Dilution of the Ombudsman Role:

## The SEC's Ruling in the RS Investment Management Case

BY MICHAEL EISNER

**A**s corporate scandals have been exposed over the past few years, more companies are viewing the creation of an ombudsman office as a viable method of deterring further ethical violations or preventing them from occurring in the first instance. However, if not created according to guidelines set forth in The Ombudsman Association's ("TOA") **Code of Ethics and Standards of Practice** and TOA's recently issued **Best Practices for Establishing an Organizational Ombuds Office** document (2005), an ombudsman office can find its effectiveness severely diluted.

According to TOA's **Best Practices** document, the four cornerstones of an ombudsman office are independence, neutrality, confidentiality and informality. The absence of any of these (or even the appearance of their absence) can substantially limit the effectiveness of an ombudsman. TOA's **Code of Ethics and Standards of Practice** elaborates that ombuds are "designated neutrals and remain independent of ordinary line and staff structures." In October of 2004 a ruling made by the Securities and Exchange Commission ("SEC") in the case of *In the Matter of RS Investment Management, Inc., RS Investment Management, L.P., G. Randall Hecht and Steven M. Cohen* ("Respondents") directly contradicts TOA's **Code of**

### **Ethics and Standards of Practice and the Best Practices** document.

In *RS Investment Management*, the company, a San Francisco Bay area investment advisor, was accused of allowing certain clients to engage in excessive trading in violation of the provisions of their mutual funds' prospectus. Simultaneously, these investors made a long-term asset commitments to be invested in one of the company's mutual funds. During the same period, the Respondents prevented other investors, who did not make long-term investments in the company's other mutual funds, from exceeding the trade limitations. The failure of the Respondents to disclose these arrangements to the Funds' shareholders and Board of Trustees as well as the potential conflict of interests to other investors, led to the charges being filed by the SEC. In response to the charges, the Respondents proposed their own remedial actions.

In addition to the Respondents' own proposed remedial actions, the SEC ruling required the Respondents to comply with certain additional undertakings. Among these undertakings was to have the Chief Compliance Officer act as "the corporate ombudsman to RS employees in order to convey concerns about RS business matters

that they believe may implicate matters of ethics or questionable practices." While the creation of an ombudsman office for employees to report ethical concerns is admirable, combining the role with the Chief Compliance Officer is troubling.

Requiring the Chief Compliance Officer to act as the Corporate Ombudsman directly violates TOA's **Standards of Practice** which state that ombuds "do not serve in any additional function in the organization which would undermine the privileged nature of our work (such as compliance officer, arbitrator, etc.)." The ruling also contradicts the TOA's **Best Practices** document, which states that the ombudsman should not "be affiliated with, any compliance or record-keeping office of the organization" and "should not participate in formal management functions or serve in any other role that poses or gives the perception of a conflict of interest."

The setup prescribed by the SEC ruling is troubling for several reasons. One issue is the lack of independence of a hybrid Chief Compliance Officer/Corporate Ombudsman. The Chief Compliance officer is part of line management in an organization. This secondary function may compromise the neutrality of the ombudsman because a compliance officer is part

(continued on page 12)

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of “management” whereas an ombudsman does not represent management or employees. The Chief Compliance Officer/Corporate Ombudsman is neutral in the ombudsman role, but not as the compliance officer. This dual role makes it difficult for an employee who approaches the Chief Compliance Officer/Corporate Ombudsman to know whether they are speaking with the neutral ombudsman or the compliance officer who is part of the corporate structure.

The contradictory roles of a compliance officer and an ombudsman render the hybrid position created by the SEC ruling ineffectual. The Chief Compliance Officer conducts formal investigations into potential violations. If an employee comes forward to report an issue to the Chief Compliance Officer, the organization is deemed to be on notice of the complaint and must address the complaint or the organization will be subject to potential legal liability. This is true even if the employee does not want the organization to address the complaint.

However, under TOA’s **Standards of Practice and Best Practices** document, an ombudsman does not conduct formal investigations. While a compliance officer is a formal channel to raise issues and potential violations, an ombudsman office is an informal option for doing so.

When raising an issue to an ombudsman, an employee retains control over how the issue is addressed or even whether the issue is addressed by the organization. This is contrary to reporting to a compliance officer (or another formal channel in the organization) where the employee has no control over the issue once it is reported. The hybrid setup proposed by the SEC’s ruling creates confusion in potential visitors to the Chief Compliance Officer/Corporate

agent of notice for the organization and is required to report, investigate and act on any reports of violations. If the furtherance of an investigation requires identifying the individual who reported the violation, then the Chief Compliance Officer must reveal that person’s identity.

On the other hand, pursuant to TOA’s **Code of Ethics and Standards of Practice** an ombudsman must maintain the confidentiality of visitors to the office, except “where

there appears to be imminent risk of serious harm.” The ombudsman can offer confidentiality since he/she does not conduct formal investigations, leaving this role to others (such as the Chief Compliance Officer). The ombudsman can help the visitor disclose all information necessary to investigate the ethical issues raised without revealing the identity of the visitor. Although there are state and federal laws protect-

ing whistle blowers from retaliation by employers, such people are often viewed in a negative light by colleagues making it difficult or impossible for them to continue to function effectively in the organization.

It may be argued that if the furtherance of an investigation of a potential violation requires the identification of the individual reporting the possible violation, then by keeping the individual’s name confidential,

**The contradictory roles of a compliance officer and an ombudsman render the hybrid position created by the SEC ruling ineffectual.**

Ombudsman, as to whether their concerns will be addressed formally or informally. This confusion might lead to fewer complaints being brought forward.

An additional danger of having the Chief Compliance Officer act as the Corporate Ombudsman is that the Chief Compliance Officer does not offer complete confidentiality to those who report possible violations. While the Chief Compliance Officer may strive to maintain confidentiality, the Chief Compliance Officer is an

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the ombudsman is hindering the investigation and preventing the organization from confirming and properly addressing the issue. The flaw with that argument is that if the individual reporting the potential violation is so concerned with remaining anonymous, then the individual would never report their concern to the Chief Compliance Officer who cannot assure confidentiality. The ombudsman is the only source for this individual to report their concerns since the ombudsman guarantees confidentiality<sup>1</sup>. Combining the roles of Chief Compliance Officer and Corporate Ombudsman eliminates the possibility of assuring visitors confidentiality and will likely have the effect of limiting the reporting of violations, frustrating one of the apparent purposes of the SEC's ruling.

Separation of the roles of Chief Compliance Officer and Corporate Ombudsman would allow each to do their job more effectively as well as help the organization maximize the number of violations brought to its attention. The Chief Compliance Officer can act as a police officer, identifying and formally investigating possible violations. The Corporate Ombudsman can supplement

that role by serving as a valuable resource for employees who do not want to be identified, to raise issues. By offering multiple options to report suspected violations, an organization can maximize the number of ethical violations or questionable practices brought to its attention. By requiring RS Investments to combine the roles, the SEC ruling is diluting the potential effectiveness of the Corporate Ombudsman and frustrating its goal of preventing future violations.

Since the creation of an ombudsman office is a very useful tool in preventing and uncovering corporate violations, it is important that the office be set up according to The Ombudsman Association's **Standards of Practice** to maximize the value of the office. Combining the ombudsman role with that of another corporate employee may save the corporation money, but will also prevent that corporation from reaping the full benefits of an ombudsman office. ■

**Michael Eisner** is a mediator and attorney in New York and New Jersey who writes about the usage of Ombuds programs in organizations.

## Have You . . .

- **Published an article about some aspect of being an Ombuds?**
- **Been interviewed about your role as an Ombuds?**
- **Done some outreach activity to promote awareness /understanding of the ombuds function?**
- **Presented research or delivered an Ombuds –related speech?**
- **Otherwise contributed to the advancement or understanding of the profession?**

If so, please let us know. In each issue of the newsletter, we would like to acknowledge contributions that our members make on behalf of IOA and/or the profession. Through that acknowledgment, we hope to give others ideas and motivation to pursue similar activities. So please don't hesitate to share your examples.

Please send information about any such contributions to a member of the IOA newsletter team: **Tom Barnette** tom.barnette@aexp.com, **Michael Eisner** mediatorsmikee@aol.com or **Nick Diehl** ndiehl@Princeton.edu. ■

### FOOTNOTES

<sup>1</sup>Although there is no statutory ombudsman privilege in the United States, a privilege for ombuds has been recognized on the basis of federal common law under Federal Rule of Evidence 501 in federal court, as well as under a theory of implied contract.

The Organizational Ombuds: Complementing the Ethics Office, Arlene Redmond and Randy Williams, *Ethikos and Corporate Conduct Quarterly*, September/October 2003; for a detailed discussion of ombuds confidentiality, see *The Ombuds Confidentiality Privilege*, Charles L. Howard and Maria A. Gulluni (2001)



# Dotting the “I” in IOA

## A Collaborative Article Bridging Two Cultures

DR. YOSHIKO TAKAHASHI, KEIO UNIVERSITY, WITH DR. MARY ROWE, MIT

**A**s Ombuds officers we are used to a standard of absolute confidentiality that tends to make us keep mum about our work. This causes no difficulty when we are working within a context where the concepts of OO are familiar. But what happens when the basic ideas of OO need to be introduced to a new cultural context? As the “global market” begins to adopt “global” standards of business practices, we may, as “experts” in our field, be asked to introduce and explain everything from basic standards to the institutional advantages of OO to new and inquiring cultures. Where do we start? How much do we say? What follows is a narrative of two colleagues who found themselves with just such a request.

In mid-October of this year, **Mary Rowe** was contacted by the *Nihon Rodo Kenkyu Zasshi* (Japan Labor Study Journal), the official publication of the Japan Institute for Labor Policy and Training, a semi-governmental organization and one of the most prestigious journals for labor studies in Japan to write an article on OO for a special January 2006 issue devoted to workplace communication. For a journal dedicated to studying and disseminating international research and practices in labor policy, it is not surprising that they

would contact our own “guru” of ombudsing. But the request, “to introduce OO to Japanese readers” in 4,000 words was more than daunting, it was confusing. What

do Japanese readers know about OO? Should the article begin with basics, or concentrate on the standards of practice, or the legal, cultural, and

corporate implications of an OO “culture?” And how to explain all of this in 4,000 words which would then be translated into Japanese? Knowing that she was quite out of her depth, Mary of course contacted her colleague, **Yoshiko Takahashi** of Keio University in Japan. (They had met when Yoshiko headed up a research group from her school that was investigating ombuds policies at U.S. universities, and then ultimately established the first ombuds office in Japan.)

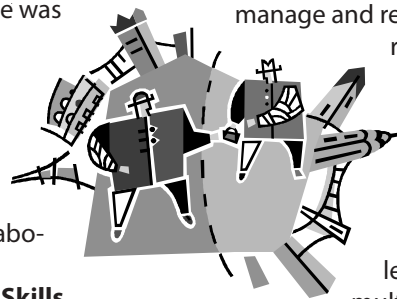
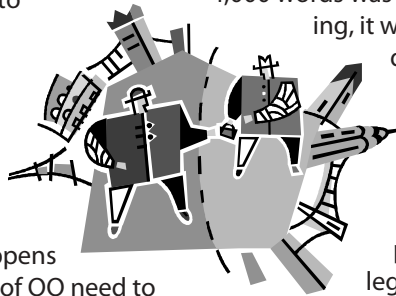
The structure of the article was simple, but drew on the strengths of each of the collaborators. Mary would cover the basics of our profession and the daily tasks that an OO office might cover, elaborating from the booklet **Options, Functions and Skills.**

Yoshiko placed this information within the specific context of Japan by providing a short history of OO in Japan. Finally they selected and Yoshiko translated such key informa-

tion as the **Standards of Practice** and the **Code of Ethics**, a table of Human Resources Offices and Officers, such as EPA, HR, OO, etc. with the areas that each covers to be placed as information boxes around the article. Below are some excerpts from the article which may be of interest to the OO newsletter readership and those colleagues who may be working on introducing OO concepts to other cultures with some comments on their significance.

For example, how could we introduce the basic concept and value of OO in a clear and concise way that would at once inform yet entice readers? The final product may seem simple, but it takes reflection both on the basics of our profession and the knowledge of a general reader to produce this paragraph:

“Over the past thirty years hundreds of North American organizations have established organizational ombudsman (OO) offices to help manage and resolve workplace related conflict. Changes in civil rights, government oversight, and ethical standards have led national and multi national corporations, academe, and government agencies to create internal OO offices, often as part of a conflict management system. OO programs



(continued on page 15)

(continued from page 14)

are an “alternative channel,” not a substitute for ordinary line and staff management. The key characteristics of OOs are neutrality, independence, confidentiality and informality (making no management decisions.)” The article goes on to explain each of these characteristics clearly yet succinctly.

Again, the basic concept needs to be placed within the cultural context of the reader. The following is a segue paragraph to a fuller exposition of the Japanese experience with OO.

“Within ‘traditional’ Japanese corporate culture, concepts such as seniority, life time employment and ‘co-operation’ filled the space assumed by ombuds offices in ‘Western’ corporate culture. However, the increased globalization of the Japanese workplace combined with an increased rate of mergers in order to deal with the post-‘bubble’ economy has led to a Japanese work environment as diverse and complex as any in the world. Consequently, such long-standing grievance mechanisms as consulting with a Personnel Department, Counselors (US EAP) or labor unions have been unable to cope with this new situation. The rate of reported work-related disputes has rapidly increased (government report 2000). In response to requests from both management and labor to help develop a ‘new’ workplace safety net, as well as to assist Japanese corporations in conforming to international business practices, Japanese government enacted a law directing the Ministry of Health Labor and Welfare (MHLW) to provide a mechanism for

a ‘one-stop service’ labor dispute resolution mechanism in 2001.”

The article then goes on to examine the effectiveness of one of these offices as a prelude to discussing the advantages of the OO system.

Finally, there was a need to take the exposition of the OO duties, place them within the Japanese institutional context, and outline the specific actions a Japanese company may have to address in order to make an OO office a working part of its organizational structure. This formed the next to the last paragraph of the article, **“What Should Be Done in Order for OO to Be Effective in Japanese Organizations.”**

**1. Management Support and Commitment:** It is not an exaggeration to claim that the effectiveness of OO almost solely depends on how much support OO can get from the management. Support in this instance means: Firstly, sufficient resources for an OO to do the job; secondly, to establish by charter an OO’s independence and mission; and thirdly to ensure that an OO staff is trained to the ethics and standards of practice that have made OO work possible.

**2. Visitor’s Mind Set and Conceptualization:** Due to the cultural conceptualization of authority within a Japanese context, OO visitors may have some initial difficulties in accepting the fact that an OO is there to help them to find a solution of their own. The visitors may want

“an authority” to intervene once they bring a case to the office. Thus any Japanese OO needs to develop an effective outreach and program in order to develop an independent visitor mind set.

### 3. Structural Issues and Reform:

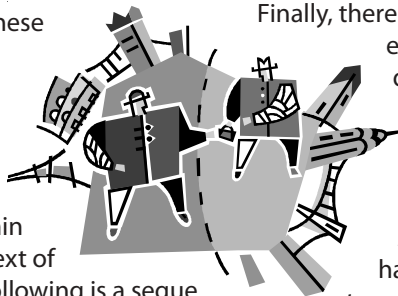
Some of the most “cutting-edge” conflict management strategies are possibly contrary to current Japanese Attorney Law. For example, consider “shuttle diplomacy” which is often used in U.S.; here OO procedures maybe in violation of Attorney Law Article 72 which stipulates that only lawyers can practice mediation. Consequently, a thorough review of both Japanese Law and OO procedures is important for any Japanese Organization.”

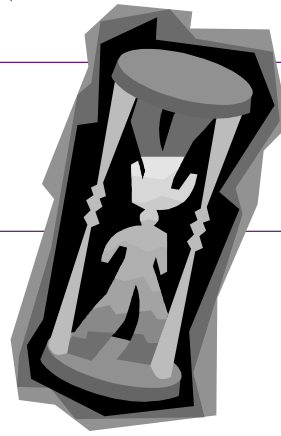
In writing this article we not only introduced the OO concept to a new readership, but by being forced to consider the principles and basic practices of our profession renewed and revitalized the ideas that, through the routine of daily work, we may have come to take for granted. We hope our experience will encourage our IOA col-

leagues to engage in similar projects with new and aspiring members in other cultures. For those who may wish a full English version of the article please

contact **Mary Rowe** at [mrowe@mit.edu](mailto:mrowe@mit.edu) or **Yoshiko Takahashi** at [yoshiko@sfc.keio.ac.jp](mailto:yoshiko@sfc.keio.ac.jp).

**Update from Mary:** Yoshiko, who had already contributed so much to this article, discovered yet another task — working hard to ensure that the Journal’s translations would be correct. IOA is so fortunate in its international members. ■





# IOA History

As we look to the future, it might be useful to recall our collective pasts. To those who were there in the beginning, we owe a debt of gratitude. Following are brief summaries of the founding and early history of UCOA and TOA:

## UCOA History

Beginning in the 1970's and extending into the early 80's, ombuds from several mid-western universities began meeting informally at each other's campuses to share experiences and learn from each other. In 1982, **Leon Miller**, ombuds at Northern Illinois and **Ingrid Clarke**, ombuds at Southern Illinois proposed the idea of forming an official organization in hopes of attracting people beyond the Midwest. Ingrid shepherded the new creation from incorporation in the state of Illinois in October 1984, to formulation of bylaws in April 1985. The University and College Ombudsman Association was officially established at a meeting at Wayne State University on September 27, 1985. Ingrid was chosen as the first president. **Ed Sharples** of Wayne State as president-elect, **Don Perigo** of the University of Michigan as treasurer and **Kay Peter** of the University of Michigan-Dearborn as secretary. **Pat Williams** of Ohio State, **Howard Gadlin** of the University of Massachusetts-Amherst and **Carolyn Stieber** of Michigan State were chosen as board members.

UCOA's first annual event took place in Boulder, Colorado in October of 1986 with 41 people in attendance. Each year thereafter the organization and the annual conference grew.

In 1989, timing of the annual conference was changed to spring in part to accommodate California Ombuds who attended the California Caucus in the fall. At the 1992 conference at Ohio State, the organization voted to change the name for purposes of gender neutrality to University and College Ombuds Association.

In 1995 the first UCOA Handbook was published. In 1998 the UCOA web page became available on-line. Standards of Practice were adopted in 2000 and the Ethical Principles were adopted in 2005.

Adapted from an article written by **Carolyn Stieber** and originally published in *Ombuds News*, February 2002

## TOA History

In the beginning there were seven people who shared a vision to provide an association for other private-sector ombuds. Spearheaded by **Lee Robbins**, Wharton School of Finance and **Dr. Mary Rowe**, Massachusetts Institute of Technology, the vision became a reality in 1982 in the President's Conference Room at MIT, with the participation and support of **Martha Maselko** of AT&T, **Michael Baker** of the Educational Fund for Individual Rights, **Fred Olsen** of Control Data, **Clarence Williams** of MIT, and **Chris McEachern** of Anheuser-Busch.

The founders located other private-sector ombudsmen and initiated the first Corporate Ombudsman Association Conference in Falmouth, Massachusetts in 1984. There were 30 attendees.

The COA came together formally in 1985 and adopted a set of by-laws to govern its operations. Mary Rowe served as the Association's first president, with Chris McEachern and Martha Maselko serving as vice presidents. The original board of directors included **Jim Lakis** (Polaroid), **Lee Pledger** (Digital) and **Carole Trocchio** (Southland). In 1986, COA was incorporated in Massachusetts. Additional board members were welcomed: **Virgil Marti** of McDonnell Douglas, **James Hendry** of the World Bank; **Catherine I. Buckler** of General Electric; and **Lewis Redding** of MIT/Lincoln Laboratory.

In 1987, the first Corporate Ombudsman Handbook was created.

In 1992 the members requested that the name of the association be changed to The Ombudsman Association (TOA) to better reflect the variety of ombudsman functions represented by the members.

Standards of Practice were adopted in 1995 and TOA's web page was created in 1999. ■

Adapted from Chapter VI, page 1 of the **Ombudsman Handbook**