

ChristmasVille LICENSE AGREEMENT

AGREEMENT made this July 28, 2010 (date) between YORK COUNTY CULTURE AND HERITAGE COMMISSION, dba Culture & Heritage Museums (hereinafter referred to as "CHM") located at 4621 Mt. Gallant Road, Rock Hill, SC 29732-9905, Attn: Van Shields, Director & CEO, and OLD TOWN ASSOCIATION, (hereinafter referred to as "OTA"), with mailing address P.O. Box 11706, Rock Hill, South Carolina 29731, Attention: Candy Clapp, ChristmasVille Executive Director.

This agreement supersedes the previous agreement related to the use of Vernon Grant Artwork in connection with ChristmasVille dated May 6, 2006.

DEFINITIONS:

- (a) "Advertising" means all forms of advertising, including, but not limited to, print advertisements, any and all promotional literature, television and radio commercials, advertisements, on-line services, the World Wide Web, and other portions of the Internet.

- (b) "Artwork" shall mean the original logo(s), illustration(s), and/or graphic(s), in digital format, as indicated in Exhibit A.

- (c) "ChristmasVille" is an annual holiday festival designed to attract visitors to Rock Hill that showcases the art and imagery of Vernon Grant as a distinguishing feature of its brand, advertising, promotion, events and activities.
- (d) "ChristmasVille Logo" is the unique combination of Vernon Grant Artwork and calligraphy adopted as the logo/brand for ChristmasVille as indicated in Exhibit D.
- (e) "Commemorative Items" shall mean any item produced solely to give away to staff, volunteers, and sponsors for the purposes of recognition, conveying thanks, etc.
- (f) "Designee" means the representative of each party (CHM and CITY) responsible for coordinating activities necessary to conform to this Agreement's Terms and Conditions.
- (g) "Indemnified Party (ies)" means Licensor and its shareholders, directors, officers, agents, employees, and professionals of Licensor and its Affiliates.
- (h) "License" means the licenses granted in Appendix A and Appendix B of this agreement.
- (i) "Licensed Products" shall have the meaning as set forth on Appendix B and of this Agreement.

(j) "Manufacturer's Cost" means the cost for manufacturer to produce Licensed Products that are ultimately sold to consumers.

(k) "Marks" means the trade names, trademarks and service marks listed on Exhibits B, C and D.

(l) "Packaging" means all labels, containers, packages, tags, and displays.

(m) "Premium" means any product sold or given away for the purposes of increasing the sale, promoting or publicizing any other product, service or establishment, including but not limited to incentives for internal corporate sales and consumer promotions.

(n) "Promotional Materials" means products employing the Artwork to brand, advertise and promote ChristmasVille to the public

(o) "Promotion" means any activity through Advertising, publicity, or other means of exposure via print or electronic, or any other medium.

(p) "Royalty Payments" means the royalties that CHM is obligated to pay to OTA pursuant to Appendix B.

BACKGROUND:

CHM is the owner of all proprietary interest in the Vernon Grant Collection ("Artwork") that is the subject of this Agreement.

CHM desires to grant to OTA per Appendix A to this Agreement, license to use the Artwork in Promotional Materials connected with branding, advertising and promoting ChristmasVille and Commemorative Items to give away to staff, volunteers and sponsors supporting the event.

OTA desires to grant to CHM per Appendix B to this Agreement, exclusive license for use of the ChristmasVille logo in the production of products for sale and in advertising, promotion and premiums related to the same.

TERM OF AGREEMENT.

The initial term of this Agreement shall be for a period of five years commencing on January 1, 2010, and ending on December 31, 2015. The initial term will be automatically extended for a period of up to five years in one-year increments if either party to the Agreement does not request termination at least 60 days before the scheduled expiration of the initial term or the annual expiration dates for the one-year extensions provided for as described in this section.

AGREEMENT:

In consideration of the terms and conditions set forth herein, the parties hereby agree as follows:

1. CHM represents and warrants that to the best of its knowledge, it has the full right and authority to enter into this Agreement.
2. CHM represents and warrants that, to its knowledge without any obligation to investigate, the Artwork, if published, will not infringe upon or violate any right of third parties or copyrights. CHM makes no other representation or warranty or to its intellectual property rights on the Artwork. CHM and OTA each agree it is subject to legal action in a court of competent jurisdiction in York County, SC for the breach of its warranties made in the Agreement.—The warranties and indemnities contained herein shall survive termination of this Agreement.
3. CHM and OTA each agree that the ChristmasVille Logo and name defined above as depicted in Exhibit D and authorized for use in Appendix A of this agreement, shall be federally trademarked and/or copyrighted, as applicable, by OTA and CHM and held as jointly owned. Its use beyond the term of this agreement shall be subject to the mutual consent of parties in a new agreement. If no such new agreement occurs, the Christmasville Logo shall be withdrawn and neither party may use the ChristmasVille Logo.
4. CHM and OTA agree that, while ChristmasVille activities occur, neither party will hereafter allow its name to be used for another project that might reasonably be considered competitive or interfere with the success of ChristmasVille without written consent of the other party.
5. CHM reserves the right to exhibit/sell/produce/license Vernon Grant Christmas merchandise at CHM sites and with outside parties that may further promote Vernon Grant.
6. OTA shall have the right to use CHM's name in advertising ChristmasVille and Vernon Grant.

7. In promotional/informational materials produced by OTA containing references to the story of Vernon Grant and/or the Art of Vernon Grant, such as brochures, rack cards, programs, etc., OTA shall cause to have stated: "York County's Culture & Heritage Museums preserves and promotes the story of Vernon Grant and his artistic legacy. For more information please visit www.chmuseums.org."
8. In promotional/informational materials produced by CHM containing references to the story of ChristmasVille such as brochures, rack cards, programs etc., CHM shall cause to have stated "Christmasville is produced by the Old Town Association of Rock Hill, South Carolina. For more information please visit [www. christmasvillerockhill.com](http://www.christmasvillerockhill.com)."
9. In promotional/informational materials produced by OTA, CHM shall be credited as a ChristmasVille sponsor with equal billing as the City of Rock Hill with logo and text as appropriate to the same as mutually agreed upon by CHM and OTA. In accordance with its Christmasville sponsor status equivalent to the City of Rock Hill, CHM name and logo as specified in Attachment C shall appear on all related sponsorship category exposure opportunities and receive all amenities granted to sponsors equal to the City of Rock Hill.
10. OTA will provide a link from its ChristmasVille website to an internet address specified by CHM and CHM will provide a link from such website address to the ChristmasVille website home page.
11. CHM may not incur any financial obligation on behalf of OTA outside of any such obligation stipulated in this agreement.
12. OTA may not incur any financial obligation on behalf of the CHM outside of any such obligation

stipulated in this agreement.

13. With the exception of a future ChristmasVille entity as described in Paragraph 16, this agreement and all rights and duties hereunder are personal to OTA and CHM and shall not, without the prior written consent of both parties, be assigned, mortgaged, sublicensed or otherwise encumbered by either party or by operation of law.
14. This Agreement shall be governed by the laws of the State South Carolina, regardless of the place of execution or performance.
15. No modification or waiver of any of the provisions of this Agreement shall be binding unless it is in writing signed by the parties hereto. No waiver of a breach hereof shall be deemed to constitute a waiver of a further breach, whether of a similar or dissimilar nature.
16. CHM and OTA acknowledge that planning is underway to transfer responsibility and rights related to the production ChristmasVille to a new entity exclusively devoted to organizing and managing ChristmasVille and that, if such a transfer takes place before the expiration of this agreement, said new entity will succeed OTA in this agreement without prejudice.
17. CHM and OTA agree to the terms and conditions as set forth on Appendix A and Appendix B of this Agreement.
18. To provide for ease of execution, OTA and CHM designate the following individuals as their DESIGNEES responsible for coordinating activities and obligations for each party as specified in this Agreement. Changes in DESIGNEES assigned by either party must be communicated in writing to the other party no later than 15 days after such re-assignment:

Old Town Association:

Culture & Heritage Museums:

Candy Clapp

Mary Lynn Norton

ATTACHMENTS:

APPENDIX A – Licensor/CHM to Licensee/OTA for Use of Vernon Grant Artwork

APPENDIX B – Licensor/OTA to Licensee/CHM for Use of ChristmasVille Logo

EXHIBIT A – Vernon Grant Artwork

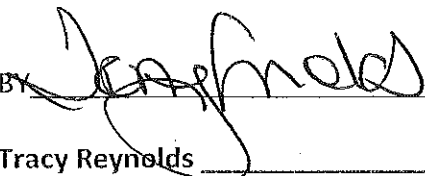
EXHIBIT B – Vernon Grant Signature Logo and Copyright Notice

EXHIBIT C – Culture & Heritage Museums Logo

EXHIBIT D – ChristmasVille Logo

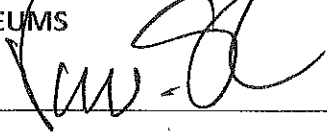
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

OLD TOWN ASSOCIATION

BY  _____
Tracy Reynolds _____

President

CULTURE & HERITAGE

MUSEUMS
BY  _____
Van Shields _____

Director & CEO

DATE 7-13-2010

DATE 7/28/10

APPENDIX A

LICENSE FROM LICENSOR/CHM TO LICENSEE/OTA FOR USE OF VERNON GRANT ARTWORK

1. DEFINITIONS.

(a) "Promotional Materials" means products employing the Artwork to brand, advertise and promote ChristmasVille to the public that are limited to the following items unless otherwise determined and mutually agreed upon in writing by the parties:

- i. ChristmasVille Logo (See Exhibit D)
- ii. Banners
- iii. Mascot(s)
- iv. Billboards
- v. Three-dimensional cut outs
- vi. Animated imagery
- vii. Advertising, imagery, signage, brochures associated with ChristmasVille events

- viii. Village recreations
- ix. ChristmasVille website

- x. Bookmark

(b) "Commemorative Items" shall mean any item produced solely to give away at no cost to staff, volunteers, and sponsors for the purposes of recognition, conveying thanks, etc., including, but not limited to, items such as scarves, pillows, enameled pins, and coins.

(c) "Territory" means anywhere the OTA chooses to use the Artwork for the production of Promotional Materials or Commemorative Items.

2. GRANT OF LICENSE.

(a) Subject to the terms and conditions of the Agreement of which this Appendix A is a part, CHM hereby grants to OTA license to use the Artwork (i) on such Promotional Materials as itemized in Section 1 (a) of this Appendix A for branding, advertising and promoting ChristmasVille in the Territory, and on Commemorative Items as specified in Section 1 (b) of this Appendix A solely to give away to ChristmasVille staff, volunteers and sponsors. This grant of license in no way extends to any other marks other than the images listed on Exhibit A, of this Agreement, including but not limited to any future Artwork developed by CHM, or an existing Artwork owned or licensed by CHM.

3. TERMS AND CONDITIONS FOR USE OF LICENSE.

- (a) Restriction on Sales – License is granted solely for use of Artwork in the production of Promotional Materials and Commemorative Items. The OTA is not authorized to produce any products for sale utilizing the Artwork and OTA is not authorized to sell any items produced under this agreement.
- (b) Upon the OTA's written request for images from the Artwork, CHM will provide digital copies of said images to the OTA no later than 15 working days after request by the OTA.
- (c) If CHM is providing images not yet digitized, OTA will reimburse CHM for any and all reasonable expenditures (other than time and efforts of CHM personnel in digitizing such images) related to the preparation of the Artwork for use by the OTA such as professional digital photography/scanning and image improvements.
- (d) CHM will provide OTA an estimate of such services no later than 7 working days after request by the OTA.
- (e) CHM will not undertake such digitization without written authorization to proceed by OTA and CHM will provide digital copies of said images to the OTA no later than 15 working days after receiving the OTA's written request for the digitized artwork.
- (f) Payment to CHM for digitization services as noted in (c) above shall be rendered no later than 30 days after submission of invoice to OTA.

- (g) OTA shall be responsible for the production of Promotional Materials and Commemorative Items after CHM approves use of Artwork.
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- (h) **Quality Control:** OTA acknowledges CHM's role in ensuring quality control in OTA's use of the Artwork, and CHM shall be solely responsible to authorize final approval of design plans for reproductions, design concepts, proofs and production of all Promotional Materials and Commemorative Items using the Artwork and all derivatives thereof.
- (i) CHM shall approve, approve with changes or disapprove such requests for approval of such design plans no later 15 working days after receiving such requests from OTA. Failure of CHM to respond to such request within 15 working days shall mean that such design plans are automatically approved by CHM as submitted.
- (j) CHM agrees the OTA may manipulate images derived from the artwork as appropriate to produce Promotional Materials and Commemorative Items in this Agreement, provided, however, that such manipulation will be in accordance with the style of the original artwork in the time period in which it was originally created, and that such manipulation will be subject to review, approval and authorization as described in this Appendix A, Section 3, (h) and (i) above.
- (k) OTA agrees that it will cause to appear the copyright and/or trademark notice on or within each Article and on or within all advertising, promotional or display material or depicting the Artwork, as specified in Exhibit B.
- (l) Should Vernon Grant's Signature with trademark and/or copyright symbol not appear on digital artwork image provided by CHM, OTA shall print or cause to be printed on the article Grant's signature as specified in Exhibit B.

4. RIGHTS OF THIRD PARTIES.

If OTA requests third party images or artwork to appear on Licensed Products, OTA shall obtain approval from such third parties as required. Prior to including third party images or artwork on Licensed Products in conjunction with the Artwork, OTA shall request permission from CHM. CHM shall have the right to refuse such third party appearances on Licensed Products if it deems the combination of such third party appearances with the imagery of Vernon Grant as unsuitable. Failure of CHM to approve, approve with amendments, or disapprove of such request within 15 days shall deem such request automatically approved by CHM as requested. A copy of any agreement regarding such rights used by OTA on Licensed Products shall be delivered to CHM upon request.

5. PRODUCTS TO LICENSOR/CHM.

- (a) OTA shall, at its sole expense, provide CHM two samples of each Commemorative Item produced under this Agreement of which this Appendix A is a part, no later than 15 days after such items are received by the OTA. The provision of samples shall not supplant CHM's right to Commemorative Items as a ChristmasVille sponsor as specified in Section 9 of this Agreement of which this Appendix A is a part.

(b) OTA shall offer to CHM a first right of refusal to obtain free of charge, any and all Promotional Materials produced by the OTA, that OTA has deemed excess and plans to discard or otherwise dispose of.

(c) OTA shall offer to CHM the first right of refusal to obtain by purchase, any and all Commemorative Materials produced by the OTA, that OTA has deemed excess and plans to discard or otherwise dispose of. Cost of such items for purchase by CHM from OTA will be set to be no greater than the Manufacturer's Cost plus 15%.

APPENDIX B

LICENSE

FROM LICENSOR/OTA TO LICENSEE/CHM

FOR USE OF CHRISTMASVILLE LOGO

1. DEFINITIONS.

- (a) "Licensed Products" means products and premiums bearing the ChristmasVille Logo that may include without limitation: accessories, apparel, banners, collectibles, figurines, and postcards.
- (b) "Manufacturer's Cost" means the cost for manufacturer to produce Licensed Products that are ultimately sold to consumers.
- (c) "Royalty Payments" means the royalties that CHM is obligated to pay to OTA pursuant to Appendix B.
- (d) "Territory" means anywhere the CHM chooses to sell products including online sales.

2. GRANT OF LICENSE.

CHM and OTA will jointly own the trademark and/or copyright to the ChristmasVille Logo. CHM agrees to limit its use of the ChristmasVille Logo as detailed in this Appendix B. Subject to the terms and conditions of the Agreement of which this Appendix B is a part, OTA hereby grants to CHM an exclusive, non-transferable license to use the ChristmasVille Logo including the word ChristmasVille and Vernon Grant artwork, as specified in Exhibit D of this Agreement of which this Appendix B is a part, separately or in combination on (i) Licensed Products for Retail or Wholesale Sales in the Territory, (ii) on Packaging, Advertising, Promotion for Licensed Products for Retail Sales and Premiums in the Territory, and (iii) on Promotional Materials and Commemorative Items in the Territory. This grant of license in no way extends to any other marks other than the images listed on Attachment D, of this Agreement.

3. TERMS AND CONDITIONS FOR USE OF LICENSE.

- (a) OTA acknowledges CHM's role in ensuring quality control in CHM's use of the ChristmasVille Logo as it incorporates the artwork and unique calligraphy of Vernon Grant.
- (b) Upon OTA's request, CHM will provide its plans for Licensed Products for OTA's information but CHM shall retain sole responsibility for Licensed Product design and production.
- (c) CHM agrees to produce at least one original ChristmasVille Licensed Product per year based on the People's Choice selection for the previous year.

4. PAYMENTS.

(a) **Royalties:** CHM shall make Royalty Payments to OTA equal to 15% of the Manufacturer's Cost within 30 days of CHM receiving Licensed Products from Manufacturer. CHM will attach Manufacturer's Invoice to such Royalty Payments.

(b) **No Guarantee:** CHM acknowledges and agrees that OTA does not represent, state, or otherwise guarantee that CHM will make any sales of Licensed Product(s) or otherwise make any money pursuant to this Agreement.

5. PRODUCTS TO LICENSOR/OTA.

(a) CHM shall, at its sole expense, provide OTA two samples of each Licensed Product produced under this Agreement of which this Appendix B is a part, no later than 15 days after such items are received by the CHM provided, however, OTA agrees not to resell such Licensed Products at any time.

(b) OTA may purchase additional quantities of each Licensed Product at Manufacturer's Cost plus 15% if items are available provided, however, OTA agrees not to resell such Licensed Products at any time.

Exhibit C

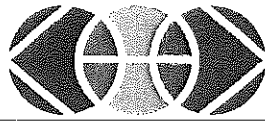
- 1) For Black and White Publication



- 2) For Single Color Applications



- 3) For Four Color Applications



**Culture & Heritage
Museums**

Exhibit A



Santa's Stunning Reflection
L1984.01.212



Santa's Little Buddy
L1984.01.209



Santa's Christmas Wish
L1984.01.211



Thumbs Up!
L1984.01.213



Santa's Band
L1984.01.214



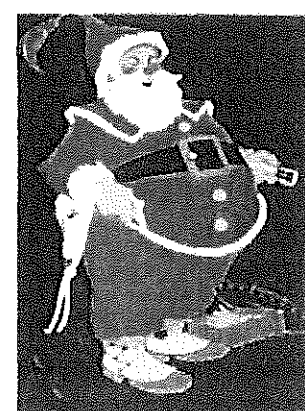
Santa's Ticklish Situation
L1984.01.215



Santa's Special Delivery
L1984.01.216



Instant Replay
L1984.01.217

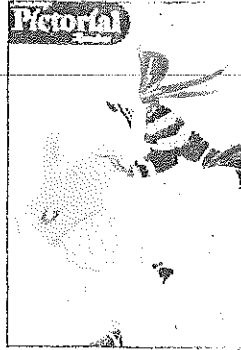


Roatin' Tootin' Santa
L1984.01.218

Exhibit A



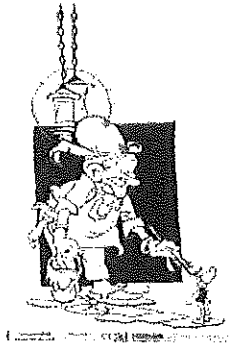
Work 10



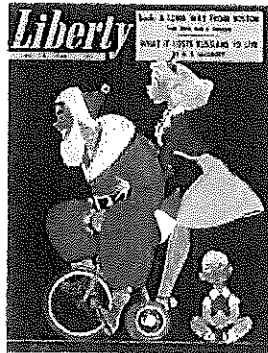
Work 11



Work 12



Work 13



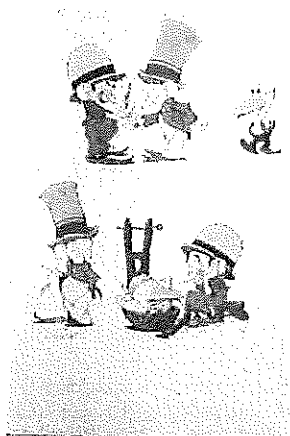
Work 14



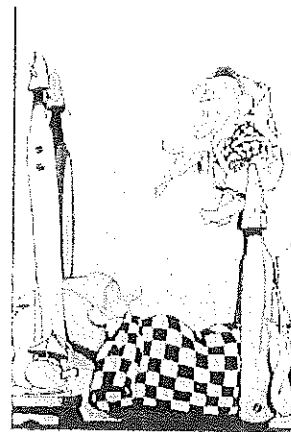
Work 15



Work 16



Work 17



Work 18

Exhibit A



Work 19



Work 20



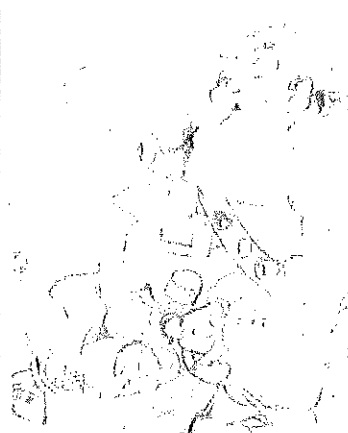
Work 21



Work 22



Work 23



Work 24



Work 25



Work 26



Work 27

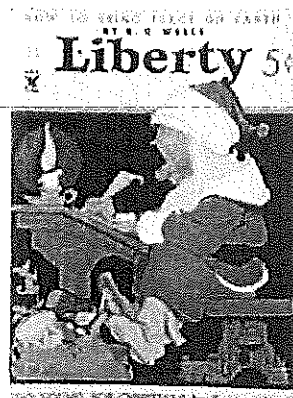
Exhibit A



Santa's Coffee Break
L1984.1.219



The World's Most Famous Traveler
L1984.1.220



I got your letter...
L1984.1.221



Nick & Gnome Share Secrets
L1984.1.225



Santa in Treehouse
L1984.1.222



A High Five from Santa
L1984.1.210



Hil Ho! Santa
L1984.1.206



Breakfast with Santa
L1984.1.207



L1984.1.208

Exhibit A



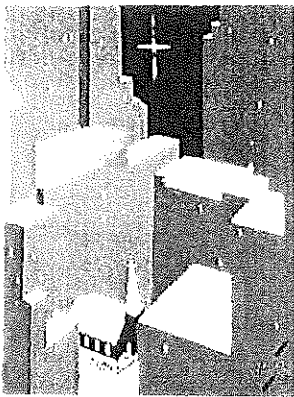
Tommy Kissing Santa Claus
G-67



L1984.1.243, page 35



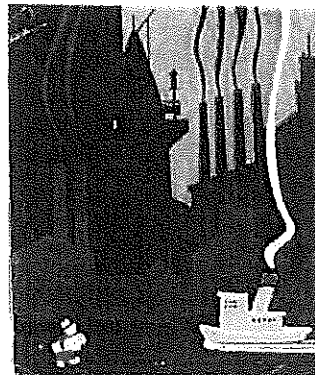
L1984.1.101, page 24



Church in City at Christmas
L1984.1.159



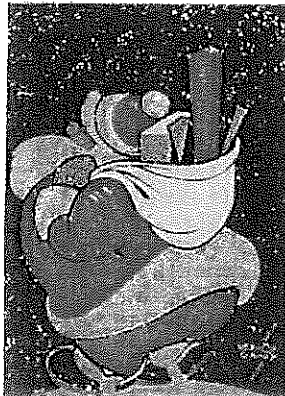
Classy Santa
G-67



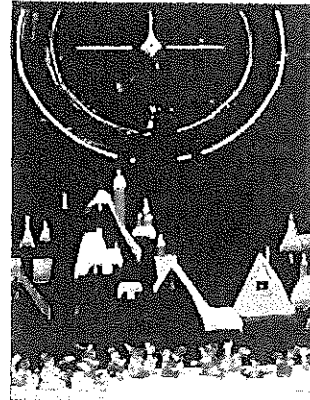
Steamboat Christmas Card
L1984.1.331



L1984.1.327



L1984.1.330



L1984.1.G-70

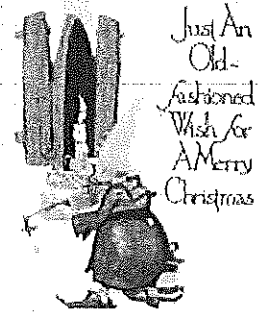
Exhibit A



Village at Christmas
L1984.320-1



United to date
L1984.320-2



Old Fashioned Wish
L1984.320-4



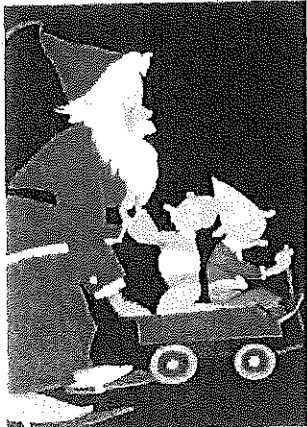
Santa Checking it Twice II
L1984.325



Santa Toasting
L1984.321



Hi-Ho! For a Merry Christmas!
L1984.320-3



L1984.323



Santa Skating
L1984.324



Santa Perfect Swing
L1984.1.322

Exhibit A



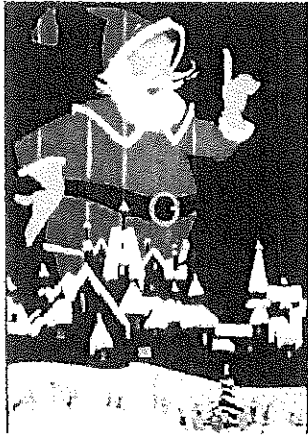
Santa Riding in Horse Drawn Wagon
L1984.1.223



L1984.1.224



Empty Pockets
L1984.1.226



L1984.1.227



A Toast to Santa
L1984.1.228



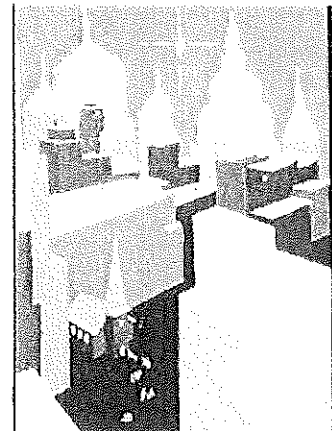
L1984.1.229



Spiffy Claus
L1984.1.230



Santa's Stocking Stuffers
L1984.1.262C



Church in City at Christmas
L1984.1.159

Exhibit A



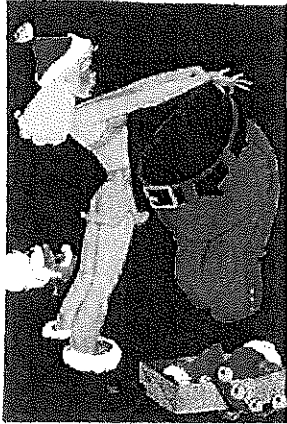
...Merrie Minstrels
L1984.01.262G



...To Every G.I. Joe
L1984.01.288I



L1984.01.288J



L1984.01.292



Don't Forget
L1984.01.293



Santa's Snappy Shine
L1984.01.294



Santa's Flying Golf Cart
L1984.01.295

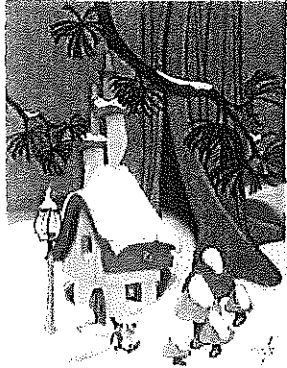


Santa with Penguin
L1984.01.297



L1984.01.310

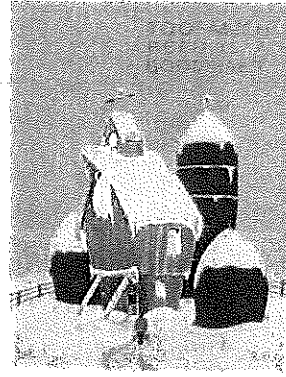
Exhibit A



Work 1



Work 2



Work 3



Work 4



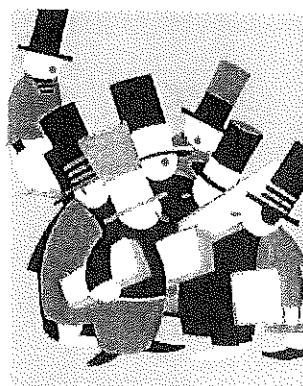
Work 5



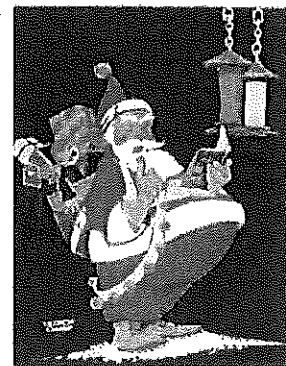
Work 6



Work 7



Work 8



Work 9

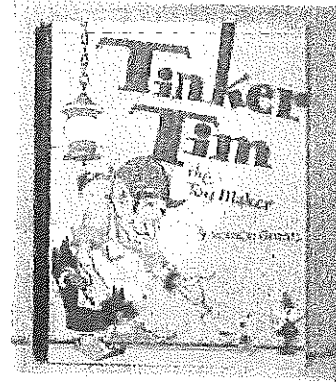
Exhibit A



Work 19*



Work 20



Work 21



Work 22



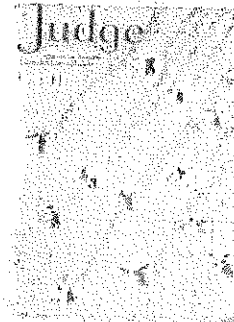
Work 23



Work 24



Work 25



Work 26

*For example only