



# The *REP*orter®

**Member's**

## Corner

### Easy being a professional rep?

by Steve Grossman, CPMR  
*GM Partners*  
 Founding IHRA President



Steve Grossman, CPMR

**S**ometimes I find it most difficult to be a professional rep, since I must make it look easy to the accounts and manufacturers I represent.

I think about finding another career I would enjoy more and still support my family but, to date, I have not been able to find one. This has been one of those months that I really think about it. Here are the reasons why:

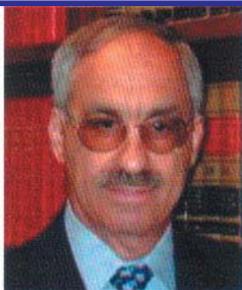
As you know, I have gone to China several times for the two big housewares fairs in April. I have had the pleasure of traveling with one of my business friends. Along with sharing expenses we enjoy traveling together. We decided in January that we were going again this year but he said this might be his last time.

Earlier this month (April) he needed to cancel and now I am somewhat a lone traveler. I am fortunate enough to have other importers that I will connect with in China and Hong Kong but it will not be the same. I will be out of my comfort zone.

I represented a prime cookware supplier in China with one of the owner/sales managers based here. I had a quote from him to ship a product this spring. The buyer wanted it in the fall. This supplier said he could not hold the price even though he confirmed it two weeks before. The account would not pay more than quoted so I was "forced" to find a

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## Legally Speaking



Gerald M. Newman

### Life lessons from Mick Jagger: Effectively negotiating rep contracts and other agreements

by Gerald M. Newman and Adam Glazer  
 Schoenberg, Finkel, Newman & Rosenberg, LLC  
*IHRA Legal Counsel*

**T**he process of entering into an effective rep agreement, or any other type of important contract or understanding, appears to be made more difficult each day. Whether entering into a formal written contract or merely setting the time for a meeting, business requires constant negotiating. In fact, we have been negotiating since birth. As a wet or hungry newborn, we simply cried. Crying brought attention, and usually the desired result. Eventually (as we approached age 35 or so), crying grew unacceptable, and it became necessary to develop alternative negotiating skills.

Many have come away from a negotiation reluctantly admiring the skills of the other participant. Chances are these skills did not come naturally, but were developed and refined over years of practice. With an important negotiation upcoming, such as for a new or modified rep agreement, preparation is essential. Sometimes, shooting from the hip produces only a bullet to the groin.

The most important factor in a successful negotiation is a positive attitude. The importance of entering the session confident of success, or perhaps even with a view toward a win-win situation for the rep and the principal cannot be overstated. Self-assurance, gained through preparation for the task, invariably generates results far superior to the negotiation undertaken with the self-perpetuating conviction that, as the Rolling Stones famously intoned, "you can't always get what you want."

Skilled negotiators enter meetings with a well-rehearsed plan and a bottom line as to what is acceptable, consistent with the Stones' further observation that "if you try sometimes, you just might find, you get what you need." Skilled negotiators do their homework, including all necessary due diligence. They have command of the positive facts to invoke to their benefit, and anticipate negative factors, prepared with a response if and when they are raised.

When participating in a negotiation, it is usually preferable to submit the first offer. This represents an attempt to establish the

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## Legally Speaking (from page 1)

parameters for the discussion and to control the general framework for the proposal. At the same time, the initial offer is never conservative. It necessarily seeks more than the (confidential) bottom line, and includes a couple of points of more importance to the other side and on which concession is not painful. However, a point should never be conceded quickly or without gaining something in return. "I could consider going along with you on that if you could compromise on this."

Making a strong initial offer can, of course, be sometimes met with equally strong resistance or even immediate rejection. Effective negotiation preparations include anticipating this possibility and readying a minor concession in order to get the discussion going. As indicated, any such concession is not to be made without seeking something in return.

Skilled negotiators know when to keep silent. The more an opponent speaks, the more is learned about his position and the route to striking a better deal. The art of conducting negotiations is often compared to playing poker, and the player who fails to keep his cards close to his vest has no one else to blame when an opponent can see a bluff coming by sneaking a look.

One of the most common mistakes attorneys see in negotiating settlements is "splitting the difference." For a moment, suppose an attorney proposes to resolve a matter for one hundred thousand dollars. The hardball opposing attorney then counters this initial settlement demand by stating his client is unwilling to pay anything, and his offer is at zero. He then proposes the parties just "split the difference," and settle at fifty thousand dollars. Competent counsel would likely reject this easy attempt to halve the value of her case, and instead repeat the demand of one hundred thousand dollars, while verbalizing how the counter is actually fifty thousand dollars. From here, some compromise might be attempted, but the attorney rarely permits the "difference" to be split if the goal is to see her client walk away with more than half of the opening demand.

In situations where a principal or other opponent approaches a negotiation with unusual intensity or passion, the responding demeanor should be cool and calm. Meeting intensity with intensity seldom leads to progress. Threats or drama should be avoided. Threats are seldom carried out and usually weaken the rep's position. It is unadvisable to threaten never to do business with the principal again, or even to terminate the negotiations. The door should be left open by suggesting that although the discussions were not successful this time, maybe they will be in the future.

Negotiations are an ever important part of life. Babies will often cry, grandparents are versed in guilt, and in between, the outcome of negotiations can be improved by investing the time and preparation efforts they deserve. While you can't always get what you want, the rep who polishes his skills can easily become the admired negotiation participant and stand to benefit by earning stronger and more equitable rep agreements.

*Gerald M. Newman and Adam Glazer are partners in the Chicago law firm of Schoenberg, Finkel, Newman & Rosenberg, Ltd. They serve as general counsel to IHRA and they, and other SFNR associates are regular contributors to The REPorter®. They participate in Expert Access, the program that offers telephone consultations to IHRA members. You can call Gerry and Adam at 312-648-2300, send a fax to 312-648-1212, or send e-mails to: Gerald.Newman@sfnr.com and Adam.Glazer@sfnr.com*

## Grossman (from page 1)

new supplier, if possible.

Well, lo and behold, one of the people trying to help me ended up contacting the same supplier. (You would think there are only a couple of cookware factories in China.) The sales manager called me and wanted to know "how could I go behind his back?" I tried to explain he lost the order because of his price. If I was going to take care of my customer I needed to at least try to find a new supplier, which I did. He did, or could not, understand my position and he let me go. (I really did not lose any \$\$\$\$. It just bothers me to be fired for, in my mind, not just cause.)

I believe I told you before about a line I had where a fellow rep was close with the president/owner of the company and he was slowly taking the line away from my partner and me. Well, the last two accounts are now his but the \$\$\$ are not huge. My sense is, because of his age, he is hurting a little. If he would have picked up the phone and explained the situation I would have gladly bowed out versus the way he conducted himself.

Lastly, I am in the middle of trying to come to a win/win between a supplier and a retailer. It has to do with testing requirements meeting 95%, but not 100%, and potential penalties. If I can not help find a solution, the supplier will walk away from the account and that will be a loss of \$\$\$\$ and a good supplier.

In closing - some good things have happened and business is steady. It is when I get hit with a lot of the above situations, I wonder about another career. But, this has a way of passing and life goes on.

As ever, feel free to contact me with questions and/or comments. [Steman4@aol.com](mailto:Steman4@aol.com)

## **A VERY Special Message about a VERY Special Situation that needs your Support.**

**by David Friedman, The Northeast Group and IHRA President-Elect**

With the 35+ years I have been in the Housewares Industry, I know today much more than I knew in 1972. But some things never change. Many of us started our businesses with the passion and drive that this industry was born of. Many of us grew our businesses dramatically in the late 70's and early 80's with the birth of the Gourmet / Housewares Business. I can cite the leaders of that movement like it was yesterday; **John Ulam, Carl Sontheimer, Sam Farber, Al Finesman** to mention just a few. We were brothers, sisters, partners and friends working together to make it happen for our customers, our vendors and ourselves. Today I still feel the excitement returning from a trade show, the thrill of the possibilities, the anticipation and planning to make new business happen in 2007. Yes, lots of things have changed in those 35+ years, but one thing I know for sure has not...

I still have many brothers, sisters, partners and friends in this business and two of them right now, today, have a huge, personal issue which I have adopted as my own. From where I come from, that's what families do for each other; they take care of their own. **Larry and Gretchen Witt** from **OXO International** have a 2 1/2 year old son, **Liam**, now being treated for a Stage 4 Neuroblastoma Cancer. In short, THEY NEED OUR HELP AND SUPPORT! The medical insurance they carry doesn't include his treatment at Sloan-Kettering so there will be oppressive out-of-pocket expenses related to caring for their son. These are 30 something young people, who started their own family 2 1/2 years ago, while having already dedicated their careers to our Housewares family for a total of nearly 30 year's tenure when added together. Larry, the vice president of sales and market development, has been with OXO for more than 10 years. His wife, Gretchen Holt, has led the public relations efforts for OXO for more than a decade and also works with Built NY. She has worked with several other housewares companies including Corning Consumer Products and its brands, Hamilton Beach/Proctor-Silex, and Meyer Corporation. We need to step up and help out; they are one of our own.

Take a moment now to log onto <http://princeliambthebrave.blogspot.com>. Here you can collect more information, learn about this disease, this family, and click on the [How You Can Help](#) link to make a tax deductible donation, right now, today, this moment, by credit card or check. Every single dollar will go to the care of Liam until the treatment is over and the bills are paid. Please be generous and take a leadership role in asking others to do the same. This is what makes us great... the IHRA... the Incredible Housewares Relatives Assemblage of folks that live, work, and play together.

I still look forward to the year that lies ahead. 2007 has time to shape up and be a great one. Good Luck to all as we spring forward and make it happen.

David Friedman

The Northeast Group, Inc

[David@northeastgroup.com](mailto:David@northeastgroup.com)

781-514-1015

# Outsourcing Field Sales

*A better-than-ever response to the competitive pressures facing today's top executives*

*This is the first in a series of articles explaining the advantages of using multiple-line, field sales professionals to maximize a company's sales and bottom-line results. Written by Laurence Kaufman*

As the leaders of corporate America react to the constant pressure for greater profits and faster buildup of shareholder equity, an old solution has quietly been taking on new relevance. To better focus on their core competencies, more companies are recognizing outsourcing as a more effective and economical way to perform many functions – not just security, plant maintenance, payroll, and human resources, but even such complex activities as purchasing and field sales. The trend is visible today in mega-billion dollar worldwide companies like IBM, Maytag, or 3M, as well as in start-ups and companies with more limited resources. Professional field salespeople who are not on the company payroll, and who don't get paid until they actually sell something, are now more than ever the choice of companies which had not previously chosen the independent manufacturers' representative route.

The surge towards outsourcing field sales to professionals probably has as many roots as there are manufacturers moving in this direction. Performance-based compensation may be a buzzword today in the executive suite; but it's been an ongoing reality in the world of sales for decades, if not centuries.

Companies with adequate resources to fund captive sales organizations are newly stimulated to recruit manufacturers' representatives as a practical approach to downsizing. Diversification into multiple markets and specialized distribution channels leads others to outsource their field sales. They thus explore new opportunities without the major financial commitment involved in building, training, and maintaining their own niche market sales forces. The opportunity to lower overhead and to standardize sales costs has convinced many manufacturers to utilize representatives even when sales volume would cover the expense of a dedicated sales force. With outsourcing, a company can cost-effectively deploy a multi-faceted team instead of a single individual, and gain greater results for fewer dollars.

Today's sophisticated manufacturers' representative is professional, multi-faceted, technologically adept, and everywhere. Today he may be traveling around the territory to call on customers, tomorrow, around the world to meet with principals. And, as the rep will be quick to remind the sales managers he reports to (and their CFOs), he buys his own tickets and pays his own expenses.

## ***What is a manufacturers' representative?***

Manufacturers' representatives are independent professional providers of field sales and marketing services to manufacturers or suppliers. They typically handle a portfolio of related but non-competitive product lines, working under a contractual arrangement within a defined geographic territory, on an exclusive basis within their assigned field of responsibility. In the food industry, these businesses and their people have been known as brokers, although they now prefer the more descriptive term prevalent in some other fields, agent, which accurately expresses the legal relationship with the manufacturers for whom they sell.

Manufacturers' representative firms come in all shapes and sizes, from small defined-focus firms to organizations, handling all facets of marketing for their principals, with multiple staffed offices and 500 or more on staff. Big or small, these firms never forget that their income is directly tied to personal productivity. They have been quick to adopt the efficiencies afforded by eCommerce and field sales automation – often ahead of their principals - providing sophisticated opportunity tracking as well as instant access to all customer and factory data – inventory status, order status, customer history, etc.

The value that manufacturers' representatives bring – both to those they sell to and those they sell for – emerges in great measure from the synergy created through the representation of multiple lines. Their product portfolios allow manufacturers' representatives to present broad-based solutions to customer problems, rather than the price-and-delivery responses typical to single-product selling. Their consultative approach not only opens the door for other lines, but also adds value and stimulates a partnering relationship with the buyer, as the purchase progresses through an entire project.

There's even more benefit to synergy: the added market potential it offers, the greater market share it creates, and the greater speed of market penetration it facilitates. The multiple-line sales professional can afford to call on customers too small to be profitable for a single line. The new entry into the cutting tool business gets in the door and on the floor faster, because the company's representatives have already established a relationship with the customer for their abrasives and their grinders. The ability to leverage the entrée created by the other lines in the portfolio gets a vendor into more places, and quicker, than could likely be achieved by a single-line sales force, no matter how aggressive and proficient. Basic economics may drive most manufacturing start-ups to go the rep route...but demonstrated successes keep 50% of all manufacturing companies using reps at least in some territories or market segments – a figure that rises above 80% in the electrical and food service industries.

NEXT MONTH: ***What a manufacturers' representative is not***

## 18 Benefits of Outsourcing Field Sales

1. Predictable sales costs that go up and down with sales
2. Standardized sales costs
3. Lower sales costs
4. Immediate market access
5. Broader market penetration
6. More experienced sales force
7. Multi-faceted, multi-skilled sales team
8. Wider, deeper coverage
9. Stronger local relationships
10. Reduced sales force turnover
11. Training required only on product
12. Closer-to-the-customer forecasting
13. Better market intelligence
14. Increased sales
15. Knowledgeable advice and information – hear it like it is!
16. Risk-free exploration of new market niches
17. Problem-solving approach outperforms product selling
18. Vested partner in manufacturer's success

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### *Understanding the difference between reps and distributors*

<b>Manufacturers' Representatives</b>	<b>Distributors</b>
<ul style="list-style-type: none"><li>• Sell only in a defined territory</li></ul>	<ul style="list-style-type: none"><li>• May sell anywhere</li></ul>
<ul style="list-style-type: none"><li>• Do not handle competing lines</li></ul>	<ul style="list-style-type: none"><li>• Handle competing lines</li></ul>
<ul style="list-style-type: none"><li>• Sell as an agent; do not take possession</li></ul>	<ul style="list-style-type: none"><li>• Buy for resale; assume ownership</li></ul>
<ul style="list-style-type: none"><li>• Compensated by commission on sales</li></ul>	<ul style="list-style-type: none"><li>• Compensated by margin of sale price over cost price</li></ul>
<ul style="list-style-type: none"><li>• Typically handle 12 to 14 lines</li></ul>	<ul style="list-style-type: none"><li>• Often handle several hundred lines</li></ul>
<ul style="list-style-type: none"><li>• Typically entrepreneurial, owner-operated</li></ul>	<ul style="list-style-type: none"><li>• Large firms often publicly-owned</li></ul>
<ul style="list-style-type: none"><li>• May warehouse (for a fee), but do not maintain inventory</li></ul>	<ul style="list-style-type: none"><li>• Maintain inventory</li></ul>
<ul style="list-style-type: none"><li>• Focus on customer needs</li></ul>	<ul style="list-style-type: none"><li>• Focus on selling what's on the shelf</li></ul>

## **Win! - Win! - Win! the Customer Benefits Too**

1. Stable relationship with someone who knows the total corporate culture
2. Long-term commitment to the territory
3. Serves the customer as a multi-faceted resource
4. More efficient sales calls – cover several products in a single meeting
5. Consultative selling
6. Bridges the communications gap among departments
7. Advocacy, ability to secure exceptions to supplier policy
8. Help in order strategy, through distribution or direct
9. Perspective on market conditions and trends
10. Solutions approach – looking at the forest, not just the trees

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[greg@cookschoice.com](mailto:greg@cookschoice.com)

**Territories:** USA and Worldwide;  
by territory and/or account

**Commission Rate:** 5%

**Years in Business:** 13

**Nat'l Sales:** N/A

**Products:** Marinex Bakeware and Tableware (Glassware - Tempered) from Brazil. Contracted rep for Saint-Gobain Vidros for U.S.A. Distribution.

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**Contact: Vivian Kahn, Director of Retail Sales**

**eMail:** [vkahn@lccpinc.com](mailto:vkahn@lccpinc.com) - or - [marinex@lccpinc.com](mailto:marinex@lccpinc.com)

**Territories:** ALL U.S.A., except IL, WI, MI, Metro NY,

Northern CA and Reno, NV

**Commission Rate:** TBD

**Nat'l Sales:** \$8 - 10MM

**Years in Business:** 29

**Currently Selling Through:** Reps

**Seeking Sales Through:** Have various price points and packaging to handle all types of outlets in U.S.A.

**Products:** Dinnerware, Ceramic Giftware and Stainless Steel Cookware

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[www.lynns.com](http://www.lynns.com)

**Contact: Aaron Kawalek, aaronkawalek@lynns.com**

**Territories:** Pacific Northwest, Texas, Upper Great Lakes (MI, WI), Ohio and Indiana, Upstate NY, New England, MO, NE, KS, IA

**Nat'l Sales:** \$10,000,000 **Commission Rate:** 10%  
at full list, 5% at discount, 3% POE, 2%-5% DI

**Years in Business:** 24

**Currently doing business:** Through reps and direct

**Channels currently sold:** Mass, Discount, Some Specialty

**Seeking Sales Through:** Specialty / Independent Markets. Open to other classes of trade but primary/initial focus will be thru Specialty/Independent Stores.

**Products:** Home Textiles: Bath Towels, Beach Towels, Full Kitchen Line of Towels, Aprons, Oven Mitts . . . all for Supermarket Mass Merchants

## TRADEMARK PRODUCTIONS INC.

296 Seabrook Dr

Hilton Head SC 29925

(800) 836-5037 • Fax: (416) 787-3292

**Contact: Christine Bourke, Vice President**

**eMail:** [christine@dophes.com](mailto:christine@dophes.com)

**Territories:** All, with the exception of Chicago area and a wholesale account in Southern California.

**Commission Rate:** 5%

**Sales:** \$20MM (US & Canada)

**Years in Business:** 100

**Currently doing business through:** Reps & Direct

**Seeking Sales Through:** Supermarkets, General Mass Market Drug Chains

**Products:** Enamelware Cookware, Aluminum Cookware Sets, Cutlery, Cutting Boards, Flatware, Wire Drawer Organizers

## ROYAL HOUSEHOLD PRODUCTS

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**Contact: Bob Kroll, VP Sales/Rep, krollmktg@aol.com**

**Territories:** All USA with the exception of S. Cal, TX, OK, MI, Northwest and these accounts: WalMart, K-Mart, Target, ALDI

**Nat'l Sales:** \$25,000,000 **Commission Rate:** 5 - 7%

**Years in Business:** 22

**Currently doing business:** Direct & Through reps

**Channels currently sold:** Big Box Stores

**Seeking Sales Through:** Supermarket/Drug, General Mass, Hardware

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**2007 CALENDAR OF EVENTS**

**May**

8 - 10  
 THE GOURMET HOUSEWARES SHOW®  
 Orlando FL  
 ,  
 8 - 10  
 NATIONAL HARDWARE SHOW  
 Orlando, FL  
 20 - 23  
 NATIONAL STATIONERY SHOW®  
 New York, NY

**July**

20 - 23  
 CALIFORNIA GIFT SHOW®  
 Los Angeles, CA



**May 8 - 10, 2007 • Co-Located  
 Orlando, Florida**

**August**

4 - 7  
 SAN FRANCISCO INTERNATIONAL GIFT FAIR®  
 San Francisco, CA  
 5 - 8  
 WASHINGTON GIFT SHOW®  
 Washington, DC  
 11 - 16  
 NEW YORK INTERNATIONAL GIFT FAIR®  
 New York, NY

**August (cont.)**

18 - 21  
 THE SEATTLE GIFT SHOW®  
 Seattle, WA  
 19 - 22  
 ALBERTA GIFT SHOW  
 Edmonton, Alberta  
 26 - 29  
 MONTREAL GIFT SHOW  
 Montreal, Quebec

**September**

9 - 11  
 ATLANTA GOURMET MARKET  
 Atlanta, GA  
 15 - 18  
 BOSTON GIFT SHOW®  
 Boston, MA

**November**

1 - 3  
 NEW YORK GIFT CASH & CARRY® SHOW.  
 New York, NY



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Colorado	Massachusetts	Tennessee
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