



Steve Grossman, CPMR

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

The 2008 Home + Housewares Show: a lot to do, see and learn

Cautions, Beware are the words of the day. I, like many of you, just finished working the annual Housewares Show. I am truly pleased with IHRA's end-of-day "Wind Down" events we had on Sunday and Monday and the Monday morning Annual Program on the "Go-To Rep." I know many of our members took advantage of the IHRA Hospitality Room: a great place to at least collect your thoughts, have a quiet meeting, and/or network with your fellow reps. For those of you who have yet to join your professional trade organization, IHRA, please take the time to check out our benefits at: <http://www.ihra.org/>. What we offer will more than cover your cost of membership!

What I heard from vendors, retailers and fellow reps pretty much dovetails with what we are hearing in the news, seeing on the web, and experiencing in our own businesses and homes. Prices are rising and the dollar is not going as far as it used to. I know that for me 2008 is going to be a tough year, and I look forward to working on 2009, soon. One of the business challenges I am finding is that most of the retailers' personnel are so young, they have no experience in dealing with a market with rising prices and tightness of raw materi-

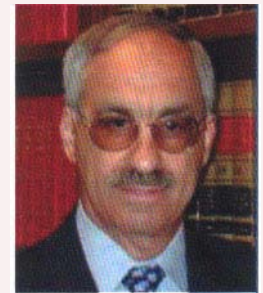
Continued on page 3

Legal Aspects of Buying or Selling a Rep Firm

Part one of a two part series

By **Gerald M. Newman, Esq.**

Schoenberg Finkel Newman & Rosenberg, LLC



This article, presented in a two part series, is intended to provide a summary roadmap of the issues, steps, and mechanics involved in the purchase or sale of a sales representative agency. Its purpose is to help the reader recognize and address the areas of concern which arise in almost every transaction.

Letter of Intent. Most transactions begin with a so-called "letter of intent." The purpose of the letter of intent is to set out the basic business terms of the deal, such as whether it will be a sale of stock or assets, the purchase price, and how and when the purchase price will be paid. Letters of intent are typically "non-binding." In other words, they are not typically enforceable in court. Most buyers, even after they sign a letter of intent, are not willing to sign a binding agreement until they have been able to learn more about the target company through the "due diligence" process. While a letter of intent may not have any legal effect, it does have a psychological value. Buyers and sellers should not expect to easily renegotiate the purchase price (or any other significant term) once set forth in a letter of intent.

Caution is warranted when signing a letter of intent. On one hand, to ensure that

Continued on page 2

April 2008

Going Green in Europe.....	Page 5
Three (3) Lines Available Listings this Month	Page 6
Industry Show Calendar	Page 8

IHRA INTERNATIONAL HOUSEWARES REPRESENTATIVES ASSOCIATION
Field Sales Professionals Serving the Home • Housewares • Gourmet • Hardware Industries

Newman (continued from page 1)

a letter of intent is not legally binding, it must clearly say so. Otherwise, a court may find that the buyer and seller intended to be bound by their letter of intent. On the other hand, the parties often want certain provisions in a letter of intent--such as the seller's agreement not to solicit other buyers--to be legally binding. Thus, the letter of intent must clearly state which provisions are intended to be binding and which are not.

Confidentiality. In most cases, buyers and sellers want to keep a potential transaction confidential. Buyers don't want to invite other bidders, and sellers don't want employees, customers, principals, or competitors to know the business is for sale (particularly since the transaction could fall through). Further, as part of the due diligence process, a seller will often have to disclose trade secrets or other sensitive information to the buyer. From the seller's point of view, it is imperative that confidential information be protected from disclosure or improper use by the buyer--particularly if the buyer is a competitor. The need for confidentiality is often covered in a letter of intent. If handled this way, the letter of intent must make clear that the parties intend to be legally bound by its confidentiality provisions. However, where confidentiality is a major issue, it is best handled in a separate written agreement, typically referred to as a "Confidentiality Agreement."

Due Diligence. Due diligence is the investigative process associated with purchasing a business. Some buyers even "camp out" at the seller to complete the investigation. For the buyer, due diligence is often crucial, as it is the only way to "look under the hood" of the business and make sure it really works, is worth the price agreed upon by the parties, and that the business the buyer actually ends up owning is the business the buyer thought he was purchasing.

In fact, buyers who fail to adequately conduct due diligence may be barred by a court from claiming after the sale that something about the sale was improper.

On the other hand, due diligence can be quite burdensome for the seller. Sellers will often spend weeks digging materials out of files for the buyer to review, and making its offices, staff and records available to the buyer. At the end of the process, each party should know everything about the business. For the well organized seller, the process is not too painful. For less sophisticated sellers, the due diligence process often involves getting the company into the shape it should have been in the first place.

Structuring the Transaction. There are two common ways to structure the sale of a business. The first is to buy assets. The second is to buy stock. Often, some due diligence is required in order to determine which structure is the appropriate one.

From the buyer's point of view, purchasing the assets of a business is often preferable. In an asset deal, the buyer can acquire only those assets which it wants to own. Moreover, by purchasing assets, the buyer gets a stepped-up basis in those assets [equal to the acquisition cost of the assets]. This allows the buyer to recover its acquisition cost through depreciation and amortization. Finally, by purchasing assets, a buyer can generally avoid acquiring unknown or unwanted liabilities, unless there is an express agreement to acquire them. Buyers, however, should beware of some important exceptions to this rule. First, the buyer of a going concern may not be able to avoid liability for the seller's unpaid taxes. Second, many environmental liabilities "run with the land," so if one of the assets purchased is real estate, particular care is warranted in ensuring that no environmental liabilities exist.

From the seller's point of view, the chief drawback to an asset sale is that it can result in additional tax liability at the corporate level that would not exist in a stock sale or a merger. This will occur only if the seller is a so-called C corporation, because "C corps" are taxed at the corporate level. However, if the corporation is a so-called S corporation, the gain realized by the corporation on the sale of its assets passes through to the shareholders, rather than being taxed at the corporate level. Thus, only the shareholders in an "S corp" pay tax on any gains resulting from the sale.

The other common way to sell a going concern is to sell the stock (or other equity interest), or for the selling corporation to merge into the buyer. Either way the effect is the same--the buyer winds up owning all of the assets and liabilities of the seller. The chief advantage to the seller in a stock sale or merger is that there is no tax liability at the corporate level. The only tax liability is at the stockholder level.

There are, however, several drawbacks to the buyer in a stock sale or merger. First, because the purchaser is buying stock, and not the underlying business assets, the buyer gets a "stepped-up" basis in the stock it acquires, but no stepped-up basis in the company's assets. That is, the buyer

Continued on page 3

Grossman (continued from page 1)

als. They are only used to a growing economy where they can “demand.” It has saddened me that for the last few months all retailers knew how to say was “I will not accept price increases.” Now they are learning they will not get any goods unless they pay the price and have lost valuable time in ordering goods. I believe for the next 9 months or so retailers, manufacturers and customers are going to be very cautious. This is not the time to take big risks or have large inventories.

One of the positive things that came out of the Show for me is new opportunity. That is one of the reasons I enjoy being a rep. When the market gets tough, I have the option and the ability to rearrange the products and the accounts in my “bag” and adjust the best I can to market conditions. I doubt manufacturers and retailers have our flexibility.

Knowing that things are tight, this might seem to be a contradiction, but exposing yourself to new ideas and trends is a way to improve the way you run/conduct your business. This is why I decided to invest in my future and sign up for **Keystone 2008** being held in Baltimore, MD April 11-12th. **Keystone 2008** is an ALL reps’ conference on the latest technology, communications and marketing for representatives. Best of all, is the networking opportunities in an environment of ALL reps (only). Here is a link to get more information:

<http://www.keystone08.com/>

Next month I will be on my annual China trip, so another member will be sharing his views in this column. Good \$elling!

Steve Grossman, CPMR steman4@aol.com.

Newman (continued from page 2)

gets a basis in the stock acquired equal to the purchase price, which presumably reflects the value of the assets purchased. Thus, a buyer cannot obtain the benefit of increased depreciation and amortization deductions because stock is not depreciable. Second, a transfer of stock (whether by sale or merger) always results in the buyer acquiring all of the seller’s liabilities. thus, despite the best due diligence, the buyer always runs the risk of assuming unknown liabilities. As such, a buyer’s only protection from the risk of unexpected liabilities is to seek indemnification from the seller--which is nothing more than a promise that the seller will pay for any undisclosed liabilities that surface after the sale. To secure the seller’s ability to indemnify the buyer, a prudent buyer in a stock sale or merger will insist that a portion of the purchase price is set aside in an escrow for a period of time.

Valuing the Business. A common rule of thumb in valuing a rep firm is that it is worth approximately 100% of the previous year’s gross commission income. This may be varied, however, from as little as 75% to 125% based upon several factors. Factors which tend to increase the price are stable relationships with principals and customers, products that have a future in the market, a rising trend in the firm’s commission income, and the period of time over which the seller will be paid.

One way for a seller to potentially maximize the purchase price is to share some of the risk with the buyer. For example, the price could be 15% of gross commission income for the eight years following the sale. Thus, if business is good, the seller’s price goes up. If business is bad, of course, the seller will get less, but the fact is that any time business is really bad, the seller is going to wind up taking less whether he wants to or not.

Look for the second segment of this series in the next issue of the IHRA **REPorter**®.

Gerald M. Newman is a partner 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 at 312-648-2300, send a fax to 312-648-1212, or send e-mails to: Gerald.Newman@sfnr.com.

WIDGET

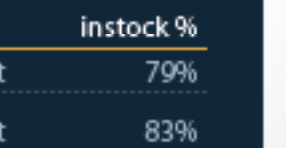
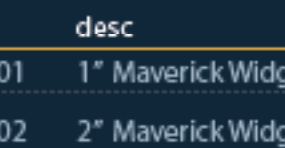


promotions

AD AD

POP POP

ESCOVA

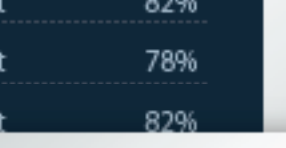
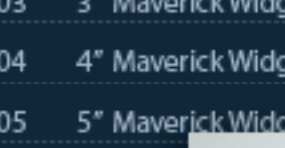


promo

AD AD

POP

GENERAL

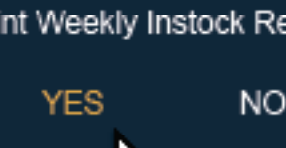
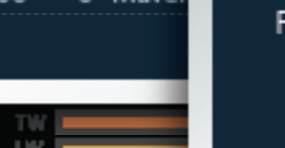


promo

AD

POP POP

JDC



promo

AD

POP POP

part	desc	instock %
MVC-1001	1" Maverick Widget	79%
MVC-1002	2" Maverick Widget	83%
MVC-1003	3" Maverick Widget	82%
MVC-1004	4" Maverick Widget	78%
MVC-1005	5" Maverick Widget	82%
MVC-1006	6" Maverick Widget	

Print Weekly Instock Report?

YES NO

From our all-in-one retail dashboard, you can drill down and print your weekly reports in just two clicks!

Learn more at www.setsight.com Trial code: 2CLICKS



Going green in Europe.

by **Peter Bang-Knudsen**, President, *Bang-Knudsen, Inc.*; former President and Chairman of IHRA

Our annual trip to Ambiente Housewares Fair at Frankfurt Messe was another excellent preview of trends to come here in North America. I previously shared my thoughts about the influence of the Green movement on our housewares industry and am more convinced than ever that this is a world-wide movement that has direct effects on our industry and daily lives.

Europe, by necessity, has been more involved in going Green than the U.S.A. for a long time. Recycling and sorting bins are seen by every housing complex and in every business area. Cars are plentiful but small due to narrow streets in cities and gasoline selling for \$6.00 a gallon. Kitchen products such as pressure cookers are more common because of limited stovetop space and the energy savings of cooking under pressure.

In Central Copenhagen's business district bicycles continue to be the transportation of choice and thousands of bicyclists traverse large bike lanes in city and countryside. Contemporary Danish design is on the cutting edge in housewares stores, and it all has to do with good design for utility and saving space. Modern windmills create cheap electricity all over coastal Denmark.



In Frankfurt there is an efficient public transportation system that takes travelers from luggage claim at the airport to downtown, and then right into the exhibit hall at one of the world's largest exhibit halls. After the show we traveled in comfort from downtown Frankfurt to downtown Zurich in less time than it would have taken for airport hassles.

What we saw at the show reinforced the fact that our industry is moving toward green in many ways. One of our European cookware manufacturers earned a European "Green Tek" award for eliminating PFOA from its coating process. Another built in an energy savings "green" setting on a coffee machine. Manufacturers spoke of improving packaging to conform to "green", recyclable and or bio-degradable materials.

Most significantly, at least two of our major U.S. customers were in the market shopping for ways to go "Green" in product offerings. Included in this quest was to find merchandise that was manufactured in socially responsible environments. These are major initiatives of top retailers in the U.S. and we witnessed important buying decisions being based on both the Green aspect and social responsibility.

Go Green or wilt.

Manufacturers Seeking IHRA Field Sales Professionals

Products: SEE OUR NEW PRODUCT - "BETTER BAKER": www.cookschoice.com
 New patent pending products and more coming... available in shippers, tray packs, open stock. "The Breader Bowl & Onion Blossom Maker Set," and "Better Breaders," "Sittin' Chickens," "Sittin' Turkeys." Please call for any information.

COOK'S CHOICE
 525 N. International Parkway, Suite 605
 Richardson, TX 75081
 (972) 644-5553 Fax: (972) 644-4201

Contact: Greg Broom, President
greg@cookschoice.com

Territories: USA and Canada; by account specific

Commission Rate: 5% **Years in Business:** 15

Currently doing business: Through reps with Bed, Bath & Beyond, Linens 'N Things, Dillards, Kitchen Collection, Tractor Supply, and more.

Products: PIZZAPARTMENT - A plastic storage device to store up to 4 slices of leftover pizza. Device is a self-contained unit with 4 shelves to be used in refrigerator and microwave. Dishwasher safe.

KITCHEN DIRECTIONS GROUP LTD
 P.O. Box 811
 Newtown PA 18940
 (215) 860-PIZZA Fax: (215) 579-4479

Contact: David Pomerantz
eMail: pizzapartment@aol.com

Territories: All U.S.A.

Commission Rate: 10%

Products: THE DOOR GENIE - The Automatic Sliding Glass & Screen Door Closure System
INTERACTIVE TOY CONCEPTS
 1192 Martin Grove
 Toronto, Ontario, CANADA M9W 5M9
 (416) 686-4995 • Fax: (416) 444-6879
<http://thedoorgenie.com/>

Contact: Brent McCord, VP Sales
eMail: bmccord@interactivetoy.com

Territories: USA, Canada, Mexico and All International Markets (currently, not using representatives in any of these markets)

Commission Rate: 5%

Years in Business: 10

Gross Sales: \$10,000,000

Seeking Sales Through: All, including Mass Retail: National Chains, Food, Discount, Specialty; Drugstore, Hardware, Housewares

**Manufacturers:
 Are You Looking for
 Well-Qualified,
 Performance-Proven,
 Field Sales Professionals?**

Instant HOT Lines . . .
 A onetime eMail that provides immediate information on *your line, only*, to reps in specific territories or throughout the world

**Call IHRA at (800) 315-7430
 eMail: info@ihra.org
www.ihra.org**

**Manufacturers:
 Are You Looking for
 Well-Qualified,
 Performance-Proven,
 Field Sales Professionals?**

Instant HOT Lines . . .
 A onetime eMail that provides immediate information on *your line, only*, to reps in specific territories or throughout the world

**Call IHRA at (800) 315-7430
 eMail: info@ihra.org
www.ihra.org**

**Manufacturers:
 Are You Looking for
 Well-Qualified,
 Performance-Proven,
 Field Sales Professionals?**

Instant HOT Lines . . .
 A onetime eMail that provides immediate information on *your line, only*, to reps in specific territories or throughout the world

**Call IHRA at (800) 315-7430
 eMail: info@ihra.org
www.ihra.org**

**AMERICONSULT
& International Trade, Inc.**

P. O. Box 576
Princeton, NJ 08542, USA
Phone: (917) 592-5498
Italian Cellphone: +39-335-708-0483
Skype Phone: mavericknyusa
MaverickNYUSA@aol.com

Since 1986 specializing in the Sales Promotion of Housewares (cookware, small appliances) Home Complements (bath & kitchen furniture, faucets) and Gourmet Foods Sales.

Also assisting manufacturers in the establishment of their company in the United States with local domicile and all related logistics.

Fluency in English, Italian, French

Italian liaison office:

Mario Albini - CEO
COIMBA®
Sales Promotion & Development
Via G. Prati 17-B-2, I-37124 Verona
Phone: (01139-045) 913-281
Fax: (01139-045) 485-1188

Bang-Knudsen

Representing gourmet housewares to leading retailers in the Pacific Northwest for over three decades.
We know the territory.

Permanent showroom:
Suite 453 Pacific Market Center
6100 4th Ave., S.
Seattle, WA 98108
206-767-6970

www.bang-knudsen.com

Contact:
pbang-knudsen@bang-knudsen.com



PETER ZACHER
P: 210.822.2141
zacher@ix.netcom.com

INNOVATIVE - EXPERIENCED - ASSERTIVE

HOUSEWARES & CASUAL TABLETOP FOR:
WHOLE FOODS MARKET
&
SPECIALTY GROCERY

NATIONAL ACCOUNTS FOR
SMALLER COMPANIES & START UPS

CALIFORNIA INDEPENDENTS
&
CHAINS

**the
northeast
group
inc.**

*Specializing in
Housewares, Homestore
&
Hardware Industries
Since 1973*

*Representing Manufacturers in
the Six New England States
&
Upstate New York*

51 Morgan Drive, Suite 13, Norwood, MA 02062
781-352-1400 phone; 781-352-1450 fax
www.northeastgroup.com

**When
legal matters
are important,
consult the
go-to law firm
for
manufacturers'
representatives
nationwide**

Visit
www.sfnr.com/rebs.html
or call Gerald Newman
at 312 648 2300 for a
free brochure outlining
why reps need lawyers
that understand the
rep business.

**SCHOENBERG FINKEL
NEWMAN & ROSENBERG, LLC**

- ✦ *Commission disputes and wrongful terminations (millions of dollars collected for reps throughout the USA)*
- ✦ *Succession planning and mergers*
- ✦ *Contracts with manufacturers and with employees prepared and reviewed*
- ✦ *Free 20-minute telephone consultation for association members*

SCHOENBERG FINKEL NEWMAN & ROSENBERG, LLC

~ Serving reps nationwide ~

222 S. Riverside Plaza, Suite 2100
Chicago IL 60606
Email info@replawyers.com Phone 312 648 2300

MB CONSULTING
Strategic Business Growth Solutions



Assisting foreign companies in
entering the US marketplace.

**LOOKING FOR SUB-REPS IN
HOUSEWARES, GENERAL
MERCHANDISE AND
FURNITURE CHANNELS**

4198 Cox Road, Suite 107
Richmond, Virginia 23060
804-290-0173
mb@mbglobalconsulting.com
www.mbglobalconsulting.com

2008 CALENDAR OF EVENTS

April

5 - 8

Boston Gift Show
Boston, MA

9 - 13

New York Tabletop Show at 41 Madison
New York, NY

23 - 25

SIAL Montreal
Montreal, Que, CANADA

27 - 29

Spring Fancy Food Show
Chicago, IL

May

3 - 7

SCAA Show
Minneapolis, MN

6 - 8

Gourmet Housewares Show
Las Vegas, NV

6 - 8

National Hardware Show
Las Vegas, NV

17 - 20

NRA Restaurant, Hotel-Motel Show
Chicago, IL

30 - June 1

World Tea Expo
Las Vegas, NV

June

18 - 23

Dallas Int'l Gift & Home Accessories Market
Dallas, TX

June (cont.)

20 - 22

Dallas National Gourmet Food Show
Dallas, TX

29 - 30

Summer Fancy Food Show
New York, NY

July

18 - 19

California Gift Show
Los Angeles, CA

26 - 29

San Francisco Intl Gift Fair
San Francisco, CA

August

16 - 20

NY International Gift Fair
New York, NY

September

6 - 8

Boston Gift Show
Boston, MA

7 - 8

Philadelphia Candy Show
Philadelphia, PA

13 - 14

Atlanta Fall Gourmet Show
& Fall Gift & Accessories Market
Atlanta, GA



May 6 - 8, 2008
Sands Expo & Convention Center
Las Vegas, Nevada



May 6 - 8, 2008
Las Vegas Convention Center
Las Vegas, Nevada

IHRA MEMBERS:

Want to know more about RepCare group insurance?

Just find your business home state and call Pat Brown or John Doyle.

Call PAT BROWN at 800-854-4636 if your business is in:

Arizona	Kansas	Nevada	Texas
Arkansas	Louisiana	New Mexico	Utah
California	Minnesota	North Dakota	Washington
Idaho	Missouri	Oklahoma	Wisconsin
Illinois	Montana	Oregon	Wyoming
Iowa	Nebraska	South Dakota	

Call JOHN DOYLE at 888-243-0174 if your business is in:

Alabama	Kentucky	New Hampshire	South Carolina
Connecticut	Maine	New Jersey	Tennessee
Colorado	Maryland	New York	Virginia
Delaware	Massachusetts	North Carolina	Vermont
Florida	Michigan	Ohio	West Virginia
Georgia	Mississippi	Pennsylvania	
Indiana	Missouri	Rhode Island	

**Home • Housewares • Gourmet • Hardware
Multiple-Line, Field Sales Professional:**

If you're not a member of IHRA, you owe it to yourself to join the organization that is your voice in the industry and the manufacturers' resource for finding

**Well-Qualified, Performance-Proven,
Field Sales Professionals.**

For complete information about "first-timer" membership and an application, contact us at:

(312) 240-0774 • (800) 315-7430
Fax (312) 240-1005
info@ihra.org • www.ihra.org

2008 IHRA Officers, Directors & Staff

Officers

Chairman: David Silberstein

President: Kent Kulovitz

President-Elect: David Friedman

Senior Vice Presidents

Legal & Education: Mark Glotter

Fiscal: Jim Doane

Delegate to MRERF: Steve Grossman, CPMR

Executive Director: William M. Weiner

Directors

Robert Bachner

Catherine Hazen

Linda Krol

Peter Zacher

Past Chairs

John M. Clampitt

Peter Bang-Knudsen

Steve Grossman, CPMR

Donna Peake

Jay L. Cohen

Jim Adams

Tom Rooney

James Ayotte

Staff

Administrative Assistant: Stephanie Baron

Financial Director: Myra Weiner

The REP[®]orter

is published monthly for

INTERNATIONAL HOUSEWARES REPRESENTATIVES ASSOCIATION
175 N. Harbor Drive • Suite 3807 • Chicago, IL 60601
(312) 240-0774 • (800) 315-7430 • Fax: (312) 240-1005
eMail: info@ihra.org • Web: www.ihra.org

*Statements of fact and/or opinion are the
responsibility of the authors alone and do not imply
an opinion of the officers or members of IHRA.*