

POWER-MOTION TECHNOLOGY
REPRESENTATIVES ASSOCIATION

FOCUS

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Please Note:

- Conference attendees: Pick up your meeting materials at the PTR A desk at the Wyndham—your notebook will hold your program, speaker handouts, badges, raffle tickets (you may purchase more at the Conference!), and more!! And, if you've registered your spouse or a guest, don't forget their welcome bag!
- We hope it doesn't happen, but if you have to cancel your Conference attendance between now and March 31, 30% of your fees are nonrefundable. No refunds will be made after March 31.

Benefit by Participating!

by Les Anderson, L.J. Anderson & Associates, Inc., Minneapolis, MN, PTR A President

We're into the first quarter of the new year. The economy is beginning to percolate again. The Spring of 2002 is almost upon us. The 30th PTR A Anniversary Conference is fast approaching. It feels good to have some positive things to celebrate and look forward to.

I recall the first PTR A meeting I went to in 1991. I had started my rep firm in 1990 and wanted to be a part of my profession and learn whatever I could to become a successful representative. The meeting was in Cancun, Mexico (not a difficult place to ask a Minnesotan to travel to).

The "first timers session" really helped me understand how a professional association was structured. That was the first time I heard the invitation to "get involved" by joining a committee. That invitation was the catalyst for the most rewarding benefit I have received as a member of PTR A, getting to know the members.

The Rep-Principal Relations Committee had an opening. I didn't have a clue what the function of the committee was but joined anyway. The next year I joined the Membership Committee and spent two years on that and then two years on the Confer-

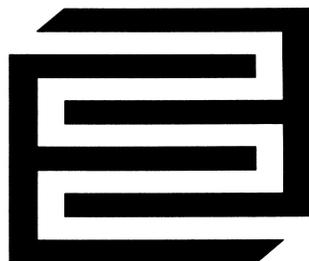
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President Les Anderson

MRERF Brings Many Benefits to the Rep Function

by Duncan MacDonald, CPMR, PTR A First Vice President



I had the pleasure of representing PTR A at the MRERF Trustees meeting in January. This was my second year as trustee so I was able to maintain a dignified and professional air. The first year I attended the trustees' meeting I sat fairly wide eyed offering helpful comments like, "Wow, I didn't know you

guys did all this kind of stuff." For those of you not yet familiar with MRERF, an acronym for the Manufacturers' Representatives Educational Research Foundation, the foundation is sponsored by a growing list of over 30 rep associations like PTR A. These associations represent

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PTRA Legal Counsel: On the Subject of Sales Calls

by PTRA Legal Counsel Mitchell Kramer

There is a misconception among manufacturers representative companies on the subject of call reports. I cannot count the number of calls, faxes, or emails that I have received over the years saying that a manufacturer had requested the rep agency to provide call reports and doesn't that violate some law. Usually, the law that the rep is referring to is the Internal Revenue Code regulation dealing with independent representative status.

The thrust of the question is whether a manufacturer's insistence that a rep agency provide it with call reports would eliminate the independent representatives status of the agency.

Like most long enduring myths, this one has some basis in history. For reasons that are not really important to the subject of this article, the Internal Revenue Service wanted to severely limit the ability of employers to designate people who were

working for them as independent contractors. The IRS issued relations listing 21 issues to be considered in determining whether one who was designated as an independent contractor really was entitled to that status, or whether he or she was really an employee.

The most common area in which companies claimed independent contractor status for people who worked full or almost full time for them was in sales. Therefore, one of the 21 tests

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Attention Allied Members!
Looking for the best rep for your open territory? Shorten your search time by advertising in the PTRA Focus and on the PTRA website! It's a free service open only to PTRA Allied Members! And, don't forget to use the Interview Session block of time during the Conference! Just let PTRA know in advance so we can spread the news!

LINES AVAILABLE!

Sensible Components, Inc.

P.O. Box 492 Highland, NY 12528
Ph 888/858-1005 Fx 845/473-0347 bsharpsteen@sensiblecomponents.com
www.sensiblecomponents.com
Bill Sharpsteen

Territories Open: Most North American territories—No direct salesmen—No house accounts

Product Description: Sensible's Infinity scraper line features several patented innovations that make the OEM and end user's life easier and extend blade life at a very competitive price. Infinite blade adjustment allows for just the right amount of tension, which extends the life of our already tough urethane. Visiene is a new "see from the ground" wear indicator that lets the user know its time to change the blade, avoiding downtime. Infinity belt scrapers are designed to be simple, compact, and fit most any conveyor

Target Markets: OEM conveyor manufacturers, Sand & Gravel operations, Recycling, Food and other industries

EDT Corp.

1006-J N.E. 146th St. Vancouver, WA 98685
Ph 501/575-9120 Fx 501/575-9121 scott@edtdcorp.com
Scott Davis, Eastern Regional Manager

Territories Open: NY, PA, MD, NJ, DE, WV, MI

Product Description: Greaseless plane bearings, Corrosion resistant housings

Target Markets: Agriculture, Bakeries, Beverage, Dairy, Fresh and Processed Meat, Fruit and Vegetable Processing, Pulp and Paper, Seafood, Snack Foods, Waste Water Treatment

It's Not Too Late to Get in the Swing . . .

We're taking registrations for PTR A's 30th Anniversary conference until April 8, so get those forms in and be a part of the celebration! Bring the kiddies if you can and make a memory of the trip by enjoying all the Disney fun—a memory that will last a lifetime!

And, speaking of

getting in the swing—the golf tournament is filling up fast, and for good reason. The annual event is so much more than another chance to swing at a few balls. Because of its relaxed atmosphere and the camaraderie that is built on the course, the tourney makes a great venue for networking and forging new business re-

lationships! Take advantage of this golden opportunity!

And, to receive even further recognition from your peers and business partners, **become a golf tourney sponsor. It's not too late, even if you've already registered!** Just give PTR A a call and we'll get the ball rolling (pun intended)!

Board of Directors Nominations

The Annual Meeting of the PTR A will be held 8:00am, Saturday, April 20 at the Wyndham Palace Resort and Spa during the association's 30th anniversary Conference. Immediate Past President Stephen DiPietro, Chairman of the Nominating Committee, has announced the following as the Committee's slate of nominees for the 2002-2003 Board of Directors. Additional nominations from the floor will be accepted.

President

Duncan MacDonald, CPMR
Engineered Industrial Products, Inc., Temecula, CA

First Vice President

Robert Newman, CPMR
Industri/Motion, Inc.,
Downers Grove, IL

Second Vice President

Gregg Smith, CPMR
Smith Power Systems, Inc.,
Dallas, TX

Treasurer

Mark Tsatsos, CPMR
House of Motors, Inc.,
Golden Valley, MN

Secretary

Christopher Brisbane, CPMR
Brisbane Industrial Drive Co.,
Inc., Jim Thorpe, PA

For an Automatic One-Year Term as Immediate Past President:

Les Anderson
L.J. Anderson & Associates,
Inc., Rogers, MN

For Election to a Three-Year Term as Director:

Tom Calavario, CPMR
Mahx F. Linster Inc.,
Alpharetta, GA

Jay Holder, CPMR
N.O. Holder & Associates,
Inc., Greenville, SC

The Allied Members have nominated for a one-year term as Allied Chairman on the Board:

Sandra Tobias

Royersford Foundry &
Machine Co., Inc.,
Royersford, PA

The Allied Members have nominated for a three-year term as Director on the Board of Directors:

Ted Blaszak
Peerless-Winsmith Inc.,
Springville, NY

Concluding their term on the Board at the meeting with the sincere thanks of the Board and membership for their time and commitment to PTR A will be:

Stephen DiPietro, CPMR
Gears & Drive Systems, Inc.,
Spring House, PA

Christopher Mallon
V.E. Brackett Co., Inc.,
Fayetteville, GA

Allan Soldwisch
International Seal & Packing
Co., Inc., Berlin, NJ

Use Your Membership . . . Get Involved!

Expand your contacts and your horizons by getting to know your fellow members. Take an active part in PTR A leadership! Sign up at the Conference to be part of one of our Committees! Sign up lists will be posted throughout the meeting for the Rep/Principals Relations, 2003 Conference, Membership, Education and Communications Committees.

On the Subject of Sales Calls . . .

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You can contact PTRA Legal Counsel Mitchell Kramer, Kramer & Kramer, LLP, at his new email address, krameresq@aol.com, or by phone at 215/887-9030. Mitchell recently updated PTRA's rep/principal agreement, which was mailed to all members. If you need additional copies, call PTRA or download the file from the PTRA website, www.ptra.org!

was whether the person was required to file call reports. This was part of a series of questions that dealt with whether the independent contractor was really independent. Other questions on the test were whether the "employer" directed the hours of work, whether the "employer" provided the tools of the trade, and whether the "employer" required the salesperson to undergo training. The IRS regulations never discuss the issue of how many yes answers to the questions meant that one was an employee rather than an independent contractor.

In most rep agencies, the agency represents a number of manufacturers. In addition, the rep agency is a business unto itself employing sales people as well as support staff. There is really no question that a company that acts as an agent for a number of manufacturers is independent. That status will not be changed by the fact that a manufacturer wants to know what coverage it is getting from its agency in its assigned territory.

The situation might be different if an agency only represented one principal or, even if one principal represented virtually all of the agency's business. If that agency only consisted of one person, the owner, it could well be at the point that the IRS regulations would apply. However, if an agency is so dependent on one principal, it

would be foolhardy for the agency to refuse to give its principal the information requested since, absent a very strong contract, the agent would likely be subject to termination.

In the typical representative agency, there is nothing to be gained by not giving the manufacturer a reasonable amount of information on marketing efforts in the territory. The manufacturer already knows who the agency's customers are and what they are buying since the manufacturer both bills and ships to those customers.

The preparation of call reports could take some time away from the selling effort. However, a well managed agency should know where its own sales people are and what they are doing. If that information is computerized, as it should be, it would seem to add very little time or expense other than programming to give the manufacturer what it wants.

Of course, if an agency is not adequately covering a territory, it may not want to give any information to its principal. But in that event, the agency would probably be better off not representing that principal at all. If a line is not worth devoting time and resources to, the agency is not doing itself or its principal any good and should face up to that fact.

An agency lives or dies on the quality of the manufacturers it represents.

The agency's services must be perceived by the manufacturer as adding value. We all know that strong and growing sales will keep a manufacturer happy. But these are difficult economic times and sales growth has become more and more difficult to achieve. Therefore, what the agency can do to help its principals in planning and understanding the problems in and issues involving the territory, is probably more important than ever.

In short, there is nothing illegal or improper in a manufacturer requesting and receiving reports on a multi line agency's activities in the territory. Of course the language of the contract between the agent and the manufacturer might, although it very rarely does, deal with the subject of reporting, and that could determine the agent's reporting obligations.

I feel that, unless there is an awfully good reason not to, an agent should comply with a manufacturer's reasonable requests. These should be seen not so much as a chore but as an opportunity to continue to sell the manufacturer on the importance of the agency to its business. The cost of termination is far, far greater than the cost of providing a manufacturer with a reasonable amount of information on what is happening in the territory.

MRERF Brings Many Benefits . . .

Continued from page 1

firms from varied markets, including food and food equipment, giftware, electronics, electrical, and so on. The purpose of the foundation is threefold. First, they provide educational opportunities for reps to improve their selling and management skills and for manufacturers to learn more about managing their rep force. Second, they sponsor and fund research at the university level about the rep function. And third, they provide information about the rep function to the marketplace at large.

The largest and most visible function of MRERF is its education program. Through the MRERF subsidiary IPA (Institute for Professional Advancement) the CPMR program was developed several years ago. This is a three-year program offered at both Indiana University and Arizona State designed for rep firm owners or managers. Most of you are aware of this program and there are many PTRA members who carry the CPMR designation.

Three new education opportunities have been developed recently that offer great value. For the sales rep, both rep owners and employees, the **Skills for Sales Success** course, leading to the Certified Sales Professional designation will be offered three times in 2002, April in Chicago, June in Nashville, and September in Tempe AZ. Our own Don Elfstrom at-

tended the first course offering last year and reported at the trustees' meeting that the course exceeded his expectations with a skilled and entertaining instructor that gave Don and his outside salesman some valuable new skills and refreshed some old ones. It also means Don is PTRA's first CSP.

For the inside sales staff MRERF now offers a videotape and book training program designed to be presented by the rep principal to the inside staff over a series of 1 hour sessions. The tape includes role playing and other fun stuff that your inside staff will jump at the chance to participate in. Seriously, it's a little work, but it reinforces the right skills to increase your effectiveness on the inside.

And, for manufacturers there is the **Managing the Manufacturers' Representative Network** program that is ideal for the regional or new national sales manager looking to better understand how to get the best performance for his company from their rep sales force.

In addition to these fine training programs MRERF also offers a 1600+ volume lending library of business and sales oriented tapes and books available to all PTRA members and they have published a new book by Jack Berman called **Synergistic Selling For The 21st Century**.

In the academic

arena there are several projects proposed and underway at universities such as Butler University and Cal State San Marcos. There is also a scripted program available to any rep that desires to be a guest speaker at his or her own alma mater. Some day there will be college students who actually plan on being manufacturers' reps when they grow up.

And, finally, for the marketplace at large, MRERF was the sponsor of the Fortune Magazine insert about outsourcing the sales function that went directly to thousands of business owners and managers across the country and the world.

For more information about MRERF and details or applications for any of the fine programs offered visit the PTRA website at www.ptra.org and click on the MRERF link. It's gratifying as a manufacturers' rep to see the level of professionalism that the MRERF programs bring our humble little businesses. I encourage you to utilize every resource that MRERF offers you. You will reap the benefits.

PTRA Mission Statement

The POWER-MOTION TECHNOLOGY REPRESENTATIVES ASSOCIATION (PTRA) is an Association of independent manufacturers' representatives and manufacturers dedicated to promoting the sales representation (rep) function in the power transmission and motion control industries. PTRA will strive to offer all members opportunities for education, information exchange, networking with other reps and manufacturers, plus an array of quality services designed to improve career performance and professional stature.

Congratulations New CPMRs!

2001-2002 LYNN MATTIS MEMORIAL SCHOLARSHIP Contributors:

Alderson Industrial Sales Inc.
 Bando American Inc.
 BC&H Company
 Belden-Hutter
 Brisbane Industrial Drive Co.
 Cirtcele-Tronic
 Class Industrial Sales
 Garber Engineering
 Gebhart Industrial
 Hitachi Maxco
 Industrial Component Sales, Inc.
 Industri-Motion Inc.
 J.F. Gleeson & Associates
 J.F. Shaw Co.
 J.W. Cooler Co.
 L.J. Anderson & Associates
 Maher Associates
 Mahx F. Linster Inc.
 Mechanical Sales Co.
 Midwest Engineered Components
 Motion Components
 Motovario
 Power Reps, Inc.
 Pro Tech Sales
 Rockford Controls
 Royersford Foundry & Machine Co.
 Singer Industrial Sales SKA, Inc.
 Smith Power Systems Inc.
 T.P. Lennon Company, Inc.
 V.E. Brackett Company

Hearty congratulations to the following PTRA members who have successfully completed the three-year course of study and been designated **Certified Professional Manufacturers Representatives**.

The program, offered by the Manufacturers Repre-

sentatives Educational Research Foundation, and administered by the Institute for Professional Advancement, takes place annually on the campuses of Arizona State University in Tempe and Indiana University in Bloomington.

Steven Alderson
 Alderson Industrial Sales, Inc., Florissant, MO

Chip Hillyer
 Northeast Automation, Inc., Mountainside, NJ

Eric Wahl
 Clarkson Company, Hoffman Estates, IL

Lynn Mattis Memorial Scholarship

The Lynn Mattis Memorial Scholarship, founded in 1999 in memory of PTRA member, Lynn Mattis, is still working for PTRA members, covering one year's tuition for one lucky CPMR candidate annually. Last year's recipient was Bill

Brant, Gleeson & Associates, Overland Park, KS and a new recipient will be announced at the April 17-20 Conference in Orlando.

The Scholarship is funded by your generous contributions and we'd like to thank all those who have

helped build the fund during the last year.

Dues invoices will be mailed in early June with a call for additional funding, and we hope you'll give serious consideration to supporting this important work.

The End of the Story

by PTRA Legal Counsel Mitchell Kramer

In the December 2001 issue of *Focus* there was an article on "The Case of the Oral Contract." In that article I did not recommend oral contracts, I simply pointed out that sometimes one works out.

And now for the rest of the story. After the Moore and Kimmey v. Price Pfister jury verdict, Price Pfister moved for a new trial before the trial judge. That motion was denied. Price Pfister then filed an appeal to the Texas Court of Appeals. Barbara Kramer, of our office, argued the appeal and the Texas Court of Appeals wrote a long opinion finding

in all respects in Moore and Kimmey's favor. The opinion was the first decision in Texas dealing with the Texas manufacturer's representative statute. The court found that the statute was constitutional and that the damages that the jury found were proper.

Before the trial the judge ruled that the Houston Texas jury could not be told that Tommy Moore, the Moore of Moore and Kimmey, is, in addition to being manufacturers representative, also a National Football League referee. In the *Focus* article, we indicated that the amount of the verdict was about \$650,000.00. We did

not state that Price Pfister had offered \$2,500.00 to settle the case before it went to trial.

After the Court of Appeals decision, Price Pfister filed a petition with the Texas Supreme Court asking that the court agree to hear the case. In November 2001, the Texas Supreme Court refused to hear the appeal and Price Pfister, with no court left to go to, paid our clients the judgment. By that time, with interest and additional court-awarded counsel fees, our manufacturer's rep clients won \$759,000.00.

And that is the **end** of the story.

Members' News

G/S Associates is pleased to announce that **Ashley Studebaker** who had been working as an inside salesperson, is now working as the firm's outside salesperson covering Washington and northern Idaho. Our customers in that territory have welcomed this as a pleasant change.

G/S is also pleased to announce that it now represents **Dart Controls**, a line of both AC and DC controls, and also now represents **American Autogard**, a line of torque limiters.

J.K. Kessler and Associates, Inc. will celebrate 50 years in business in June 2002. Founded by **Julian K. Kessler** in 1952, a Charter Member of PTR A and its President from 1985-86, Kessler and Associates is now

owned by **John M. Kessler** and serves Florida, southern Georgia, Puerto Rico and the American Virgin Islands. The company employs five outside sales engineers, seven inside sales persons and two warehouse persons. Kessler has been warehousing their major products since 1959.

Jerry Rhodes of Midwest P.T. Sales is pleased to announce an agreement with **Stober Drives** out of Maysville, Kentucky and **Servo Kinetics** out of Ann Arbor, Michigan. **Stober Drives** is a manufacturer of precision gear reducers and traction drives. **Servo Kinetics** is a hydraulic remanufacturing facility for Servo valves, pumps, motors and cylinders. **Midwest P.T. Sales** will be representing both of these companies in

Ohio and Kentucky.

Engineered Industrial Products, Inc. is pleased to announce it has complete a merger with the **Norman Rupp Company** of Portland, Oregon effective January 1, 2002. **David Rupp** became a Vice President of EIP and manager of the Oregon, Washington, Idaho territory on the same date. Effective March 1, 2002, EIP moved its headquarters and warehouse to larger facilities at 13367 Larwin Circle, Santa Fe Springs, CA 90670.

EIP is also pleased to announce the recent additions of **Adrian "A.J." Crotinger** as Territory Manager for the Central Valley region of California and **Ryan Sharp** to the position of Inside Sales and Marketing Associate.

PTRA welcomes any opportunity to assist your promotion of your firm! To have your firm's news included in the next Focus, please use the enclosed Quick Report Form. Send it to PTRA before May 10!

In Memory

With sadness, we report the passing of three PTR A members. We extend our sincere sympathies to their families and friends.

Penney Elfstrom, Kacey Enterprises, Inc., Winfield, IL

Bernie Korona, PT Products, Brookfield, WI

Ben Winburn, PTR A Past President, Green Valley, AZ

Benefit by Participating . . . Continued from page 1

ence Committee. Through participation I made many acquaintances and those relationships helped me become a better rep.

The early reports show we are going to have a

strong attendance at the April 17-20 Orlando Conference. I encourage all members to attend this year when we celebrate the 30th Anniversary year on Disney property.

When you get there,

participate by joining a committee. The true reward of membership is the personal interaction with other members.

See you in Florida!

MANA Offers Free Subscription

The Manufacturers Agents National Association is offering PTR A members a free one-year subscription to its monthly publication, *Agency Sales*. At the end of

the subscription you will receive a renewal notice for the full subscription price for year two, which you can choose to accept or reject. To request the free subscription,

drop an email to Joe Miller at MANA at jmiller@manaonline.org and mention you read about the offer in this issue of *Focus*.

Calendar of Upcoming Events

2002

April 17-20
PTR A 30th Anniversary Conference
Orlando, FL

May 7-8
MRERF Managing Your Manufacturers Rep Network Seminar
St. Charles, IL

June 4-6
MRERF Sales Skills Program
Western Location TBA

September 10-12
MRERF Sales Skills Program
Southeast Location TBA

October 22-24
MRERF Sales Skills Program
Midwest Location TBA

2003

April 2-5
PTR A Conference
Hilton Head, SC

Welcome New Members

American Roller Screw Inc.
Pierre Lemor
Charlotte, NC

Apple Belting Co. Inc./BDH
Barry Hershey
Lancaster, PA

Beha Innovations GmbH
Bill Koch
Schaumburg, IL

Diversified Plastics Inc.
Rick Hogan
Missoula, MT

KF Group, Inc.
Greg Saylor
Greensboro, NC

Motion Products Inc.
Joe Hammett
Pompano Beach, FL

R & W America
Kevin T. McCue
Bensenville, IL

Sensible Components, Inc.
Dan Cooper
Bill Sharpsteen
Highland, NY

Continued next column above

Skinner & Associates Inc.
Bill Skinner
Pewaukee, WI

Southeast Sales Inc.
Mark McClung
Birmingham, AL

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POWER-MOTION TECHNOLOGY REPRESENTATIVES ASSOCIATION

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WE'RE ON THE WEB!
WWW.PTRA.ORG

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dmacdonald@eip-inc.com

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drives@erols.com

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