



FOCUS

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How David Beats Goliath

by Don Elfstrom, PTR A President

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Don Elfstrom

What comes first? Success or confidence?

For most of us, we are confident when success comes. That's easy. Yet, how we get that initial confidence is the real challenge. We want to believe we can succeed, but we always need "proof" that it can be done. We actually

have to see a David defeat a Goliath before one of US thinks it is possible. There was a recent article in *The New Yorker* magazine which included an interesting statistic. In every war that was fought in the last 200 years "Goliath" has won 72% of the time. This was typically due to superior firepower that the bigger Goliath possessed. On the flipside, the underdog emerged victorious in an amazing 64% of the battles *when they chose a strategy that was not conventional.*

My experience managing salespeople has shown a common, natural gravitation towards pursuing smaller, easier sales opportunities and overlooking larger ones that seem to be an unachievable Goliath. In those cases, the Goliath will usually make the salesperson more money. Much more! Yet, the smaller stuff gets the priority. Case in point: XYZ Manufacturing is an excellent OEM opportunity worth a million dollars or more per year in residual business. The seeds

have been planted. Quoting on the specified product has been done. The initial follow-up has been completed, and the buying influence at XYZ has said, "We will let you know when we need you." In other words, "we will call you **and your competitor** when we are ready for you." Conventional strategy will have most salespeople waiting and maybe making a contact once in a while until they're called in by the customer. As time passes, and the call does not come, doubt creeps in and confidence dissipates. "Our price is too high — the other guy has a better unit — he or she doesn't want to see me." All of these are seemingly perfect reasons to move towards easier, smaller sales opportunities.

What would an unconventional strategy be in this case? What can the rep or principal-rep partnership do which is out-of-the-box (this phrase will never go away), unique and effective that the competing company is not doing? More yet, what strategy is the competing company following that we can counter?

I find myself as a manufacturers' representative company principle **teaching** my salespeople to:

- 1) Let go of the small stuff and go after Goliath. Do not fear to start. Make a commitment to start and complete it as a project no matter the outcome.

President's Perspective continues on page 2 →

Son of a Beach!

Conference 2011 is Headed to Florida

by Curt Benson, 2011 Conference Chairman



Curt Benson

That's right! White beaches, tropical weather, great golf and a great conference will be waiting for you at the Sandestin resort in Sandestin Florida March 29th through April 2nd as PTRA makes its yearly pilgrimage for conference 2011! With the 2010 conference still fresh in our minds and the impact of it hopefully producing positive benefits within our companies, it's hard to start looking ahead at preparing for Conference 2011. But start looking we must. With the economy rebounding it is more important than ever to stay ahead of the curve, and with the conference agenda starting to take shape, I am confident that attending PTRA Conference 2011 will help us all do just that. As outgoing president Jay Holder mentioned in his last Focus newsletter column, the Board has tasked my committee to keep the momentum going by continuing to produce the type of high quality conference agenda that we have come to expect thanks to the efforts of those before us. In keeping with that wish, we are in the process of putting together an agenda that has some things borrowed and some things new, some things old and some things blue (okay, not sure about the blue part, but you get the idea.) We will have more details to follow as

speakers get solidified and the agenda starts to take a completed form. The main thing to know about Conference 2011 is that we will be making strides to allow more time to network with our peers through various activities and schedule rearrangements, as well as having more interactive sessions with the speakers who will be presenting. I can assure you that conference will look a little different than it has in the past which we hope will accentuate an already positive experience you get from attending PTRA Conferences.

So what now you ask? Take out your laptop, click on your calendar and put **PTRA Conference 2011** in bold on the dates **March 29 to April 2**. Start dedicating some of those hard-earned commissions or income to the PTRA conference attendance budget so you don't miss out on what we are confident will be a beneficial use of your time and money! Oh, and of course for our northern friends — it might be a good idea to stock up on shorts and short-sleeve floral shirts right now as I'm sure they will be hard to find in March with all the heated socks and long underwear taking up the shelves. I look forward to seeing everyone there. ▲

President's Perspective

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2) Use the waiting time to build a relationship. Again, blah blah blah, that has been said many times and in many ways. However, this is essential and it has to be very deliberate. Yes! We make up reasons to go see the person and **get to know them**. A common excuse is "I don't want to bother them." Bother them! Let's face it — 99% of buying influence people are at work to support their personal lives and their family. How bothered will someone be if another person, whom they like, wants to pay them a brief visit? This is what we do.

3) Have accountability in place. It is impor-

tant as managers that we have our people update us frequently on *the steps* they are taking to build this opportunity. I've found it to be less effective when all of my accountability efforts go towards the close of the sale. That will come in time.

Hopefully, we can help our people visualize business success with these Goliath sales opportunities. We know our principals expect reps to grow their business, so this type of success is rewarding and confidence-building. This step-by-step process, my friends, is unconventional strategy. ▲

Lines Available

Business broker has a fee-paying client who would like to acquire a manufacturer of motion control or related products. They are looking for a company with profitable sales of over \$10 million, and will consider any product line. Location is not important, and they would like current management to stay on and manage the company for them.

If interested please respond to: **Chuck Peterson, Fundamental Research, Inc.**
402 Indian Street, Cherokee, IA 51012 • (712) 225-5992

"Lines Available" Communication To Reps

Principal Members of PTRA may announce their interest in recruiting reps through our **Lines Available** service.

For more information and an application go to: www.ptra.org

Upcoming Educational Opportunities

FOR PRINCIPALS

Building a Successful Rep Network (MANA)

September 21-21, 2010
Chicago, Illinois

Successful Rep Channel Management (MANA)

September 23-24, 2010
Chicago, Illinois

Manufacturers' Best Practices (MRERF)

January 13-14, 2011
Arizona State University
Tempe, Arizona

FOR REPRESENTATIVES

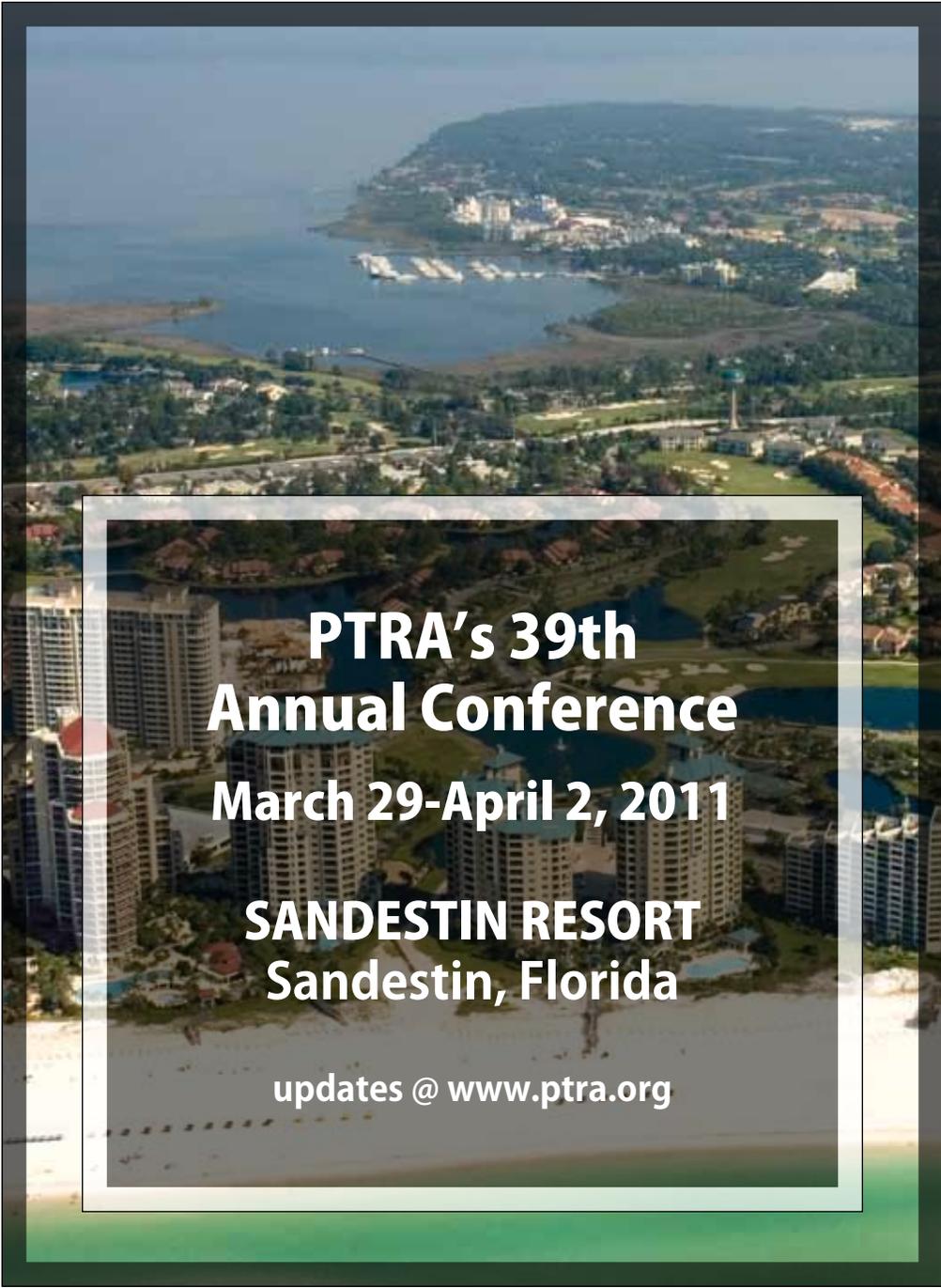
CSP Certification Programs (MRERF)

September 14-17, 2010
Minneapolis, Minnesota

October 12-15, 2010
Phoenix, Arizona

CPMR Certification Program (MRERF)

January 8-13, 2011
Arizona State University
Tempe, Arizona



PTRA's 39th Annual Conference March 29-April 2, 2011

SANDESTIN RESORT Sandestin, Florida

updates @ www.ptra.org

Circuit Court Upholds Rep Laws

by Mitchell A. Kramer, PTRA General Counsel



Mitchell A. Kramer



Barbara Kramer

Thirty-six states and Puerto Rico have laws that were designed to assure that reps are paid their commissions when the rep-principal relationship ends. While the laws of each state differ, almost all of them provide that within a certain number of days after the end of the relationship or after commissions are due per the contract, the rep must be paid all commissions that are owed. If those commissions are not paid, the rep is entitled to its commissions plus exemplary damages of some multiple (generally two or three times) of commissions due plus counsel fees and costs.

PTRA's Association Manager, MANA, has actively pressed for passage of such laws and modifications of those laws to make them more effective.

In a case entitled "Vertex v. Paradigm," a federal judge in Massachusetts issued a decision which could have effectively nullified all of those laws. Vertex is our client and Barbara Kramer and I handled the case in Massachusetts.

The facts in simplified form were as follows:

Vertex was a Georgia rep selling medical devices manufactured by Paradigm. They had a written contract that provided that disputes between the two companies would be litigated in Massachusetts and the contract was to be interpreted and enforced under the laws of Massachusetts. Paradigm terminated Vertex's contract and failed to pay commissions owed at the time of termination. When we filed suit, one of our claims was for commissions owed and multiple damages under the Georgia Wholesale Distribution Law. That law provided that commissions had to be paid within thirty days of termination or the rep was entitled to the amount of commissions plus exemplary damages double that amount plus reasonable attorneys' fees and costs.

Before the trial began, the trial judge on his own motion dismissed the Georgia Rep Act claim. The basis of his decision was that since the contract was governed by Massachusetts law, there could be no claim under the Georgia Rep Act even though the representative was a Georgia company engaged to sell products in Georgia as well as two surrounding states. While the decision of a federal court is not binding on state courts or on federal courts other than the one in which the decision was made, the opinions of federal judges are important since other courts often cite them and are persuaded by

them. The problem with this decision was that it would allow a manufacturer to enter into contracts with its reps that provided that the laws of a state other than one that has a rep act would apply to their relationship. In that way manufacturers could effectively negate the laws designed to protect reps.

We had to appeal that decision in order to protect manufacturers' reps throughout the United States. Our client, Sean Bitting, agreed that we could appeal and that we could focus the entire appeal on the Georgia Rep Act issue. We felt that by not raising other issues that occurred during the trial and concentrating all of our efforts and focus on the rep act issue, we would have a greater chance of reversing the judge's decision. The appeal went to the United States Court of Appeals for the First Circuit.

We prepared and filed the necessary motions and legal briefs to assert our position. We contacted MANA with whom we obviously have a relationship to ask it to file what is called an Amicus Curiae brief. Amicus briefs are filed by people who are not parties to a litigation but who have a real interest in the litigation. Since MANA has, for decades, fostered rep acts, MANA agreed to and did file such a brief.

The defendants opposed our position filing a

Member News

brief stating that the trial judge was correct. We then drafted and filed a reply brief. The case was argued on behalf of Vertex to a three judge panel of the First Circuit Court of Appeals by Barbara Kramer. Barbara was her usual calm and superbly prepared advocate. She was somewhat in awe since one of three judges was the retired United States Supreme Court Justice David H. Souter. Justice Souter who was appointed to the Supreme Court from the First Circuit Court of Appeals, still sits, on occasion, as a Circuit Court judge.

The First Circuit, in an Opinion written by Justice Souter, reversed the trial court's Decision in the Vertex case on August 4, 2010. The Court said "the choice of law provision here does not bar application of the Georgia Statute and therefore does not constitute a contractual waiver by Vertex of its provision."

Fortunately, the rep acts live to fight for reps another day. ▲

Daido Corporation of America announces the appointment of American Industrial Solutions as its local sales representative in the northern Illinois and Wisconsin trading area. Mike Jandacek, president, has many years of experience not only as an independent sales representative, but also as a factory and distributor sales person. We look forward to our new association with A.I.S.

Daido Corporation of America also goes GREEN by switching to solar-power energy. On July 8th, D.C.A. threw the switch to solar power, and is now operating its headquarters and plant on energy provided by the sun. Daido also entered into an agreement with the TVA (Tennessee Valley Authority) to sell back energy generated by the solar panels. This arrangement was made possible by the Green Power Switch Program by the TVA.

RPM Midwest Sales, Inc., has hired a new inside sales team member. Steve Yurgil has joined their Chicago Sales office and is new to the industry. He is a recent college graduate and brings a new perspective to the industry and agency. His attention to detail and analytical mind has been well received by RPM's customers. Steve possesses the same "do what it takes" attitude that is the culture at RPM Midwest Sales. Please join RPM in welcoming Steve to the industry.

Welcome New PTRA Members

Representative Members:

Eric Burris
EB & ASSOCIATES
Boise, ID
208-890-1294
burris991@yahoo.com

Matthew Steffens
**POWER TRANSMISSION &
CONVEYOR COMPONENTS**
Wyoming, MN
651-408-9900
msteffens@pt-con.com

Walter Kielb
WA KIELB ASSOCIATES
Hadley, MA
413-549-3678
wakielb@aol.com

ROBERT C. TURK 1926 - 2010

It is with sincere regret that we inform you of the passing of our founder Robert C. Turk on Friday June 25, 2010. Bob founded our company in 1972 after being transferred to the Southeast from Pennsylvania in 1952 by the Atlas Roller Chain Company. Bob was well known in the Bearing and Power Transmission Industry thru his association with numerous trade groups such as the P.T.R.A. and P.T.D.A. He was always known by his customers for his honesty, integrity, and hard work ethic.

Bob or "RC," as many of us called him, was truly one of those from the "Greatest Generation" having joined the U.S. Navy at 17 years old with the outbreak of WWII. He participated in the battles of the Philippine Sea, Leyte Gulf, Okinawa and others. After the war he, like many of that generation, returned home to quietly begin a career and a family. He is survived by his wife Alice, his daughter Robin and son Tom.

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PTRA Code Of Ethics

The position of Manufacturers' Representative is unique in that the Representative is the liaison between the distributor, the original equipment manufacturer, the consumer, and the company represented.

As a power transmission/motion control advisor, the Representative upholds a high professional responsibility to the distributor and the original equipment manufacturer, and at the same time occupies a position of trust and loyalty to the company represented. Only by observing the highest ethical balance can the Representative avoid conflict between these responsibilities.

As a Manufacturers' Representative, it is my responsibility to:

- Hold my business in high esteem and strive to maintain its prestige.
- Keep the needs of my distributors at the forefront.
- Respect my distributors' confidence and hold in trust personal information.
- Render continuous service to my distributors, customers and manufacturers.
- To employ every proper and legitimate means to persuade my customers to use the proper equipment for their application, if known, while strictly adhering to the highest standards of business and professional conduct concerning these recommendations.
- Present accurately, honestly and completely every fact essential to my distributors' and customers' final decisions.
- Perfect my skills and add to my knowledge through continuous thought and study.
- Conduct my business on such a high plane that others emulating my example may help raise the standards of my profession.
- Keep myself informed with respect to my manufacturers' policies, rules and regulations, and to observe them in both letter and spirit.
- Respect the prerogatives of and cooperate with all others whose services are constructively related to mine in meeting the needs of my distributors and customers.

Professional Resources



INSURANCE ADVISOR

Pat Brown
Associated Benefit Planners, Inc.
abppbrown@aol.com
(800) 854-4636



WEBMASTER

Donna Frendt
Creative Cyberservices, LLC
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