



Member's

Corner

Time flies . . . when you're having fun!

by **Steve Grossman, CPMR**
Former IHRA President and Chairman



Steve Grossman, CPMR

Boy, this month has flown by. I am not really sure why, but I won't complain, since at my office we have hit the dog days of summer.

Christmas presentations are over and first quarter is slowly moving along and half the world seems to be on vacation. Besides the few things I can nudge along, I am cleaning out our files in our "paperless society." As you can probably guess, I am not sure if I have a lot to say this month but here goes.

I got a letter from a New York law firm at the beginning of the month asking for a nice chunk of change to be returned to the bankruptcy court on commissions paid us by one of our principals, within 90 days of closing their doors. For those of you that have not received one of these letters, it is a blow to ones profession and check-book. Simply, in a bankruptcy, if the court believes you were "preferably" paid within the 90 days before closing the doors, the creditors can ask to have it returned. I am gently arguing that a commission is just like a salary, that is paid after the company is paid and therefore nor preferential, plus they do not ask for employees to return wages. I'll let you know what happens.

I started the book "*Blink*," by **Malcolm Gladwell**, and I find it most interesting. It deals with the phenomenon of having

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The Subject is Taxing

The new bankruptcy law — how it may impact you

by **Stanton B. Herzog**, IHRA CPA & Accounting Consultant,
principal in the firm of Applebaum, Herzog & Associates

The new bankruptcy law (The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005) takes effect in October. It is a result of an intense lobbying campaign by credit card companies and banks. As you might guess, this law highly favors creditors – primarily credit card companies and banks, but all other creditors as well. It will change the way people think and act with regard to credit. Business creditors are provided huge advantages, and, on the other hand, many businesses entering into bankruptcy will be negatively affected. Small businesses, in particular, will no longer regard bankruptcy as much of a way out of financial difficulties.

In Shakespeare's Hamlet, Polonius implores his son to "Neither a borrower nor a lender be." If you have to be one, be a lender, since creditors have new-found power. The first instance, in a business situation, is that inventory shipped by the creditor within 20 days prior to bankruptcy has a preferred creditor status. These bills must be paid in full before any reorganization plan takes place. Also, the period available to a creditor to reclaim inventory has been expanded to cover goods shipped within 45 days of the bankruptcy, rather than 10 days as in prior law. Note that this may cause creditors to be more willing to ship goods to troubled companies.

Creditors have gained important rights in bankruptcy proceedings as well. After 18 months, they can file their own reorganization plan thus forcing debtors to submit their plan much sooner than in the past. It is interesting to note that this might encourage a new back-door way to acquire a company – purchase the company's liabilities from the creditors, then quickly step in with a take-over proposal; this could get nasty! In addition, a provision allows courts to add small businesses to the creditors' committee that make many of the decisions in a business bankruptcy if their receivables from the debtor

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The Subject is Taxing (from page 1)

represents a “large” percentage of their gross annual income; while there is no guarantee of repayment, at least their voice will be heard for the first time in these committees.

Small business debtors, on the other hand, have a lot of new problems. Small businesses are defined for this purpose as those owing less than \$2,000,000 (excluding debts to affiliates or insiders) as of the date of filing. They have only 300 days to file a reorganization plan out of Chapter 11 or they will lose their bankruptcy exemption. The Trustee in bankruptcy will then review the plan, and if the Trustee decides it won’t work, the Trustee can throw the company into Chapter 7 liquidation, anyway.

Further, small businesses must file many reports with the court and the IRS to protect bankruptcy status, including but not limited to all taxes, cash flow statements, financial statements, projections, status reports, and payments of all administrative expenses on time. The sum of these requirements along with the payments to merchandise creditors explained above are likely to drive modest cash flow into a tailspin, making escape from Chapter 11 very difficult for a small firm. Small businesses will therefore probably try to avoid bankruptcy or close. One way to avoid bankruptcy is to make arrangements with creditors outside of court if at all possible.

Turning to individuals, consumers who don’t usually have much influence on Congress will find provisions of this new law distressing. The philosophy behind changes in the bankruptcy laws for individuals seems to have been to deter them from escaping their own folly at the expense of their creditors. Any individual who can earn enough to pay 25% of their debt or at least

\$6,000 in five years (\$100 per month) cannot escape bankruptcy free of debt and will land in Chapter 13 (pay the greater of the above) rather than Chapter 7 (pay what assets are available and leave completely free). They must also attend classes before bankruptcy filing is even permitted in order to understand the alternatives. After filing, they must attend classes about financial management. They must also pay all taxes on time apparently whether or not they have the money.

All taxes, both business and personal, that are filed within three years of a petition in bankruptcy cannot be discharged. Compromise with the IRS is possible, however.

One good provision for individuals is that qualified retirement accounts are excluded from creditors for up to \$1,000,000.

In a clear slam at Florida bankruptcy laws that have completely protected an individual’s home from creditors, the new law limits equity protection for homes bought within 40 months of bankruptcy to only \$125,000. And if there are crimes involved including securities fraud, the limit of \$125,000 applies no matter how long the house has been held.

The law is 500 pages long, so I’ve only touched the subject. Hopefully, it’s a start for you. We are not attorneys and do not specialize in bankruptcy law. If you have any questions, we’ll try to help or refer you elsewhere.

*Stanton B. Herzog, CPA, principal in the firm of Applebaum, Herzog & Associates, Deerfield, Ill., serves as IHRA’s accountant and is a regular contributor to The **RE**porter®. He participates in Expert Access, the program that offers telephone consultations to IHRA members.*

Call him at: (847) 405-0400

Grossman (from page 1)

to make a correct gut decision in a blink and being right more times than wrong. I can’t wait to get to that part to improve this skill.

I must say I was disappointed that no one responded to a possible **IHRA** trip to China in 2006. Of our 240 member firms I thought there would be at least 10 that would, in my opinion, see the importance of at least going once.

As I have mentioned before, I am not only an **IHRA** member, but I also

belong to **MANA**, (www.manaonline.org/). Their monthly magazine, **Agency Sales**, is rep (and manufacturers that use reps) specific. They are another resource in this big challenging world. In this month’s newsletter they list 25 other rep associations and **IHRA** is one of them. They encourage **MANA** members to support their industry-specific rep association(s) with dual memberships. **MANA** is also one of the sponsors of The Keystone Conference coming up in

September (see page 6). I hope to see you there.

Lastly, those who responded to going to the **ASD Show** in Vegas in August, you will get an email late next week to see if there is a time for us to have breakfast or a drink together.

Thanks for being an **IHRA** member and supporting the industry you make a living in.

Steve Grossman
steman4@aol.com.

Manufacturers Seeking IHRA Field Sales Professionals

Products: Solara Silicone Bakeware

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Contact: Alan Menaged, Sales Manager
amenaged@eyeslipsface.com

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This is an IHRA service to keep members advised of lines available. The listing of a manufacturer should in no way be construed as an endorsement of that line by IHRA, it being the obligation of each member to make their own evaluation of the line.

2005 INDUSTRY CALENDAR OF EVENTS

August

Aug 6 -10
SAN FRANCISCO INT'L GIFT FAIR
San Francisco, California

Aug 7 - 11
CANADIAN GIFT AND TABLEWARE ASSOCIATION
Toronto, ON, Canada

Aug 13 - 18
NEW YORK INT'L GIFT FAIR
New York, New York

Aug 15 - 19
ASD/AMD TRADE SHOW
Las Vegas, Nevada

Aug 27 - 31
THE SEATTLE GIFT SHOW
Seattle, Washington

September
Sep 10 - 13
BOSTON GIFT SHOW
Boston, MA

Sep 10 - 13
ATLANTA FALL GIFT & HOME FURNISHINGS MARKET
& ATLANTA GOURMET MARKET
Atlanta, GA

Sep 15 - 18
NATURAL PRODUCTS EXPO EAST
Washington, DC

Sep 17 - 19
NATIONAL GOURMET FOOD SHOW
Dallas, TX

Sep 17 - 19
DALLAS INT'L GIFT & HOME ACCESSORIES MARKET
Dallas, Texas

Sep 24 - 26
LOS ANGELES GIFT & HOME MARKET
Los Angeles, California

October
Oct 15 - 17
ART & FRAMING SHOWCASE
New York, NY

Oct 15 - 17
COFFEE FEST SEATTLE
Seattle, WA

Oct 16 - 19
NEW YORK HOME TEXTILES SHOW
New York, NY

Oct 16 - 19
NEW YORK GOURMET HOUSEWARES SHOW
New York, NY

Oct 29 - Nov 3
NEW YORK TABLETOP SHOWS
New York, NY



DATES:
March 12 - 14

DAYS:
Sunday, Monday
& Tuesday

LOCATION:
McCormick Place
Chicago, USA

Register at:
<http://www.housewares.org/ihshow/attendeeinfo.asp>

For a complete list of ECRM-EPPS Conferences, see their website at: <http://www.ecrm-epps.com>

SCHEDULE AND REGISTRATION FOR THE KEYSTONE CONFERENCE

Tuesday, September 20

General Arrival

5:30 p.m. - 7:00 p.m. - Cocktail Reception

Wednesday, September 21

7:00 a.m. - 8:00 a.m. - Breakfast

8:00 a.m. - 9:30 a.m. - Opening Presentation
Globalization and the Changing Marketplace
Patrick J. Cleary

9:30 a.m. - 10:00 a.m. - Networking Coffee Break

10:00 a.m. - 11:30 a.m. - General Session
How Will the Changing Marketplace Affect the Role of the Representative?

11:30 a.m. - 1:00 p.m. - Networking Luncheon

1:00 p.m. - 2:30 p.m. - Breakout Sessions
Globalization - A Focused View for Manufacturers' Representatives
John Cower
Strategic Selling Alliances
Steve Waterhouse

Internal Team Selling
All Representative Panel Discussion

2:45 p.m. - 4:15 p.m. - Breakout Sessions
Keeping Your Representatives Informed: One Manufacturer's Story
Charles H. Ingram

Selling Value
Robert Nadeau
Practical Technology
All Representative Panel Discussion

6:00 p.m. - Dine-Arounds

Thursday, September 22

7:00 a.m. - 8:00 a.m. - Breakfast

8:00 a.m. - 9:30 a.m. - Breakout Sessions

Selling Value (Repeated from Wed)
Robert Nadeau

Strategic Selling Alliances (Repeated from Wed)
Steve Waterhouse

Preparing for the Sale or Succession of Your Agency
All Representative Panel Discussion

9:30 a.m. - 10:00 a.m. - Networking Coffee Break

10:00 a.m. - 11:30 a.m. - Open Discussion About Current Issues

11:45 a.m. - 1:15 p.m. - Closing Luncheon

Closing Presentation - Legislative Update
John Satagaj

Mr. Satagaj is the President and General Counsel for the Small Business Legislative Council (SBLC)

REGISTRATION INFORMATION

Association Members: \$495 per person
Non-Association Registrants: \$595 per person

To register online, go to:

<https://www.nemra.org/index.cfm?do=keyregform>

Or you can fax or mail your registration form to:

Keystone 2005
c/o NEMRA
660 White Plains Road, Suite 600
Tarrytown, NY 10591
Fax: 914-524-8655

HOTEL INFORMATION

Marriott Louisville Downtown Hotel
Jefferson Street at Third Street
Louisville, KY 40202
800-533-0127 / Reservations: 800-228-9290

Room Rates: \$119 per night single/double
(plus state/local taxes)

On-site parking fee: \$16 daily
Valet parking fee: \$20 daily

To make your hotel room reservation, call 1-800-228-9290; reference the group name "Keystone" to receive the program's special rate. You can also register online at www.marriott.com.

Participants are responsible for making their own hotel reservations. Room reservations must be made by Friday, August 19, 2005. We cannot guarantee rate and room availability after this date.

TRANSPORTATION

Louisville Airport (SDF) - 8 miles from the hotel
Estimated taxi fare: \$12 (one way)

Cincinnati Airport (CVG) - 96 miles from the hotel

Indianapolis Airport (IND) - 115 miles from the hotel

Louisville Union Railroad Station - .4 miles

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