ACTUALLY 2 CASES
WHERE A JG PHOTO
WHICH WAS FIRST
PUBLISHED IN NGM
& WAS USED A 2ND
TIME IN OTHER ISSUES
OF NGM

NORMAN DAVIS 6-PAGES CONFIDENTIAL!

ASSIGNMENTS UNDER THE 1909 COPYRIGHT ACT (ALSO OTHER TRANSACTIONS)

June, 1960	Pennekamp Park assignment	(Bill Garrett)
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THE DREAM.

IN THE EARLY 1940's, I CAME UPON A LARGE COLLECTION OF BACK ISSUES OF THE NATIONAL GEOGRAPHIC MAGAZINES IN OUR NEIGHBORS BASEMENT STORAGE. AS A TEEN-AGER, I BECAME A REAL FAN OF THE MAGAZINE AND THE SOCIETY. DURING MY COLLEGE YEARS, I LEARNED BASICS OF PHOTO-JOURNALISM AND ONE OF MY AMBITIONS WAS TO DO WORK FOR THE NATIONAL GEOGRAPHIC MAGAZINE. I ADMIRED THE SOCIETY FOR ITS ALTURISTIC AIMS WHICH WERE DONE UNDER A NON-PROFIT STATIS. MY FIRST BIG BREAK CAME IN 1960 WITH THE CORAL REEF PARK ASSIGNMENT. FOR THE MAGAZINE.

THE SOCIETY'S PUBLICATIONS:

WHEN I CAME ABOARD AS A FREE-LANCE PHOTOGRAPHER THE PUBLICATIONS OF THE SOCIETY FELL UNDER 5 DIFFERENT CATAGORIES WHICH WERE AVAILABLE TO MEMBERS ONLY ON A SEMI-EXCLUSIVE BASIS:

1). NATIONAL GEOGRAPHIC MAGAZINE
2). PUBLICATIONS FROM THE BOOK DIVISION
3). THE SCHOOL BULLETIN
4) PRODUCTS FROM THE FILM STRIP DIV.
5). MAPS FROM THE CARTOGRAPHIC DIV.

TO THE BEST OF MY KNOWLEDGE THESE PUBLICATIONS WERE NOT AVAILABLE TO BOOK-STORES OR NEWS STANDS.

THE PHOTO REUSE POLICY OF THE SOCIETY:

THE EARLY 60's

INITIALLY, THE OFFICIAL POLICY WAS THAT THEY WOULD NOT PAY FOR ADDITIONAL RE-USE OF PHOTOGRAPHS THAT WERE THEIR PROPERTY AND WERE FIRST PUBLISHED IN THE NATIONAL GEOGRAPHIC MAGAZINE. THIS BECAME VERY APPARENT WHEN THEY RE-USED* MY PHOTOGRAPHS FROM THE JANUARY, 1962 ISSUE OF THE MAGAZINE IN A NEW EDITION OF "THE BOOK OF FISHES." THEY MUST HAVE HAD SOME SECOND THOUGHTS ON THIS POLICY AS THEY DID PAY ME AN ADDITIONAL $200.00 FOR THE RE-USE OF ONE OF MY GEOGRAPHIC PHOTOS ON THE COVER OF THE FISH BOOK.

*

THE MID 60's

1964 TO BE EXACT!

WHEN BOB GILKA STARTED A DIRECTOR OF PHOTOGRAPHY THEY DID HAVE A CHANGE OF POLICY AND STARTED TO MAKE ADDITIONAL PAYMENTS TO NON-STAFFERS WHOSE NGM PHOTOGRAPHS WERE LATER RE-USED IN OTHER PUBLICATIONS OF THE SOCIETY. ALL THROUGH OUR RELATIONSHIP THERE WAS A RELIABLE SOURCE OF PASSIVE INCOME COMING IN FROM "ROYALTIES" COMING FROM PREVIOUSLY PUBLISHED NGM PHOTOGRAPHS. THIS POLICY WAS OFFICIALLY STATED** TO ME BY GILKA BEFORE I TOOK THE BUCK ISLAND ASSIGNMENT. INTERESTINGLY ENOUGH WAS THE RE-USE*** OF THE JANUARY, 1962 COVER PHOTO (AKA: MOVING COVER) AS A RE-USE IN AN ANNOUCEMENT FOR THE SPECIAL PUB BOOK "WORLD BENEATH THE SEA". AT THAT TIME THE SOCIETY OWNED THE COPYRIGHT TO THIS PHOTO.

IN THE FALL OF 1985, WHEN I WROTE TO BILL GARRETT REQUESTING A COPYRIGHT ASSIGNMENT FOR THE PHOTOGRAPHS FROM THREE NGM ARTICLES, I LEFT THE DOOR OPEN FOR THEM TO CONTINUE RE-USE MY NGM PHOTOS IN OTHER SOCIETY NOT FOR PROFIT PUBLICATIONS. WHEN I RECEIVED THE ASSIGNMENT DOCUMENT, I WAS SURPRISED TO SEE THAT THEY DID NOT PUT THIS PROVISION INTO THEIR PAPERWORK. THEIR EXACT WORDING WAS....

"ALL RIGHT, TITLE AND INTEREST"..

FRED WARD TELLS ME HIS ASSIGNMENT DOCUMENT HAS THE SAME PRECISE WORDING IN IT.

SEAHAWK Products

PH: 305/ 667-4051
FAX: 305/ 667-3572

6840 S.W. 92nd St., Miami, Fla. 33156

DATE: November 13, 2000 Our FAX number 305/ 667-3572

TO: Steel Hector & Davis

FAX#: 305-577-7001

ATTN: Norman Davis

PAGES: 4 Including cover sheet

Difficulty with FAX transmission, please phone 305/ 667-4051

Dear Norman:

Perhaps the fax that I sent to Eve Nolan of the National Geographic IMAGE SALES might be of some help to you on my soon to be finished affidavit.

Please find enclosed three different pages which might be of help to you.

1). Shows all of the major paperwork from March 17, 1996 (when we first discover & purchase the Educational Insights / NGS product to December 5, 1997, when we file our suit against Educational Insights, National Geographic Society & Mindscapes.

2). Shows a fax to Eve Nolan of NGS IMAGE SALES in regards to the Society going into the for-profit activity of becoming a photo agency and trying to market one of my images from the photographic assignment of the Summer of 1989. Please note the date on this fax being August 29, 1996, (a full year before the NGS 108 year CD ROM is available to the public. Also note my statement of.....

> "You should know that most of my work is copyrighted my me."

3). Shows your certified letter to Suzanne Ross McDowell of April 23, 1997, advising them that I have become aware that the Society is embarked on a CD-ROM project, You state very clearly that.....

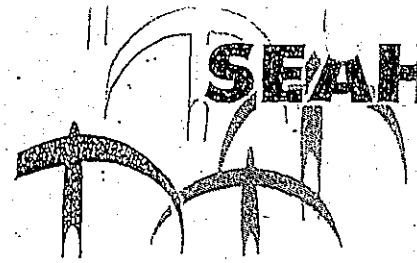
> "The Society has no right-- under copyright contract, or any other theory-- to use Mr. Greenberg's creative works for purposes other than those that were authorized by him with respect to particular issues of the magazine.

When you send the finished affidavit to me by courier, you might want to select a firm that has a driver who is also a Notary Public.

Sincerely yours, Jerry Greenberg
SEAHAWK PRESS

NATIONAL GEOGRAPHIC MARCH, 1996 DEC., 1997

MARCH 17, 1996	WE DISCOVER & PURCHASE E.I./NGS PRODUCT @ GET SMART
JULY 16, 1996	1ST LETTER TO JAY CUTLER @ E.I.
JULY 16, 1996	LORI WILSON (E.I.) TO NORMAN DAVIS
SEPT. 30, 1996	
OCT. 3, 1996	LORI WILSON (E.I.) TO NORMAN DAVIS
OCT. 11, 1996	NORMAN DAVIS TO LORI WILSON (E.I.)
OCT. 28, 1996	G.R. CALCOTT (E.I) TO SUZANNE ROSS McDOWELL @ NATIONAL GEOGRAPHIC SOCIETY "AGREEMENT EI & NGS APRIL 5, 1995"
NOV. 18, 1996	SUZANNE ROSS McDOWELL (NGS) TO N.D. "ALL FISH OF SAME SPECIES"
DEC. 19, 1996	N. DAVIS TO SUZANNE ROSS McDOWELL (NGS)
JAN. 16, 1996	N. DAVIS TO SUZANNE ROSS McDOWELL (NGS)
FEB. 28, 1997	SUZANNE R. McDOWELL (NGS) TO N. DAVIS "WE ARE PREPARED TO DEFEND"
MARCH 13, 1997	N. DAVIS TO SUZANNE R. McDOWELL (NGS) SETTLEMENT — 7 PAGES (7 NGS) A&B
APRIL 18, 1997	SUZANNE R. McDOWELL (NGS) TO N. DAVIS SETTLEMENT
APRIL 23, 1997	N. DAVIS TO SUZANNE R. McDOWELL (NGS) (ALSO MENTIONS PROPOSED CD-ROM) SETTLEMENT NOT ACCEPTABLE
DEC. 5, 1997	N. DAVIS FILES AGAINST NGS & MINDSCAPE CASE 97-3924 CIV.



SEAHAWK Products

PHONE
MO 7-4051

6840 S.W. 92nd St., Miami, Fla. 33156 U.S.A..

PHONE: 305 / 667-4051
FAX: 305 / 667-3572

TO: Ms. Eve Nolan / IMAGE SALES
National Geographic Image Collection
Washington, DC 20036

FAX: 1-202-429-5776

DATE August 29, 1996

Dear Ms Nolan:

This is a follow-up of our discussion that began in February 29, 1996 concening the marketing of my "Reference Select" (NGS ID RFP105F32, my ID-5783-074).

I trust you will recall and note that I stated in February and now state again that I declined and still decline permission for the Society to act as my photo agent.

On June 14, 1989 I signed an agreement with Kent Kobersteen for the Pennekamp Reef Park story #05738. It stated in Paragraph 5 (a-iii) that NGS may take and retain, in its illustrations libraries, copies of some of the photographs as "Reference Selects" only.

On November 16, 1989, I asked for clarification of what "Reference Selects" meant. Mr. Kobersteen advised me that the "Illustrations Library is often a first source for photographs for numerous Society publications. "Reference Selects" means to me what Mr. Kobersteen told me it meant to him.

NGS was not then in the photo agency business. Had I known the Society had plans to go into that business, I never would have accepted those terms.

Formerly, the Society forwarded outside queries directly to me. We have no agreement beyond that. The Society cannot alter the terms of our agreement unilaterally. It is NOT acceptable to me for the Society to act as my photo agent and to offer my material to outside clients.

It will be mutually beneficial at this time to review which of my photographs are in your Permanent Collection, in the Illustrations Library and in the NGS Image Collection. Your should know that most of my work is copyrighted by me. In order to avoid costly mistakes where my work appeared in print against my wishes and in violation of my copyrights, I believe the Society should take steps now to protect its own interests as well as mine. I want an inventory of any and all images made by me that are held by the National Geographic in any form, including originals, duplicates, digital files, electronic products, etc.

Sincerely yours,

Jerry Greenberg
SEAHAWK PRESS
6840 SW 92nd Street
Miami, Florida 33156

DRAFT

BY CERTIFIED MAIL

April 23, 1997

Suzanne Ross McDowell
Assistant Vice President
Legal Affairs, Publications
National Geographic Society
1145 17th Street, N.W.
Washington, D.C. 20036-4688

Dear Ms. McDowell:

This will acknowledge receipt of your letter dated April 18, 1997, which responded to our letter to you dated March 13, 1997. Your conclusion that no infringement has occurred with respect to the Educational Insights materials appears to foreclose any possibility of resolving that dispute without litigation. Your proposal to pay Mr. Greenberg $500 for the use of his sea fan photograph was unacceptable when first made and is unacceptable now. Mr. Greenberg has serious concerns in other areas, as indicated in our letter, but is interested only in a global resolution of all matters covered in the letter.

We will proceed as indicated in the March 13 letter, and in any action that is brought in the Southern District of Florida we expect to name Educational Insights, Inc. as an additional defendant. The nature of a purported licensing agreement between that company and the Society as to the disputed materials is unclear to us, but in any event such an agreement is external to our client's interests.

Mr. Greenberg has become aware that the Society is embarked on a project that apparently will reproduce on one or more CD-ROMs, for distribution and sale, past issues of the Society's magazine covering 100 years. This is notice that any photographs provided by Mr. Greenberg to the Society which appeared in past issues of the magazine -- for which Mr. Greenberg owns exclusive copyright or for which Mr. Greenberg authorized one-time use for a single issue -- may not be used for the CD-ROM project, or any other project, without his prior written permission. The Society has no right -- under copyright, contract, or any other theory -- to use Mr. Greenberg's creative works for purposes other than those that were authorized by him with respect to particular issues of the magazine. In view of this notice, Mr. Greenberg will regard any unauthorized use of his works in the CD-ROM project as willful infringement, and he will seek the fullest remedies available to him.

In view of the impasse in the matter, please return to the undersigned the exhibit book that was specially prepared and provided to you for negotiation purposes. As stated in our March 13 letter, that exhibit was and is the property of Mr. Greenberg.

Your courteous response to our March 13 letter, while seriously deficient, in our view, in its discussion of applicable law, is appreciated. It is unfortunate that the Society -- zealously

NORMAN DAVIS 6-PAGES CONFIDENTIAL!

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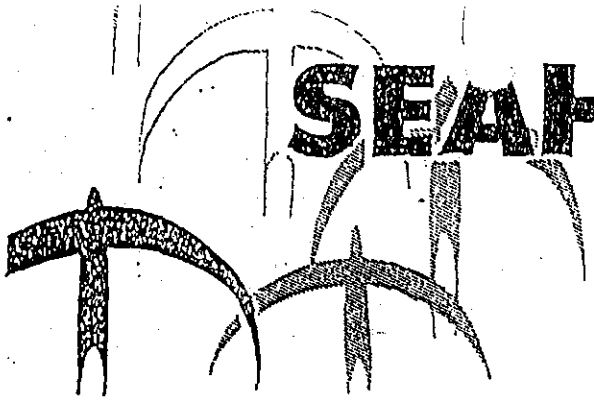
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NORMAN DAVIS

4 - SHEETS INCLUDING THIS COVER ITEM



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Jerry Greenberg
SEAHAWK PRESS
6840 SW 92nd Street
Miami, Florida 33156

National Geographic Society

WASHINGTON, D.C. 20036

DATE: 2.29.96

NO. OF PAGES (INCLUDING COVER PAGE): 2

TO: Jerry Greenberg

COMPANY:

DEPT.:

NATIONAL
GEOGRAPHIC
SOCIETY

EVE NOLAN
Image Sales
NGS IMAGE COLLECTION

1145 17th Street N.W., Washington, D.C. 20036-4688, U.S.A.
Telephone: (202) 857-7537 Fax: (202) 429-5776

FROM: EVE NOLAN

DEPT.: IMAGE COLLECTION AND IMAGE SALES

NATIONAL GEOGRAPHIC SOCIETY
1145 17th Street, NW
Washington, D.C. 20036

TELEPHONE: 202-857-7575

FAX NO.: 202-429-5776

****

REMARKS:

Hello- Thank you for returning my call so promptly. We would like to include this file select for possible use in a pharmaceutical Company annual report. Thank you for your attention to this matter. Sincerely,

Eve Nolan

Geographic Location: JOHN PENNEKAMP CORAL REEF STATE PARK/KEY LARGO NATIONAL MARINE SANCTUARY, IN THE ATLANTIC OCEAN OFF KEY LARGO, FLORIDA.

Subjects: WARD, FRED
ATLANTIC OCEAN
UNDERWATER REFUGES AND RESERVES
DIVERS AND DIVING
ECOSYSTEMS
INBOARD MOTORBOATS
PHOTOGRAPHERS
SARGASSUM PLANTS
SARGASSUM SP.
MOLASSES REEF
GRECIAN ROCKS REEF

Summary: CORAL REEFS TAKE CENTURIES TO GROW, AND ONLY YEARS TO DIE. POLLUTION, CONSTRUCTION, AND CARELESS BOATERS, DIVERS, AND FISHERMEN THREATEN THEIR SURVIVAL. THIS PROJECT SHOWS THIRTY YEARS' DETERIORATION OF THE REEFS IN A PARK CREATED TO PRESERVE THEM.

Legend: A diver, probably Fred Ward, surfaces under sargassum weed over Molasses Reef or Grecian Rocks Reef. The boat is most likely the one he and Jerry Greenberg used to photograph this story.

Submitter: GREENBERG, JERRY
Medium(s): 35MM-SD
Received Date: 07/89 - 08/89

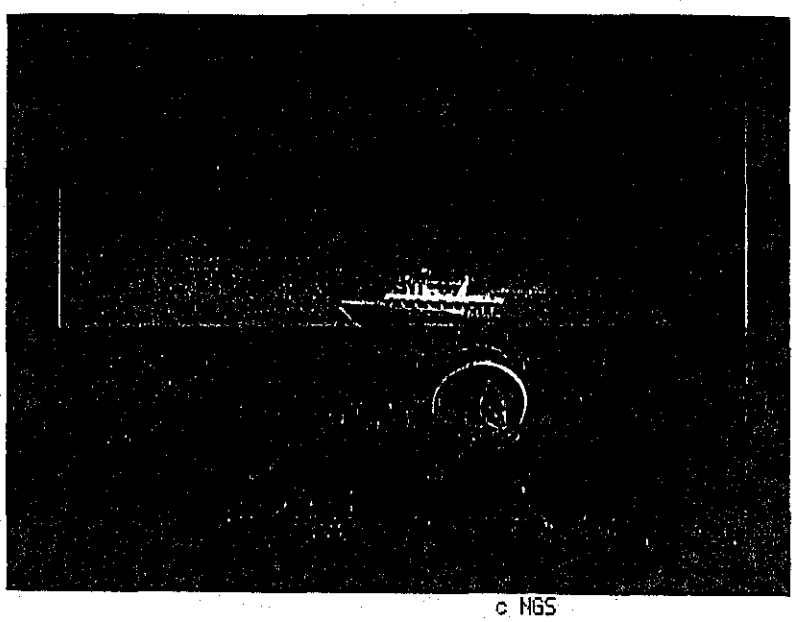
Submitted for Project Title: PENNEKAMP REEF PARK
Submitted for Product Type: NGM

Selected for Project Title: PENNEKAMP REEF PARK
Selected for Product Type: NGM
Project #: 05738

Picture Id: RFP105F32
Consecutive #: 74
Accession Date: 1995 325
Photographer's Status: N
Published Flag: N

Picture Orientation: H
Color Indicator: C

2 8 1/2 x 11
Greenberg



© NGS

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