



## MONTHLY MEETINGS

**JUN 27**

Snuffy's Restaurant  
Scotch Plains, NJ  
Douglas Riley

*"Chemical Business in  
Asia"*

**SEP 28**

Snuffy's Restaurant  
Scotch Plains, NJ

*TBA*

**OCT 24**

Ben's Deli  
New York City

*Annual Meeting*

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# The Chemical Consultant

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THE ASSOCIATION OF CONSULTING CHEMISTS & CHEMICAL ENGINEERS

*Scientific, Engineering, Business & Management Consultants*

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## ABOUT THE ASSOCIATION

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The Association of Consulting Chemists & Chemical Engineers (ACC&CE) is a network of senior-level consultants with a broad range of functional expertise and many years of experience in the chemical and allied industries. The purposes of the organization are:

- To furnish support to its members as they conduct their consulting practices.
- To offer prospective clients a "clearing house" which they can use to find the most qualified consultants or team of consultants whatever their particular problem may be.

This newsletter is intended to support those purposes as well as to educate prospective new members and prospective client organizations about ACC&CE, and how we can be most helpful to them.

The ACC&CE has an interactive website – [www.chemconsult.org](http://www.chemconsult.org), that allows prospective clients either to input their problem or to search for those consultants most skilled in their area of concern. This website also allows prospective members to access information on the organization, including back-issues of the newsletter, meeting notices, etc. It also obviously serves as a resource for the Association's members, including allowing each member to have his/her own webpage, which benefits from the visibility of the entire ACC&CE website.

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## IN THIS ISSUE

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In this issue, we are including a summary of the presentation made last fall by Elliott Weinberg on "Successful Defense against Infringement". Read this very interesting story of a major patent infringement suit based on one of Elliott's patents in the vinyl stabilization field. We also want to call your attention to a forthcoming presentation by Douglas Riley entitled "Chemical Business in Asia". This presentation will take place at a dinner meeting at Snuffy's in Scotch Plains, NJ on Tuesday evening, June 27. Contact Linda Townsend at 973-729-6671 or at [accce@chemconsult.org](mailto:accce@chemconsult.org) for information and to make a reservation.

In the previous issue, Dave Riley wrote an article on Mentoring, one of the major benefits available to members in ACC&CE, and we indicated a number of our members who are available as mentors. In this issue, Dave submitted some of the approaches he takes when seeking to aid a consultant who comes to him with a consulting question or problem.

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# Successful Defense Against Infringement

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Elliott L. Weinberg  
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**Abstract:** This personal narrative about involvement in a multimillion dollar patent infringement suit excites me even to this day. It actually involved work that I did in the 1950s. The lawsuit took place in the 80s and involved over a year and half of preparation prior to trial in New Orleans. The infringement claim was based on an issued patent that involved a variation of a basic patent of mine which had been declared prior validity during a very active research era in which I introduced organotin/sulfur stabilization for polyvinyl chloride. At deposition time, the opposing attorney insisted that this case would not be settled out of court. At trial, the opposing attorney made a fool of himself and the case was decided in our favor. Because of continuing litigation elsewhere, the trial record was sealed and I was not allowed to testify in any similar case.

**Personal Background:** In the 1950s, I became exposed to the problem of stabilizing PVC. I conceived of the idea that organotin/sulfur derivatives should perform better than organotin/oxygen derivatives. The reasoning was based on training in the Periodic Table and the recognition that sulfur compounds would be better protective agents against oxidative and free radical degradation.

**Case Background:** An entire business of vinyl stabilization was sold to another chemical company on the premise that the involved patents would dominate the field. Because of the competition in this business, the proposed dominant business did not come about as described by the promoters. The decision was then made to sue the competition for the

infringement of these issued patents. An ill-considered action at best that had to be defended with experimental work with advanced analysis and expert testimony. There had been much activity in the area of tin/sulfur stabilization of PVC and the US patent office had to determine priority of application and work. It was determined that my patent US 2648650 was the first to be worked on. This patent covered organotin derivatives of mercaptoacetic acid esters and their use in the stabilization of PVC. Much additional work on tin/sulfur stabilizers was carried out in our and other laboratories. An important consideration was the use of organotin sulfides as the booster for other organotin sulfur derivatives. Additionally, the concept of organotin coordinated compounds was added to the litany of organotin stabilization.

**Patented Concept:** The patent that was supposedly infringed was concerned with what was called sulfide bridged organotin sulfur compounds. Essentially, these were to be considered coordination compounds in which tin sulfur tin bonds existed.

**Competitive Compounds:** A number of companies in this stabilization business put out materials which were essentially mixtures of a number of compounds containing tin sulfur tin and tin sulfur carbon bonds. They concerned products of a process. It was these products that were supposed to infringe the suing companies patents.

**Consultant to Action:** Because I was known by reason of the original patent work to be knowledgeable in this matter, I was retained by a company that was sued for infringement. In preparation for this suit, I spent almost 2 years with company representatives and lawyers to prepare the defense against this infringement claim.

## Successful Defense Against Infringement - Continued

**Happening at Deposition:** As is the case in trials, the opposing law firm deposed me in their office. Because they were busy with other matters, they had me closeted in a room which contained a lot of case boxes. Time went by and my curiosity caused me to examine some of the boxes. I noticed that they pertained to the case at hand. I began to look at some of the documents and came across an item that I brought to the attention of our attorneys.

**Composure at Deposition:** The opposing attorney chose to be very hostile during deposition. After determining my prior experience in litigation as an expert witness, he stated in dynamic fashion that this case would not be settled out of court and would go to trial. He tried to rattle me and I treated his action as part of the theater which this represented.

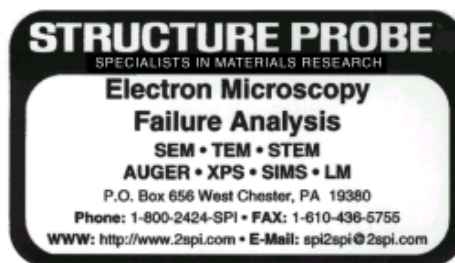
**Direct Testimony:** At the trial in Southern District Court, my direct testimony was elicited by our attorneys. During my testimony, a document was handed to me and I was requested to read same. After reading it a number of times without satisfying the attorney, the judge told me to read the title of what was a laboratory notebook that said that the work was based on patents that had issued in my name.

**Cross-Examination:** I had been advised by our attorneys that I would be cross-examined by the opposition for a minimum of five days. During the cross examination, the opposing attorney decided to become the chemist and he drew structures on a chart. The "chemist" showed tin with five bonds that were not coordinated. He was wrong and I told him, "Counselor, tin does not have that valence." His composure lost, he ended his cross examination in three hours.

**Trial Outcome:** The presiding judge took some time to render his opinion and he did so in favor of the company that retained me. There was no infringement and the patent was declared invalid. Since the validity of

the patent was not at issue, this determination was set aside. Because of continuing infringement suits against other companies, this case was sealed and I was prevented from testifying in any other similar case

**Conclusion:** The way to make money in a technological business is the same as it is in any other business. You have to be able to market and sell your product. Money can be made by licensing patents or technology that is seen clearly as desired by producers and sellers. Many patents exist that are invalid. Very few make money from weak patent positions. A good defense supported by expert work and testimony will only profit the legal profession. It is important for all involved to recognize the truth when it is presented. The weaknesses of the patent system should not deter the entry of useful products to benefit the market place.



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## **MENTORING – The Process**

The process of mentoring is basically a question of communications. Fortunately, the contact with a person who wishes mentoring is the initial phase. The immediate need is to ascertain what the state of the persons consulting is. Often what is holding the person up is a misconception and that must be corrected.

The following approaches should be made:

1. What is the person trying to do as a consultant?
  - a. What arena is he/she playing in
  - b. Has he/she approached any people or companies?
  - c. What response has he/she gotten?
2. Is he/she adequately prepared?
  - a. Does he/she have any books on consulting?
  - b. Has he/she been to the library?
  - c. Has he/she taken any courses on consulting?
3. What is he/she basically trying to do as a consultant?
  - a. Has he/she written any papers on the subject?
  - b. Has he/she done any research in the area of expertise?
4. How do you plan to promote yourself?
  - a. Write personal letters to business contacts
  - b. Write article for our newsletter about an achievement that is essentially “consulting”.
  - c. Volunteer to speak to groups interested in your field.
5. How do you expect to finalize contracts and fees with clients?

One of the first results from this questioning is to make the person aware of the fact that he is, to himself, the most important person in the world and he should not be afraid to talk about himself. At first he seems slightly embarrassed about the whole process until he realizes that selling himself can be fun and highly enjoyable. In one particular case the individual found, “Why, yes, I do do that, and very well”.

A second case required the individual to write down several of his achievements and even rank them by importance. “I never realized how I was effecting other people until I wrote it down and reviewed it.” Imagine the thrill of realizing what a success he had been. In one case very close to home, the evaluation brought to mind that his successes had resulted in a 10% improvement in the income of his company—“Boy, I am pretty good after all” and I said to him “Then what are you waiting for? Go out and do something with your attitude.” ATTITUDE makes you appealing!!!!

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## ANNOUNCEMENT – JUNE 27 PRESENTATION

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### "Chemical Business in Asia"

**Speaker: Mr. Douglas Riley**

With the movement of technology into Asia and the growth Asia born technology, we are often tasked introducing and training our Asian colleagues on the methods and practices needed either for western quality or safety standards. This discussion will impart the experience gained in the years spent in Asia setting up chemical operations for supplying electronic semiconductor grade materials and services. Mr. Riley initially trained nationals in Operations Management in China for 3 years, and the next 2 years were spent training for Safety, Security, and Chemical Emergency Response across multiple countries throughout Asia.

Mr. Riley's main experiences and specialties include Gases and Chemicals used in Electronics Wafer Manufacturing, Management of on-site Operations Teams, training and application of Chemical Emergency Response techniques, and performing safety audits of employer and customer facilities. He has held numerous positions with a US based International Gas and Chemical Company with annual sales of approximately 7.4 billion US dollars. He has been Project Manager, Project Engineering, Plant Management, and Operations Management for teams on-site at customer facilities handling gas and chemical dispense systems. His experience was obtained working in more than 20 countries. Long term assignments included 1 year in Israel and 5 years in China.

Snuffy's Restaurant, Park & Mountain Ave (Rte 22 East), Scotch Plains, NJ

6 p.m. Networking/Cash Bar, 6:30 p.m. Dinner, 7:30 p.m. Presentation

Registration: \$40 ACC&CE Members, \$50 Non-members

To Reserve: Call Linda B. Townsend at 1-973-729-6671 or e-mail: [accce@chemconsult.org](mailto:accce@chemconsult.org)

Advanced registration is required.

Cancellations must be made 24 hrs in advance or be invoiced.

Please visit our web site for more details: [www.chemconsult.org](http://www.chemconsult.org).

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Opinions expressed herein are not necessarily those of ACC&CE.

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### NOTE TO OUR READERS

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We encourage any of our members or other readers who wish to advertise their services in our newsletter to submit your ad or a business card for inclusion in future issues.

Please contact Linda Townsend at 973-729-6671 or at [accce@chemconsult.org](mailto:accce@chemconsult.org) for our rates and other information.