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SPRING 2016



Building Relationships with Connected Customers

The digital transformation era is here. The transition is occurring from a world that is mostly human — where tasks are almost always performed by a human — to a world where technology is integrated into almost every aspect of modern-day life.

In the past five to seven years alone, technology has shifted from being a utility to being a weapon inside organizations. According to Scott Klososky, consultant, author and founder of Future Point of View, not being able to understand this historic shift in technology is fatal.

To help representatives, manufacturers and distributors get a better grasp of this critical time of change, ERA invited Klososky to present the keynote address at the association's 47th Management and Marketing Conference, recently held in Austin, Texas.

"We have got to take a look at the digital transformation and understand that it is historically significant. This is not a small change," Klososky told conference attendees. "It is hard when you live through all of this to understand the historical implications of what is going on."

He believes that in a 100 years, historians will look back at this period as the time before the Internet and the time after the Internet. They will talk about the time before the Internet as being crude, the Dark Ages of getting information.

Moreover, this is the period during which people are beginning to trust the Internet, "a magic box," more than they trust a human being as a reliable source of information. "This is a historical change in how we get information," Klososky stressed.

This is also the time when everything is becoming connected. Technology is able to connect things that have never been connected before — devices, people and organizations all are becoming connected. This connectivity is resulting in frictionless communication.

Today, thanks to technology, anyone can talk to anyone else in the world instantly and for free. A blog post, for example, can be read by a million people in an instant. Twenty or 30 years ago, if an organization wanted to reach a million people, it had to spend a lot of money. In the digital transformation era, communication is instantaneous, easy and free.

Everything is becoming more automated as well, Klososky told conference attendees. It is not just robotics replacing what factory workers used

to do. Software is replacing what humans used to do in white collar jobs.

"We have what's called a DSS, a decision support system. That's a piece of software that makes a decision that a human used to make. And we are building [these systems] at a high rate," he explained. "You [also] hear a lot about artificial intelligence. Well, all that means is that we are building software that makes decisions that humans used to make."

Research is indicating that as a result of this shift, in 20 years, 35 percent of the current jobs will be gone. While some people worry about what this means, Klososky believes that despite the job loss, the boom in the technology sector will make up for it. "We seem to be creating jobs

in the technology sector as fast as we are losing them in other sectors," he added.

Technology is having a significant impact on mobility as well. Klososky urged organizations to look at the explosion of mobility and the role these mobile devices or "outward brains" are starting to play in everyday lives, including:

- storing memory;
- solving problems; and
- providing access to huge amounts of information.

It is especially important to understand the significance of mobility in business. When organizations hear talks about mobile apps, for example, if they are not already building a mobile app but have customers who are using their outward brains in such way, then these organizations are not serving their customers well.

Relationships also have undergone a dramatic transformation because of technology. Personal relationships — how people find mates and how they communicate — are changing because many are using technology and websites like eHarmony, match.com and Tinder. According to Klososky, this shift is occurring in the business world as well. Building new business relationships with customers and how these relationships are nurtured is changing because technology has given organizations new tools. And business leaders must make note of this change.

The humalogical balance

During his presentation, Klososky introduced attendees to the term "humalogy" — the integration of humans and technology. One way to think about the digital transformation is as a shift

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In the past five to seven years alone, technology has shifted from being a utility to being a weapon inside organizations ... not being able to understand this historic shift ... is fatal.

COVER STORY: Building Relationships

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in the humalogical balance, he said. To understand the humalogical balance, one can simply look at a process and apply a scale, with human on one end and technology on the other, to determine what balance of human and technology is being applied to complete this process.

Using Amazon as an example of this balance in favor of technology, Klososky asked attendees, “How many of you have talked to an Amazon customer service rep on the phone? The vast majority of you are spending thousands and thousands of dollars with a screen. You don’t know anybody there; you haven’t met an Amazon employee in your life. Yet, Amazon is the number one trusted brand on the Internet.”

For the human end of the scale, where human beings still are a fundamental part of the process, he used funeral homes as an example.

“A funeral home has a lot of human involvement in it. That makes sense because when some-

body dies we want empathy. We want to talk to a human to pick the right casket, to pick the flowers ... Most people are not prepared to buy a casket on Amazon or send in a drone to pick up the ashes, or Skype into the funeral home. We are not there yet,” Klososky explained.

It is important to understand the humalogy balance because as every process — hiring people, accounting, product development, marketing and sales — is starting to be an integration of humans and technology, smart business leaders will have to determine what is the right place on the scale for their organization. Klososky called this Digital Darwinism.

Companies like Kodak, Borders Books and Blockbuster were on the wrong place on the humalogical scale. Their leaders did not understand the digital transformation and the impact of

technology on their businesses, he explained. On the flip side, there are companies like Instagram. “[Instagram] sold for a billion dollars cash. Does anyone remember how many employees they had when they sold? They had 12 ... There are winners and losers,” he said.

Companies like Kodak, Borders Books and Blockbuster were on the wrong place on the humalogical scale. Their leaders didn't understand the digital transformation and the impact of technology on their businesses.

Low-beam and high-beam

The pace of technology change is growing exponentially. Leaders who do not understand the gravity of what all these changes mean are introducing risk to their companies. In the middle of the digital transformation, leaders must build digital maturity. One of the ways to do this is by being able to see into the future accurately. When technology is changing the market faster and faster, the earlier leaders can look into the future and understand how this change will impact their business, the faster they can get the resources in place to make the right investments and prosper. For Klososky this means having a preemptive knowledge of technology in order to see change before the competition and remain relevant.

“Think about all this in terms of being low-beam and high-beam,” Klososky said. “Low-beam is not necessarily bad. It is what managers do. A manager gets a mission, and [he or she] tries to execute the mission. Whereas a leader is high-beam. High-beam means you can look out at least five years to see what technology is going to do in your industry so that you make those good investments.”

Throughout his presentation, Klososky showed attendees several videos and asked them to think about what they see in high-beam. One

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COVER STORY

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of the videos stirred a lot of emotions among attendees as it introduced the Touch, a wearable device that allows users to control other devices and things that they see on a screen simply with the power of their minds.

Klososky explained that, while the device may look futuristic, it is a brain computer interface (BCI) that has been around for a while. Not only have BCIs been around for some time, but they can be put over the head as well as inserted subdermally to control prosthetics.

"They seem very unnatural to us at the moment," Klososky described, "but over the course of our lifetime, it will become more and more normal to have a brain computer interface at times to be able to control something around you."

To stir even more high-beam thoughts, Klososky asked attendees to imagine what would happen once a six-year-old child is chipped with a BCI and is able to just think and control the devices around him. He then posed several other unsettling questions: Once you have one child in school that is chipped and can now learn at a much higher rate, would then other kids have to be chipped? Would schools have to hold different classes for the brain computer interfaced and for those who are not? And once these children enter the business world, will they go back to doing things the old way or try to use that device to get everything done?

"This is what being high-beam is like," Klososky stated. "I just want you to understand how critical that is. In times of change, the better ability you have to look out into the future, extrapolate trends and invest in them, the more likely you are to win."

The world of connectivity

Klososky shifted gears a bit and went on to discuss how technology has impacted connectivity. He spoke about how today's websites connect organizations with their constituents everywhere around the world pretty inexpensively. This has created things such as e-commerce — the ability to do a transaction online and actually sell something and build a digital relationship with a customer. Klososky asked attendees to think of this as Web 1.0.

He then focused on Web 2.0, which connects people through social technologies, mobile and cloud computing. This technology transformation has allowed businesses to connect to tens of thousands of customers anywhere around the

world with a click of a button. Yet, according to him, some businesses that still lack sophisticated marketing are not taking advantage of this tool and relying on email instead.

Next, Klososky talked about Web 3.0, which connects devices. While the majority of devices still only perform tasks, they are starting to be intelligent and spin off data. According to him, the Internet of Things will "radically change what it feels like for us in the world because devices will know us. They will adjust to us, and they will talk to us. We will gather data from these devices like we have never seen before."

Web 4.0 will lead to connected information streams. "Think about rivers of information flowing in real time," Klososky explained. "Some people will say that Web 4.0 will feel like ambient intelligence. There will be information flowing around you all the time, and you will get much better at hooking it so that you are learning the things that you need to learn."

Finally, Web 5.0 will connect humans and technology. This will bring on heavy integration of humans and technology. According to

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The Internet of Things will "radically change what it feels like for us in the world because devices will know us. They will adjust to us, and they will talk to us."
— Scott Klososky

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Jim Gleason
Owner and Managing Partner
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With so many ERA members, it's not easy to get to know every rep and manufacturer in the business. "Someone You Should Know" is The Representor department that gives readers the chance to learn about fellow ERA members, including how their time is spent both in and out of the office.

Meet Jim Gleason, the owner and managing partner of FJM, headquartered in Victor, N.Y. Although he is a relative newcomer to the rep business, Jim now serves as president of Empire State ERA.

The Representor asked Jim a few questions about his time in the rep business and his experiences with ERA. Here's what he had to say.

Tell us a little bit about yourself.

A lifelong resident of Upstate New York, I grew up in Binghamton and now live in the Finger Lakes with my wife Katie and our three young children, including five-year-old twins. I am a graduate of Keuka College and spent my years prior to electronics manufacturing in organizational development roles.

What are some things you enjoy outside of the workplace?

I enjoy watching our children participate in new experiences and sharing time with friends and family. When not with them, I love to travel doing anything outdoors, including golf, fly fishing and anything on or near the water. I find time to participate in local music groups, particularly in the boutique breweries and unique spaces in the Finger Lakes.

How long have you been an ERA member and how long in the rep business?

The company I acquired in 2014 had been a long-time ERA supporter, and so I jumped right in on day one when joining the firm. I've been in electronics manufacturing for five years, all of which have been with ERA.

How did you become interested in being a rep in the electronics industry?

I saw a unique opportunity to participate in a company succession plan that happened to be a manufacturers' rep company. I was attracted by the prospect of having ownership control and deploying my organizational development background into a well-established business model.

What have you found to be most rewarding about the rep business?

I've found the culture to be very professional and intelligent, with a lot of people willing to genuinely help you out. On the rep side of things, I have a lot of fun meeting and engaging with industry peers, creating solid friendships and being part of a great community. The electronics industry is challenging yet can be rewarding. There's constant pressure that keeps you sharp and focused.

Briefly describe your rep firm.

We are currently an IP&E rep company covering Upstate New York. Our manufacturing clients represent a truly global marketplace and feature factories on four continents. Our OEM and end user clients are continually

challenging us to bring value and helping us to look toward where the electronics industry will be in the future which is a lot of fun.

What recent innovations, best practices and/or changes has your firm made?

We are advocates of the franchise model and so spend a lot of time on systems and processes. We've built a board of advisors made up of our close service providers in the business intelligence, strategic marketing, transformative IT and digital spaces to help us understand the current marketplace and how and why our story matters. On the operations side, we use Evernote and DropBox to manage email processes more efficiently in the "do, delete, delegate" model. On the demand creation side, we leverage new product information from our manufacturing clients using MailChimp and WordPress. All of this helps to build and deliver our brand promise.

What have you learned and/or what contacts have you made through ERA that have had the greatest positive impacts on you and/or your business?

ERA has been fundamental as a resource for me as I had no idea what a rep was five years ago, much less electronics manufacturing. I was fortunate to attend COLT (ERA's Chapter Officers Leadership Training program) where I was exposed to the vast network and resources ERA has available. From working with Expert Access to validate net effective tax rates and rep company valuations to gaining mentors in the industry, I wouldn't be here today without ERA.

Are you active on social media? Do you follow ERA? Have ERA updates via social media been helpful to you?

I am active on several social media platforms and do follow ERA. ERA conversations on social media have demonstrated value in delivering content and, more critically, active discussions on topics relating to our industry from succession planning to supplier consolidation impacts. It's topical and relevant to have the individual voices in our industry shared at a peer level. ERA facilitates this exposure in a conversational way, which is important in social media context.

What is one interesting fact that people may not know about you?

I play the five-string banjo and am an avid bluegrass and folk musician.

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2016 is shaping up to be a great year for ERA!

Elsewhere in this issue, you will read the From the Top column by ERA President Dan Parks, CPMR, on our 2016 Management and Marketing Conference that was recently held in Austin, Texas. It was truly an outstanding event, so check out Dan's article to learn more.

The conference was a great way to kick off 2016. But wait ... there is more to come! The "New Era of ERA" is just beginning. Here is what we have in store for our valued members for the balance of this year.

EDS: First, we will be "large and in charge" at EDS. Our staff is working diligently with the EDS Board to make EDS 2016 (May 10-13 at the Mirage Hotel in Las Vegas) the best ever. Our plate is almost 100 percent booked with meetings with current and prospective ERA rep and manufacturer members to continue to spread the word on the value that the manufacturers' rep sales model provides to our manufacturer and distributor members.

Second, we will be offering a "free lunch" (Who says that there is no such thing? Anything is possible in Vegas!) to any ERA member who brings a non-member to listen to a BRIEF presentation on ERA. And if the non-member joins, both the existing and new ERA member will get a \$100 discount off their annual dues. Details on this have been sent to members.

Third, the ERA-ECIA FREE breakfast program on May 12 at 6:45 a.m. (yikes!) will feature guest speaker Don Hnatyshin, senior vice president and chief procurement officer of Jabil. He'll focus on how Jabil supports the "authorized channel" and share his thoughts on the worldwide manufacturing movement and our need to have strong "digital images." This is a can't-miss event.

COLT (Chapter Officers Leadership Training) is coming again this fall. Watch this space for news. Our chapters are fully-engaged and ready to attend this next session.

Electronica: ERA will be in Munich on Nov. 8-11 to help introduce the North Ameri-

can rep model into Europe, the Middle East and Africa — to bridge the gap between the two rep models and to help morph ERA into a global organization. Stay tuned for details.

NEW ERA Rep-Principal Contract – Also in this issue, you will hear from Gerry Newman and Adam Glazer about our new ERA Rep-Principal Model Agreement that has been updated to provide a fair and balanced document for our rep and manufacturer members. This update is both relevant and timely due

to the changing landscape of our industry and the consolidations and changes of control that have been occurring over the past several quarters. Give this a strong look see! Gerry and Adam are available as always to help you navigate any legal questions or issues around this contract.

Chapter Events: Whew! I am on the road a lot trying to help the chapters with their local events. Here are some of the places where I'll be "out and about:"

- April 5 – Empire State Rep-Distributor Forum (DTAM Event);
- April 18 - XCOM Meeting in Chicago;
- May 23 - Carolinas Event;
- June 20 - Metro New York Golf Event;
- Aug. 18 - Chicagoland-Wisconsin Cubs-Brewers Baseball Outing.

I am available to attend your local chapter events as you see fit. I have a BRIEF updated presentation on your ERA and its value proposition to our members as well as near-future projections for our industry. I promise I will not bore your audience!

In addition, many of our chapters are planning local customer events, golf outings, tabletop shows and DTAM presentations to help our members with networking, data collection and navigating through these uncertain yet exciting times. The value proposition that ERA offers has never been stronger, more relevant or more needed.

As always, please send me your thoughts, comments, criticisms and suggestions on what you want from ERA. My bags are packed, and my phone is always ON!



by Walter E. Tobin

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ERA's Conference Committee hit a home run with recent event

"Best conference I have ever attended!" were the words offered up by one participant at ERA's recent 47th Management and Marketing Conference in Austin, Texas. As a longtime attendee, it was rewarding to hear that this event was being so well received.

This was truly the case on Feb. 28-March 1 as 215 representatives, distributors and manufacturers converged on the Lone Star State for a two-day program. The venue (the AT&T Conference Center and Hotel) was outstanding and more than met the needs of the attendees.

Many thanks to all our sponsors (*see the roster on page 8*) and the ERA Conference Committee, chaired by Tom Griffin, CPMR, of Catalyst Sales, Inc., for designing such a successful program. The volunteer rep committee members (Kathie Cahill, CPMR, of Net Sales Company; Tobi Cornell, CPMR, of Kruvand Associates; John Hutson, CPMR, of The MacInnis Company; Rick LaPiana of the Cain-Forlaw Company; and Holly Myers, CPMR, of Wallace Electronic Sales) plus the staff members on the committee (Walter Tobin, Tess Hill, Neda Simonova and Stephanie Tierney) really hit a home run.

Attendees come to ERA conferences for varied reasons. Some come for the networking; some come for the programs; and some come to connect with old friends. I believe this event met or exceeded the needs of all of these folks.

The program opened with a well-attended welcome reception on an open air patio adjacent to the hotel and conference center. Also on Sunday evening, the ERA White Pin Group came together off-site for its 2016 reunion to initiate the latest class of White Pin inductees (who have served at least two years as volunteers at the national level of ERA) and to present awards for exemplary service to our association and our industry. The award recipients — Bruce Scoggin, CPMR, of Electro-Rep Associates, and Holly Myers, CPMR, of Wallace Electronic Sales — were presented with the Jess Spoons - ERA White Pin Scholarship Awards for 2014 and 2015, respectively. As part of this year's reunion, a special White Pin was awarded posthumously to Sarah Rooker of Arkco Sales in tribute to her long and courageous battle with cancer. It was an extremely moving presentation by our past chair-

man of the board, Mark Conley of O'Donnell Associates North.

Our first morning of programming kicked off with a keynote address by consultant-author Scott Klososky, founder of Future Point of View. His presentation, tied to our theme of "Smart Solutions: Navigating the Connected World," focused on "Building Relationships with Connected Customers."

After breakout seminars (there were 12 in all, each offered twice over the two days) and lunch, CEO Walter Tobin introduced three new consultants to ERA — Frederick Myers, Cesare Giammarco and Alex Gabbi — plus a returnee to our team of resources, Bob Terwall. Our next speaker was Len Jelinek of IHS who outlined his research firm's perspectives and projections for our industry.

After additional breakouts, John Mayhall of LinkedIn closed out the day with his presentation on "Unlocking Your Company's Potential in a Networked World."

At the conference theme party, the prestigious Ray Hall Spirit of ERA Award was presented (for 2014) to Bob Evans, CPMR, of EK Micro, and (for 2015) to Tom Sha-

nahan, our recently retired CEO. Bob Terwall, former president of Cherry Electrical Products, was awarded an Honorary Membership in ERA in gratitude for his many years of service.

The second day began with a wonderful presentation by Michael Knight of TTI, Inc., on how distribution trends are impacting the electronics industry. More breakout seminars were followed by a session featuring consultant Cesare Giammarco, Mike Lasley of ION Associates and Mike Swenson, CPMR, of the Mel Foster Company. They addressed "Reps and Manufacturers: Reinforcing the Mutual Value."

Closing the conference, Walter Tobin conducted a Q and A discussion among a panel of millennials on how to work with, buy from and sell to their generation. Many of our members commented that this presentation may have been worth the price of admission alone.

All in all, this was an extremely productive two days, and I would strongly suggest that, if you did not attend, you missed a truly great opportunity to network, learn, make new contacts and catch up with old friends.



by Dan Parks, CPMR
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ERA President
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Attendees come to ERA conferences for varied reasons. Some come for the networking; some come for the programs; and some come to connect with old friends. I believe this event met or exceeded the needs of all these folks.

GREAT NEWS!
ERA's next conference
is coming in 2017!
Save the dates —
Feb 26-28 — for a
return to Austin, Texas.
Watch for details
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For details on the association and its members, go to

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Introducing ... ERA's New Rep Sales Agreement



At the ERA Board meeting, held at the 47th Management and Marketing Conference in Austin, Texas, the board reviewed the new ERA Sales Rep Agreement, prepared by Gerald M. Newman and Adam J. Glazer of Schoenberg, Finkel, Newman & Rosenberg, LLC, legal counsel to ERA.

According to Newman, the new agreement supersedes guidelines first drafted more than 20 years ago. It is more of a “model agreement” rather than guidelines, and it is not intended for the parties to merely fill in the names of the principal and the representative, sign the agreement and do business.

“The intention is that the new model agreement be reviewed in detail by the parties together with their attorneys, and then modified so that the terms fit their particular situation. No rep agreement is ‘one-size fits all,’ ” Newman explains.

Key agreement updates

Some of the more significant changes in the new agreement compared with the earlier guidelines include strict limitation on house accounts. “We have too often seen unfair provisions that enable principals to unilaterally add house accounts after the agreement is signed,” Newman says.

Another key change in the new agreement is an optional provision for payment of a stipend for pioneering work.

“In most cases, a contract should reflect the additional risk and effort undertaken by the rep who creates demand in a virgin territory or for a new product,” notes Glazer.

The new agreement also includes an expansion of the definition of “order” to include “planned orders,” “blanket orders” and “follow-on orders.” According to Newman, commissions are traditionally due on all orders, and this change is designed to limit the availability of technical arguments or loopholes in the agreement that a principal searching for a way to avoid its payment obligations might seek to exploit.

Requirements of OEM and POS reports with monthly commission payments also have been updated. “It is basic that reps should be furnished with a reasonable accounting of commissionable sales to reconcile the payments received,” Glazer

comments. “The information covered in OEM and POS reports is already utilized by principals, so sharing it with the rep creates no significant extra work and is only fair.”

Another update in the agreement includes a structured provision for split commissions. This change better organizes and explains how “splits” should be paid. What remains the most important consideration in split commissions is that the principal pays out the entire commission to the affected reps and does not retain any portion for itself, Newman adds.

The next key changes in the new agreement are mutual indemnification and hold harmless clauses. “Many principals want to see indemnification or hold harmless clauses in rep agreements, and this is understandable,” Glazer explains. “The use of such clauses, however, must be fully mutual.”

The clarification of post-termination commission rights also has been revised, Newman points out. Manufacturers cannot avoid commission obligations by terminating reps after they have done their jobs. “Other contract terms ought not fall by the wayside if such an opportunistic termination is attempted,” Newman explains. “Reps should remain eligible for commissions on orders that come in post-termination based upon the rep’s pre-termination efforts.”

Yet another key revision is the elimination of arbitration provision and substitution of litigation in a jurisdiction to be selected by the parties. Although often held out to be faster and cheaper than litigation, too often arbitration is neither.

“We strongly recommend resolving disputes over rep contracts via the court system, where, unlike in arbitration, recognized rules of evidence apply, the discovery process enables us to accumulate the evidence we need, and appellate review is available, if necessary,” Glazer adds.

Finally, the new agreement assesses attorneys’ fees and costs to the prevailing party. “This relatively standard provision should help incentivize manufacturers to avoid expensive legal fights over unpaid commissions,” Newman notes.

(continued on page 30)



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Court awards rep post-termination damages with a nod to ERA

Is an independent rep really entitled to continue receiving commissions after getting terminated for as long as the manufacturer continues receiving orders from the customer? Even though the parties never discussed, much less agreed upon, any post-termination payments, can a manufacturer who refuses to pay these commissions find them tripled by a court? Plus, can a manufacturer be made to pay the rep's attorneys' fees, and interest on top? Finally, can the language in the Electronic Representatives Association (ERA) contract form affect a court's consideration of any of this?

These questions proved far from rhetorical in one of the most astute rep decisions ever issued, *LindyManufacturing Co. v. TwentiethCentury Marketing, Inc.* The Supreme Court of Alabama answered "yes" to each question en route to affirming a jury's \$2.2 million award to the terminated sales rep.

Electronics components manufacturer LindyManufacturing Co. and independent sales representative TwentiethCentury Marketing, Inc., both out of Huntsville, Ala., (where court opinions consolidate parties' names ForNoApparentReason), entered into an oral rep agreement that did not address termination or commissions to be paid upon termination.

TwentiethCentury was to promote Lindy's products to a Huntsville division of Chrysler in exchange for a 5 percent commission on the resulting Chrysler orders. For the initial six years of the relationship, Lindy paid the commissions due on orders arising from TwentiethCentury's successful efforts.

When Chrysler required all suppliers to maintain a "Just In Time" inventory maintenance and delivery system (JIT), TwentiethCentury installed a JIT at its facility at its own expense for Lindy to use. Chrysler later requested Lindy to install a JIT at its plant. In response, Lindy took the all-too-common step of reducing TwentiethCentury's commissions to cover the expense of adding the JIT system, only to later inform TwentiethCentury it wanted to move the Chrysler account in-house.

TwentiethCentury then asserted its rights to receive commissions on Chrysler business, even if Lindy terminated their oral contract, and the rep warned that the failure to pay commissions would also violate the Alabama Sales Representative's Commissions Contracts Act. Like in many other states, Alabama's statute provides that a principal who fails to pay commissions when

due is liable to the sales rep for three times the unpaid commissions, plus attorneys' fees.

Not surprisingly, Lindy then sent TwentiethCentury, a termination notice, and it also sent along a summons and complaint. Forewarned of TwentiethCentury's belief that it was entitled to continue receiving commissions post-termination, Lindy sued first, bringing a "declaratory judgment" action that asked the court to declare the rights of the parties.

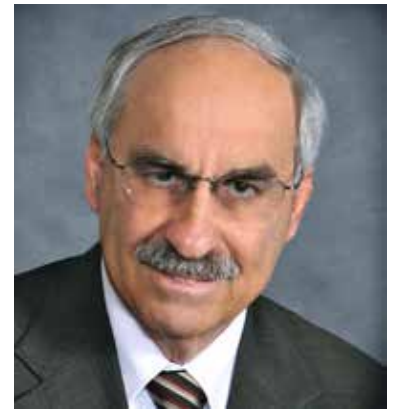
Lindy asked the court to declare that TwentiethCentury had no right to receive post-termination commissions and that the Alabama sales rep statute did not apply. TwentiethCentury filed a counterclaim asserting the converse: Because it obtained the Chrysler account for Lindy, it was "continually due" the commissions, even after termination, and Lindy's failure to pay those commissions subjected it to liability for three times the amount under the Alabama rep statute.

At trial, TwentiethCentury called a Chrysler witness to testify that its business was projected to reach \$16 million over the next five years, and Lindy knew this at termination. The witness further testified that, as a Chrysler "partner" who stayed off its "no bid list" by promptly supplying a quality product, Lindy can expect to receive future orders. Even if a Chrysler vehicle requiring the Lindy part is discontinued, Lindy parts would still be needed as "service" parts.

The jury accepted TwentiethCentury's argument that once Lindy was assured of the \$16 million business level, it decided to cut out the rep to save the commission obligation in breach of the parties' contract. The trial court further determined the rep statute did apply, trebled the amount of unpaid, post-termination commissions awarded by the jury, and added interest and some \$300,000 in attorneys' fees on top. The total jury verdict came to \$2.2 million.

On appeal, Alabama's highest court took a hard look at Lindy's important arguments. Buying into TwentiethCentury's claim forces the parties into "an interminable contractual relationship contrary to public policy and the law of the State of Alabama," Lindy argued, particularly when no evidence suggested it agreed to pay post-termination commissions. The Supreme Court wouldn't have it, pointing to evidence that TwentiethCentury brought the Chrysler account to Lindy with the understanding it "would receive a 5 percent commission on all the Chrysler

(continued on page 36)



by Gerald M. Newman
ERA General Counsel

Gerald M. Newman, partner in the law firm of Schoenberg, Finkel, Newman & Rosenberg, LLC, serves as general counsel to ERA and is a regular contributor to The Representor. He participates in Expert Access, the program that offers telephone consultations to ERA members.

Gerry co-authored this article with his partner, Adam Glazer.

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Form 1099: New 2016 IRS developments are of concern

Congress has once again decided that the easiest way to collect money is to increase penalties. If you are guilty, the only thing you can do is pay up. So it's easy to make taxpayers pay more.

This time, it is once again form 1099 that has attracted Congress' interest. Just a few years ago, the penalty for failing to file a 1099 form was \$10. No big deal. Then the IRS increased the amount to \$30. Now it's \$50 per 1099 if filed within 30 days after the due date, and \$250 for failure to file. Don't even think about knowingly not filing. So now it is a big deal.

These forms must be filed by businesses who pay for the services of individuals who are not employees, such as part timers, commission-only salespeople, and individuals hired for a specific job such as day labor, a repair project or computer services. The individuals must earn more than \$600 during the calendar year. Forms need not be filed if the services are performed by a corporation.

There is one exception — lawyers must be given a 1099 for any amount paid for their services and even if incorporated.

The tax court has a case of interest to those who have multiple corporations. Reps sometimes have two corporations, one for commission basis and one for distribution of stocked merchandise. In this case, the owner had two different businesses, one successful and the other basically a start-up organization developing a new product in a different market area. To develop this product, a computer technician was employed by the start-up company with the understanding that he would also work for the successful company. On this basis, the successful company paid large fees to the start-up for the technician's (part-time) services.

Upon audit, the IRS did not merely disallow most of the expense, but it declared the amounts as dividends to the shareholders. Only a "reasonable" fee for services was allowed to the successful company.

This represents a danger to any multiple corporation situation. While not specified, it appears that both companies were regular corporations. The results with S corporations could yield different results. The tax position

in the case of the regular corporation would remain the same; disallowance would result in taxable income to the shareholders. However, that would give them basis in the start-up corporation to deduct the resulting loss, largely offsetting the taxable income.

The IRS may be able to successfully argue that the start-up costs should be capitalized and amortized over 15 years. Even then, the shareholders would get the deduction. Also, a consolidated corporation tax return could alleviate the problem because the shareholders would not be involved as intermediaries.

Finally, we have a case won by the IRS that again concerns compensation. In this case it was a law firm that distributed its profit in full to the attorney shareholders at the end of the year. Because this is a "service" corporation, its net profit is taxed at a flat rate of 35 percent instead of the graduated rates for regular corporations. This results in the shareholders' desire to distribute all profit to the shareholders whose combined tax rates may result in total taxes less than 35 percent.

The IRS successfully attacked the compensation as excessive based on two concepts. First, the firm had many employees who were not stockholders; they helped provide the excess of income over expenses, so the corporation should have shown a reasonable profit based on their initiative. Second, the stockholders should be rewarded with a return on investment, hence a taxable profit. The court admitted that capital doesn't rate much importance compared with accomplishment in a law firm, but said that nothing was too little.

It seems we've lost something here. The 35 percent tax was imposed because "service" firms were letting corporations accumulate income at the graduated rates rather than taking the money out as personally taxable. Congress wanted the professionals to withdraw the money and pay tax rather than have the funds accumulate.

So here we've come full circle where you're NOT supposed to take it ALL out. How much is enough? Where there are not many non-shareholder employees, the IRS argument might not stick. It seems that corporations should not be so exacting that the profit always amounts to zero.



by Stanton B. Herzog, CPA
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Use these five steps to develop your 'hustle muscle'

The old adage, "He who hesitates is lost," is more true today than ever. Business is moving fast, and results (more sales) go to those who are poised and ready to take action. But those attributes are not sufficient alone.

There is no mystery to the fact that you've got to hustle. That means moving rapidly to achieve results. It does not mean just scurrying about in a frenzy, hoping that you'll impress others (or even yourself) just by being busy. Today, we hear many talk about how busy they are, as if this is the ultimate goal. Successful people focus on goal-achieving, rather than tension-relieving action.

You get paid for results. Period. You've got to generate results, and for we entrepreneurs who believe in cultivating relationship marketing, it means you must have the mindset that says, "Take action now!"

Here are five steps you can implement to accomplish what you need to do.

#1: Plan how you are going to hustle.

Think about how you need to take action. For many of us today, that means having the means available to quickly send a "like" to someone on Facebook or retweet a good quote from someone. When you see a contact doing something right, take the time to recognize them and give them a shout out. Make this a regular part of your daily routine.

Usually this doesn't take more than a few moments, but it means a lot to the person getting the shout out. I know as I'm one of the people who feels great when someone tags me on social media promoting my work. It doesn't have to take a lot of time. Plan for this.

#2: Put your systems in place to hustle.

Don't wait to have your systems working for you. Put them in place now. Plan on how you'll have your tweets, your Facebook likes and replies ready to go.

Bonus: One of the best ways to get text into your computer is through dictation. I'm using that regularly now. You can talk faster than you can type. Plan for it, and learn how to make it happen. Yes, you'll have to practice a bit, but it pays off richly.

Extra Bonus: Use a noise cancellation headset to increase accuracy of diction and speed entry. I use a headset in the office for

phone calls, dictating text (often on these articles) and sending other email messages, Facebook posts, tweets, LinkedIn messages and more. Noise cancellation is very important as it increases your accuracy, thus saving correction time.

#3: Streamline your personal contacts.

We know that the more personal the contact the better. A personal visit is better than a phone call. But these can take a lot of time. I've found that using tools like Eyejot or even a quick video on YouTube (use the "Unlisted" open for more privacy) makes a big difference.

Video is hot. Now with Facebook's ability to do live streaming, your community, your tribe, can get to know you better. Look at wonderful video tools like Periscope and Blab (from Blab.im), and see if they are right for you to develop your Hustle Muscle.

#4: Streamline your connection process.

Just recently I got a tool called ScheduleOnce. It gives the ability to present a block of time slots where I am available for conferencing, calls, meetings, etc. When I send a link, people can choose a time that works for them for us to connect. It saves time in the selection of a time to meet. Because many meetings for me are on tools like Zoom or Skype, this makes it faster to put meetings together.

A competitor of ScheduleOnce is TimeTrade. I've heard good things about both. Find the right tool, and build relationships by streamlining this important process.

#5: Follow up, follow up, follow up!

This is the secret sauce of building relationships. Many people go through the motions of saying hello, sending the "good to meet you" notices, etc. However, the real gurus in relationship marketing practice regular follow-ups. Find lots of good reasons to provide value to others. Continually provide value, and don't worry about keeping score.

As you implement these features you'll be able to build your relationship marketing; it is never over and it is ongoing. This is just like, well, relationships! You can't do something once and expect to coast. You need continual value contributions. This is not selling, but providing value.



by Terry Brock

Terry Brock is a marketing coach who helps business owners market more effectively leveraging technology. He shows busy professionals how to squeeze more out of their busy days by using the right rules and tools.

You can reach Terry at 407-363-0505, by email at terry@terrybrock.com or through his website at terrybrock.com. Also, look for Terry on Twitter @TerryBrock.



These companies joined ERA during the first quarter of 2016.

(The ERA chapter of each rep firm is listed in *italics* after the company name.)

REP FIRMS

Elec-Rep UK, Ltd. (*United Kingdom*)
 Damian Brooks
 Kevin White
 elec-rep.co.uk

James Associates (*Arizona*)
 Jim Hyde
 james-associates.com

JCI Global (*Dixie*)
 John Milligan
 jci-global.com

Spectrum Sales
 (*Heart of America and Spirit of St. Louis*)
 Jeremy Cott
 spectrumsales.net

The Zonk Group (*Southwestern*)
 John Lanzillo, CPMR
 zonkgroup.com

MANUFACTURERS

Altran Magnetics
 Gary Stachelski
 altranmagnetics.com

American Bright Optoelectronics Corp.
 George Lee
 americanbrightled.com

Eagle Tech, Inc.
 Curtis Okumura
 eticircuits.com

DunAn Sensing
 Gary Winzeler
 dunansensing.com

Fremont Micro Devices
 Jim Panfil
 fremontmicrousa.com

KS Electronics, LLC
 Kirti Shah
 kselectronics.com

KinnexA, Inc.
 Jeremy Chiu
 kinnexa.com

Parker Overseas
 N.K. Verma
 parkeroverseas.com

QT Brightek Corp. (QTB)
 Murali Samy
 qt-brightek.com

Solers, Inc.
 Robert Hanes
 solers.tech

Umtec, Inc.
 Maple Chen
 gzumtec.com



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Most classes run for **six weeks** and include 12 two-hour lessons (that's **24 hours** of instruction!) for just **\$79** per course. To view the entire catalog ... read all the details about each class and instructor ... and then register, go to **ed2go.com/era**.

How to navigate paradox when making business decisions

As I work with leaders and their teams, I am often struck by the role paradox plays in struggling with business decisions. For example, my colleague Joanne and I were playing around with the idea of creating a Leadership Academy. We were wrestling with the paradox that we wanted this academy to be both a small-group experience and yet include a lot of people.

One choice meant close connections among a small number of people; the other involved a wider circle with fewer deep connections. There was no simple answer to our quandary.

I agree with H. L. Mencken who said, "For every complex problem, there is an answer that is clear, simple and wrong."

Many decisions involve dealing with paradoxes; few situations lend themselves to black or white solutions that work on all levels.

Here are some ideas that may help when you're struggling with a business decision.

Notice and appreciate the paradoxes

As I pick my way through complex decisions, I find it helpful to look at the major paradoxes in my thinking when figuring out what route to take. It's about trying to find the right mix of getting both to fit whatever situation I'm trying to solve.

Here are three paradoxes that I frequently encounter. Maybe you face the same ones. Hopefully, they will spur your ability to recognize the paradoxes you face and help you sort out how to solve problems.

Paradox 1: Fast and slow

Hurry up and slow down. Hurry up because you've only got a certain amount of time to live. Life is short, and you want to squeeze the juice out of it. "Hurry" gets you places and spurs you to accomplishment.

Slow down because if you're going too fast

you won't notice yourself and your life. Slow down because mindless doing isn't life at all, but just doing. "Slow" connects you to what's around you.

Paradox 2: Tasks and relationships

Check off and check up. Check off tasks on your to-do list. Get things done. Follow up and follow through. Be efficient because your desk is caving in with projects you're working on and loose ends to tie up. Getting tasks done is good for business.

Check up on the people you care about. Build new relationships within your own company and the businesses you serve. Have conversations. No check list here.

Without relationships, you have no projects. You can become lonely. Relationships are the fire and fuel that build thriving businesses.

Paradox 3: Big picture and small details

Look up and look down. Look up and see the bigger picture. Understand the context. Step back to see where you've been and where you're going.

Look down to notice the details. Draw closer to discover the beauty and see the pattern in the minutiae. Fine tune what's there.

Have Joanne and I figured it out? Not yet. We're still wrestling with the paradoxes. And we both appreciate the struggle.

Please send me the paradoxes you encounter in your life and work.



by Nicki Weiss

Certified Professional Sales Management Coach and Master Trainer

Nicki Weiss is an internationally recognized Certified Professional Sales and Leadership Coach, Master Trainer, thought leader, speaker and facilitator. Since 1992, she has trained and coached more than 20,000 business leaders, sales teams and reps. Nicki has a particular passion for working with manufacturers, distributors and rep firms in the electronics industry.

Nicki is ERA's sales consultant, the brainchild and facilitator of ERA's free teleforum programs and the founder of the SalesWise Academy. Every day, leaders wake up knowing that they, their technical reps and field sales engineers need to sharpen their focus and their skills. But they don't have the tools, resources or patience to continually help enhance their strategy, communication and relationship building skills. The SalesWise Academy fills that void and delivers those skill-building lessons. To learn more, go to saleswise.ca or call 416-778-4145

Many decisions involve dealing with paradoxes; few situations lend themselves to black or white solutions that work on all levels.

**To save your place at the ERA-ECIA
Breakfast at EDS on May 12,
please register by APRIL 22!
For details and to sign up, go to era.org.**

ERA-ECIA BREAKFAST AT EDS COULD BE LARGEST EVER

The annual ERA-ECIA (Electronic Components Industry Association) breakfast program at EDS 2016 appears to be drawing record-setting attendance. More than 400 registrations had been received by mid-March for the event scheduled on Thursday, May 12, from 6:45 to 8 a.m. in the Mirage Hotel Events Center. The breakfast is open to all EDS attendees at no charge.

The guest speaker will be Don Hnatyshin, chief supply chain officer of Jabil. In his position, he leads a team of 4,000 supply chain and procurement professionals responsible for \$15 billion in annual spending with 20,000 suppliers. His presentation will focus on “The Digital Economy: Impacts on the Design Chain, Manufacturing and Supply Chain.”

To register for the EDS breakfast, go to era.org.

ERA ANNOUNCES MAJOR AWARDS AT 2016 CONFERENCE

During ERA’s 47th Management and Marketing Conference, held Feb. 28-March 1 in Austin, Texas, the association announced several major awards. The 2014 Ray Hall Spirit of ERA Award had been announced previously, but the conference was the first opportunity to present the award to Bob Evans, CPMR, of EK Micro. (See photo on page 28.) Evans has served in many leadership chairs of Chicagoland-Wisconsin ERA and is now a member of the team that designs ERA’s industry surveys. He also chairs the association’s Chapter Leadership Council, which manages the Chapter Officers Leadership Training (COLT) and Chapter of the Year recognition programs.

The 2015 Ray Hall Spirit of ERA Award had been presented in early February to ERA’s recently retired CEO, Tom Shanahan (see photo on this page), but it was announced for the first time at the conference. Shanahan was recognized for his unselfish leadership of ERA through some difficult years. The surprise presentation was made during a dinner in Chicago hosted by ERA Chairman Paul Nielsen, CPMR, and CEO Walter Tobin.

The Ray Hall Award was established in 2004 to honor the retired CEO who had served the association for more than 40 years. The award recognizes individuals who exemplify the spirit of ERA through their commitment to serving and advancing the professional field sales function.

Also honored at the conference were consultant Bob Terwall, ERA’s past association president, and Mark Conley of O’Donnell Associates North, ERA’s immediate past chairman. By unanimous vote of the ERA Board of Directors, Terwall was awarded an Honorary ERA Membership. Conley received the first ERA Key Award that’s been presented in more than 10 years. (See photo on page 28.) He was singled out for his “superlative leadership and unflagging support of ERA, its members and projects.” This presentation was also a “total surprise” to Conley, who credited his company team for allowing him to volunteer so freely. He also acknowledged the “many great friendships” he has formed because of his involvement with ERA.

ERA WHITE PIN GROUP PRESENTS JESS SPOONTS AWARDS

The ERA White Pin Group, whose members have served at least two years as volunteers at the national level of the association, presented two awards at its 2016 reunion, held during the recent ERA Conference in Austin, Texas. The 2014 and 2015 Jess Spoonst - ERA White Pin Group Scholarships were presented by the Group Chair, Mark Motsinger, CPMR, to Bruce Scoggin, CPMR, of Electro-Rep Associates, and Holly Myers, CPMR, of Wallace Electronic Sales. (See photos below.) The awards are named for the late Jess Spoonst, ERA Hall of Fame member and long-time coordinator of the White Pin Group. The award salutes individuals who have provided exemplary leadership within ERA and who are committed to continuing their volunteerism.



ERA Chairman Paul Nielsen, CPMR (left), and CEO Walter Tobin (right) surprised Tom Shanahan with the 2015 Ray Hall Spirit of ERA Award in Chicago in early February.



Bruce Scoggin and Mark Motsinger



Holly Myers and Mark Motsinger

ERA MOURNS ...

... the passing on Jan. 1 of **Leroy Moss**, the owner for many years of Moss Marketing, one of ERA's oldest member firms (since 1936). While managing his multi-territory company, headquartered in Denver, he helped shape the ERA organization in the Rocky Mountain area. The Life Member of ERA is survived by two children, three grandchildren and three great-grandchildren. The family has requested that memorial donations be made to the National MS Society, P.O. Box 172625, Denver, CO 80217.

... the loss in mid-January of **Tom Mollard**, formerly of Mollard Marketing in Los Altos, Cal. He was 89. The Navy veteran of World War II and graduate of Santa Clara University was a long-time ERA member and also served as a director of the Wescon trade show. Survivors include two daughters, three grandchildren and three great-grandchildren.

... the Jan. 24 passing of **Ron Chalman**, founder and longtime owner of Chalman Technologies in Southern California. He was 80. He was an electronics industry veteran with special knowledge of glass-to-metal sealing and a speaker at many conferences. In the 1970s and early 1980s, he was vice president and general manager of Tekform Products Company in Anaheim, Cal., and was heavily involved in the development of hermetic package design and technology. He consulted with JEDEC (Joint Electron Device Engineering Council) of the Solid State Technology Association to develop some of the early hermetic standards covering this topic. In 1986, he fulfilled a dream and founded the rep firm, Southern California Technical Services (later becoming Chalman Technologies), where he worked with his sons, daughter and others until just recently. Survivors include his wife, Marlene Chalman, two sons, three daughters and 12 grandchildren. In lieu of flowers the family suggests donations to the CHOC Children's Hospital, 1201 W. La Veta Ave., Orange, CA 92868, choc.org, or to the Wounded Warrior Project, P.O. Box 758518, Topeka, KS 66675-8518, woundedwarriorproject.org.

... the death in mid-February of **Eugene (Gene) Peake, Jr.**, founder of the CERCO rep firm in San Diego. He was 76. After graduating from Finley Engineering College, he began his electronics career with General Electric in Syracuse, N.Y., and ended up 10 years later in San Diego where he established his rep firm. He continued working in his firm until stricken with brain cancer. He was a long-time leader of the San Diego Chapter of ERA, was inducted into the White Pin Group in 1985 and received ERA's prestigious Honor Award in 1990. He is survived by his wife Carol, two sons, two step-daughters and seven grandchildren.



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on **May 12 at 6:45 a.m.** in the **Mirage Events Center.**

Resource
Publications

For details and to register, go to era.org.



Chapter News reports the local activities of the 22 chapters of ERA. The chapters sponsor educational and training workshops, local trade shows, legislative and industry projects to enhance the professionalism of individual members and to advance the goals and mission of the national association.

CAROLINAS

The Carolinas chapter continues to hold networking breakfasts in Charlotte and Raleigh. These events offer a great forum to swap stories and best practices.

The chapter held its annual Rep-Distributor Forum in mid-March at which 32 reps, distributors and guests received the annual territory DTAM report. During the forum, the chapter awarded three \$1,000 college scholarships. The recipients are: Sam Winner, son of Dave Winner, CPMR, of SACS, Inc.; Andrew Frank, son of Bud Frank of Avnet, Inc.; and Catherine Gemberling, daughter of Scott Gemberling, also of Avnet, Inc.

Volunteer DTAM coordinators John King of Battleship Technologies and Penny Hoglund of the AEM Group developed the DTAM report. In addition, they conducted and reported on a survey among reps and distributors about their working relationships. The results indicate that reps and distributors are working well together and that cooperation yields increased business.

The chapter's Annual Rep-Distributor Bowling tournament was slated in mid-April. Coming up is a May 23 program with ERA CEO Walter Tobin as the guest speaker.

CHICAGOLAND - WISCONSIN

On Feb. 4, the chapter hosted an all-industry program with ERA's CEO, Walter Tobin, as the speaker. The topic was "How ERA Can Help Reps, Manufacturers and Distributors Adapt to the FUTURE of the INDUSTRY!"

The chapter's breakfast round table in early April focused on an "ERA Conference Wrap-Up: Reviewing Key Take-Aways." Members who attended the conference each highlighted specific program sessions.

In addition to its events, Chicagoland-Wisconsin has updated its website. A new feature is a section for "Recommended Books."

EMPIRE STATE

The Empire State Chapter held its annual Rep-Distributor Forum and DTAM report presentation in early April. The event featured Leslie Whatley, the executive vice president of START-UP NY, as a guest speaker who delivered content on technology.

The chapter also continues to hold monthly rep-networking functions and recently was represented by three rep firms at the ERA National Conference in Austin, Texas. At the conference, Dave Dason, CPMR, CSP, of Net Sales Company, was inducted into the ERA White Pin Group, whose members are recognized for national service and volunteerism. Dason is the current president of the Manufacturers' Representatives Educational Research Foundation (MRERF).

INDIANA-KENTUCKY

The Indiana-Kentucky chapter has plans for a Cyber Security lunch meeting in early May. Also on the calendar is a June program with ERA CEO Walter Tobin.

NEW YORK

Leaders of New York ERA have been active working on two upcoming events. For the second year, the chapter is working with the local chapter of the IEEE to co-sponsor the 2016 Long Island Systems, Applications and Technology Conference in late April. The event provides the opportunity for reps, distributors and manufacturers to exhibit and demonstrate new products. The conference runs concurrently with technical seminars run by the IEEE. This year, with more advanced planning, the chapter is hoping to triple the attendance. For more information, visit erametry.org/events/LISAT2016.php.

Congratulations, ERA Chapters of the Year!

Four ERA chapters have been selected as the Chapters of the Year for their 2015 activities and projects. The award recipients and their entries, by category, are:

- **Education** – **CHICAGOLAND-WISCONSIN** for its breakfast round table discussion titled "When Principals Merge: What to Expect, How to Prepare and What to Do (or NOT Do);"
- **Membership and Member Services** – **NEW YORK** for its dinner program event that featured a rep-manufacturer-distributor panel discussing present and future developments in the electronics industry;
- **Marketing Services** – **SOUTHERN CALIFORNIA** for its series of ElectroTech table top shows; and
- **Special Projects** – **NEW ENGLAND** for its co-sponsorship with ECIA of an all-industry networking and education event that attracted 100+ attendees to hear a presentation regarding technology trends.

Each award recipient receives a full-tuition scholarship to ERA's Chapter Officers Leadership Training (COLT) program. The Chapter of the Year judges, who reviewed all 14 entries and selected award recipients, are: ERA Senior Vice President/Education Kathie Cahill, CPMR; ERA Senior Vice President/Membership John O'Brien, CPMR; ERA National Delegates Matt Cohen, CPMR (Michigan), and Ellen Coan, CPMR (Indiana-Kentucky); plus ERA CEO Walter Tobin. The Chapter of the Year program is coordinated by Bob Evans, CPMR, chair of ERA's Chapter Leadership Council.

The second event is coming up on June 20 and will be the chapter's first Charity Golf Outing. The site is the St. George's Golf and Country Club in East Setauket, N.Y. Proceeds will go to several charities, including Long Island Cares for the benefit of wounded veterans. The event is open to reps, distributors, OEMs, contract manufacturers and principals. To facilitate registration, the chapter has implemented updates to its website to automate payments (via PayPal) and the collection of attendee information.

NORTHERN CALIFORNIA

Northern California held its annual meeting in early February and also conducted an education class on Feb. 23. In March, an Owners Forum program was also held.

SOUTHERN CALIFORNIA

The Southern California chapter has remained active with several table top shows, including the 2016 ElectroTech show in late January and the Panasonic Adjacent - Irvine/Lake Forest Show on March 9. The chapter also hosted an Owners Forum in mid-March that focused on rep best practices. Special presenters for that program were consultant Bryan Shirley, CPMR, and Scott Lindberg, CPMR, of the Quell Corporation.

SPIRIT OF ST. LOUIS

Spirit of St. Louis members came together in early January for a presentation by guest speaker Bill Holschen, purchasing manager at Becs Technology. He spoke to the group about "Value Added/Value Engineering Turnkey Manufacturing." The chapter also held a happy hour in January at the Train Wreck Saloon in Westport.

The major event thus far this year for the chapter was the biannual Electronics, Electrical, Engineering and Manufacturing Show on April 6 in Maryland Heights, Mo. The show featured more than 50 exhibit booths and technical seminars.



At the 2016 Carolinas ERA Rep-Distributor Forum, the chapter's annual territory DTAM report was presented by the project coordinators, Penny Hoglund of the AEM Group and John King of Battleship Technologies. They also reported on the results of a second yearly survey of reps and distributors about their mutual working relationships.



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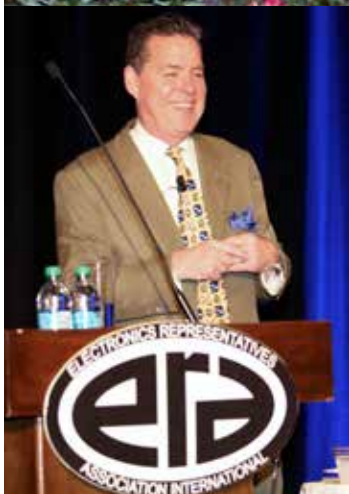
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**Don't miss the EDS
Ad Supplement
starting on page 37!**



Scenes from ERA's 47th Management and Marketing Conference ...

where the first visit to Austin,
Texas, was a popular choice
among the 200+ attendees.



(Clockwise from top):

Thanks to the warm weather, the welcome reception was held outdoors.

Bob Evans, CPMR, (right), of EK Micro received the 2014 Ray Hall Spirit of ERA Award from ERA Chairman Paul Nielsen, CPMR.

CC Electro was represented at the event by (left to right) David Gassman, CPMR, Ellen Coan, CPMR, and Matt Cohen, CPMR.

Jim Ward (left) of Astec Components, Ltd., and Jeff Huntsinger of Huntsinger Group, Ltd., attended from Canada and Wisconsin, respectively.

Keynoter Scott Klososky addressed the first general session audience.

Past ERA President and Chairman Mark Conley (center) of O'Donnell Associates North received the ERA Key Award from President Dan Parks, CPMR (left), and Chairman Paul Nielsen, CPMR.

Conference Committee Chair Tom Griffin, CPMR, of Catalyst Sales presided over the opening session.



COVER STORY: Building Relationships

(continued from page 7)

Klososky, there is a debate that this is the line where people will become transhuman, or the next level of being human.

Putting knowledge into practice

In the later portion of his keynote, Klososky took a more practical approach as he began connecting the technology transformation dots. “We are in a world where there is an escalating amount of technology. You have a choice of where you fall on the continuum of innovation,” he told attendees.

According to him there are those people who are dragged into using any kind of technology. On the other side are those who are always on the bleeding edge. They are not afraid to experiment; however, they also tend to waste 50 percent of their investments. Finally, there is the herd, or the middle of the pack.

“Technology is a weapon, but you need to know how to use it,” Klososky told his audience. Businesses must use technology to automate tasks and lower costs. They must use technology to raise revenue and drive profit. In order to do this successfully, he recommends for companies to be on the leading edge, or 18 months to two years ahead of their competitors.

Companies must understand that the digital transformation also is changing customers. A lot has changed just in the past six years. Customers now are more search savvy, and they don’t need to talk to a human being to learn about a product or a company. They can do all that simply by going to a company’s website.

“[Customers] will talk about you online. They will rate your services whether you like it or not, and they will look at your online reputation,” Klososky explained.

He added that privacy is getting to be less and less of an issue. Customers are more and more willing to share information with companies if it is going to be valuable to them. He also shared an interesting statistic showing that 73 percent of people wouldn’t care

if the brands they use disappeared from their lives.

In order to reach today’s customers, businesses must build relationships with this new type of customer and influence his or her decisions effectively through the use of content marketing, inbound marketing, crowdvertising (i.e., an advertising platform that generates and spreads ads through social media) and by creating digital centers of influence.

Klososky also explained that organizations have to understand their customer personas so they can understand who they are selling to. Once they understand personas, they have to understand the different touch points and how to manage them. What is the buyer’s goal? What are his or her emotions?

Customer information has become a weapon in the market and, Klososky insists, it is soon to be an asset on companies’ balance sheets. “Data creates visibility so you can see things that you haven’t seen before, [so you can] understand more about your customer,” he said.

It is obvious that the young generation that is coming up is much more likely to engage with technology than with human beings. If a company is good at technology, its customers see and respect that.

Organizations that understand how to manage the digital transformation are going to make more profit. They must have the courage to invest in the

future, to implement different processes and be keen observers of the humalogical shift.

In closing, Klososky stated: “We live in a blessed time and you have limited time to do magical things. The digital transformation is happening, and resistance is futile. When you live in the middle of the digital transformation, you have an opportunity to create a legacy. What is your legacy going to be?” ■

This article was written by Neda Simeonova, communications director of ERA and assistant editor of The Representor.

Customers now are more search savvy ... “[They] will talk about you online. They will rate your services whether you like it or not, and they will look at your online reputation.”
— Scott Klososky

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Guest speaker: Don Hnatyshin
Chief Supply Chain Officer of Jabil
To register, go to era.org.

About Scott Klososky

A former CEO of three successful tech startup companies and principal at consulting firm Future Point of View, Scott Klososky specializes in seeing beyond the horizon of how technology is changing the world.



His unique perspectives on technology, business culture and the future allow him to travel the globe as an international speaker, consultant and author, publishing three titles to date and working with senior executives in organizations ranging from the Fortune 500 to universities, nonprofits,

and countless professional associations and coalitions. As a technology entrepreneur, he also continually works in the trenches of building his own companies.

FEATURE ARTICLE: New Sales Rep Agreement

(continued from page 15)

Negotiation tips

Based on the amount of time and resources the rep expects to devote to developing new business for a principal, attempts to limit or exclude post-termination commissions should be resisted during negotiations, Glazer advises.

"Many rep agreements are silent about post-termination rights and obligations, and this may be preferred to language setting an unfair cut-off date," Glazer says. "For the right products or relationships, reps may even be positioned to seek life-of-the-part or life-of-the-program commissions."

Another important provision involves the notice period that must be given before a termination can be effective. "We generally recommend at least a 60 to 90-day notice period in order to allow an orderly wind-down and to give the rep a better chance to get paid on pending orders," Newman adds.

Lastly, Newman and Glazer point out that this agreement is meant to serve for informational purposes only and should not be used without consulting a lawyer. ■

ERA MEMBERS: Find the new agreement on ERA's website on the Contract Guidelines page. This article was written by Neda Simeonova, assistant editor of The Representor.

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- Lines Available Service
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- Line Portfolio Evaluation
- Outsourced Field Sales: Adding Value for the Customer (CD)
- Outsourcing Field Sales (Fortune Magazine Reprint)
- The Value of Outsourced Field Sales (EBN Reprint)
- Selling Through Manufacturers' Representatives
- ERA Code of Ethics
- ERA Commitment to Performance (Information and Certificates)
- Recommended Technical Standards for Distribution Point-of-Sale Reporting
- FAQs Manufacturers Ask About Representatives
- Split Influence Recommendations for the Electronics Industry
- State Rep Commission Protection Acts
- Manufacturer Membership (Roster and Information)
- Principal Information Exchange (P.I.E.)
- ERA Membership Pins

ERA Meetings & Programs

- Board of Directors Meeting - Fall 2016
- ERA COLT Program - Fall 2016

A book review and recommendation by Dan Beaulieu

Talking to Crazy: How to Deal with the Irrational and Impossible People in Your Life

by Mark Goulston

Copyright: 2016 Amacom

Price: \$24.95 • 259 with index

A Surprisingly informative and pertinent book!

I have to say that I was pleasantly surprised by Mark Goulston's new book, *Talking to Crazy: How to Deal with the Irrational and Impossible People in Your Life*.

I picked it up because I thought it would be a smile. I also thought I might just get something out of it because, like all of us, I know some pretty crazy people. I was stunned, however, by how effective the advice in this book was and how much it pertained to my business life as a consultant.

Okay, so we all know crazy; we all know people who are somewhat irrational or even completely bonkers. But we don't know how to deal with them, right? Well, consider this in past tense — we *did not know* how to deal with them until this new book came along.

Author Dr. Goulston is a psychiatrist as well as business coach, so he can write about both sides of an issue. He explains why people act the way they do and how to deal with them.

I especially liked the case studies highlighted in the book in which he used real-life examples to show readers how to interact with certain people who have specific disorders. There also is an example of an "older" software developer who has to deal with a bunch of "Young Turks" who start working with him and want to change everything he has worked on for the past 15 years. He finds himself getting madder and madder until he starts using a technique recommended by Dr. Goulston. He levels with them, explains the way he feels, apologizes and asks for their help by attaining middle ground where they all benefit from one another's cooperation. The result? They produced a better product.

This is just one of many examples of how to deal with difficult people in tough situations. I strongly recommend that you buy this book, read it and keep it handy because you will find it infinitely useful, no matter what profession or life situation you are in.

Dan Beaulieu is the president and founder of D.B. Management, LLC, a consulting firm specializing in all aspects of sales, marketing and branding with a focus on rep-principal relationships. His latest book is **The PCB 101 Handbook** which can be purchased online by emailing danbbeaulieu@aol.com. Dan is also the author of "It's Only Common Sense," a weekly sales column appearing at pcb007.com. Dan can be reached at 207-649-0879.



COMPONENTS

Chuck Tanzola, CPMR

Fusion Sourcing Group
Ithaca, N.Y.
ERA Senior VP/Industry

**ERA Conference program
helped draw conclusions
about this marketplace**

I pen this having just returned from the 47th ERA Management and Marketing Conference in Austin, Texas. It was overflowing with valuable information from high-caliber presentations and thoughts to digest, such as: just how much time should my team invest with “time vampires?” (If you attended the conference, you recognize this from Alex Gabbi’s breakout session entitled “The Start-Up Scene.”)

Interestingly, Alex subtitled his presentation “Universe of Opportunity or Black Hole,” and while he was talking about start-ups specifically, after hearing multiple economic forecast presentations, I am wondering if this applies to the components market in general. Regardless of the answer, I am convinced more than ever that, “If you line up all the economists in the world end to end, you never reach a conclusion!”

I make this last statement somewhat tongue in cheek because there were a number of conclusions concerning the components market I reached from the conference.

- 2016 is going to be a challenging year overall — filled with economic headwinds, mixed market signals, continued uncertainty and frequent forecast revisions (most recently in the downward direction).
- Awareness of the global economic drivers is certainly important data and information, but knowledge and wisdom still come from locally developed customer understanding.
- Everything is getting more expensive — except electronic components.
- While electronic content in products continues to increase, the days of double-digit market growth have been replaced by years of “treading water.”
- The pressure on profitability is greater than ever — for everyone (customers, manufacturers, distributors and representatives).
- We have not seen the end of change or disruptive forces in the components market.

As a final note, I want to thank the ERA Conference Committee, the ERA staff, the speakers and presenters, and all the attendees who made the conference a valuable experience — and it truly was. I look forward to picking up the conversations at the upcoming EDS Summit in early May. See you in Las Vegas!

ELECTRONIC SYSTEMS INTEGRATION

Gary Ponto, CPMR

GP Marketing
Kirkland, Wash.

**Price drops are yielding
a ‘race to the bottom’**

Every conversation I have with an integrator or distributor ends up getting around to a conversation about “the race to bottom” regarding product pricing. There are more products coming in from offshore now than ever before at really low pricing in both the AV and security markets. There are no longer many products that stand out with unique feature sets. This blur in the market of “me too products” is further fueling low cost products to capture marketshare from key brands that once were the “top dogs” in a product segment. Brand loyalty is a thing of the past; competing with pricing has replaced brand loyalty for the majority of integrators and distributors.

The economy is still not where it was predicted to be, and that is evident by the limited number of projects being released due to budgets. This seems to also be fueling partner changes in the sales channels. Already in 2016, there have been many changes in sales strategies by manufacturers hoping to grow their monthly and quarterly sales volumes, even for products that have longer sales cycles, by changing their go-to-market strategy.

Several manufacturers that were using reps for many years have gone to a direct sales force model, while others have simply changed long-term rep relationships. I have spoken with several reps who are experiencing market slowdowns for one reason or another and who have been terminated without any pre-termination conversations with the manufacturer about performance. One thing that has not changed for years is, when changes are made in sales forces, sales drop for a period of time. It seems counterproductive to fail to try to work with your long-term partner rather than starting from scratch.

So in closing, I would say 2016 started out being a year of many changes in the industry for reps, and I hope that reps will prosper and be noticed for their value add, with the result being the year ending on a high note.

There are many new innovative products that have recently been hitting the instrumentation, sensor and control marketplaces.

Not long ago, bench top oscilloscopes became available on PC I/O cards. Their bandwidth was limited to the bandwidth of the PC in which they were installed. Now there are handheld measurement devices with wider bandwidths that can be used as RF spectrum analyzers, EMC/EMI and calibrators.

There are many types of data loggers that record various parameters for months and up to a year. Many also come with multi-level alarm levels.

Naturally, temperature and humidity are the most popular, but there is a unique version of temperature that monitors either frozen, chilled or ripening goods. As with other types of loggers, these contain software and USB communication ports to allow a user to generate quick reports. Food transportation and storage industries are prime candidates for this type of product and represent an industry that has previously not used much instrumentation. Many new industries are finding that they can benefit from the use of instrumentation and controls.

All of these types of instrumentation, from a growing number of manufacturers, use representatives to sell their products. Many of these manufacturers whom I have spoken with seek representatives with a highly technical background. They expect to and will pay more commission dollars for this high quality sales team.

To achieve this level of sales performance, individuals will have to develop ever higher technical application demonstration skills on top of professional sales training. The many educational and professional development resources offered by ERA, coupled with the technical demonstration training offered by the manufacturers, will ensure the high level of salesmanship required.

If you have any questions or comments, please email tom@agtechnologiesllc.com.

As I write this, baseball spring training is in full swing in Florida and hope springs eternal in all the baseball camps with visions of a trip to the World Series dancing in the dreams of all. By the time you read this, some of those dreams are probably already nightmares. In the same vein, some of those "best laid plans" that we all laid out early in the year may also have turned into nightmares. That's especially true if you are heavily into the stock market. The roller coaster ride has, I'm sure, caused quite a few sleepless nights.

What is good for some causes anguish for others. Consider oil and gas prices. We really like the prices at the pump right now when we fill up, but if we own petroleum stock, we are probably one of those with the sleepless nights.

Think about the fact that high fuel costs drove the efforts in the aerospace industry to build more fuel efficient planes. That has brought the aerospace industry to a high point today. Current backlogs are about 10 years deep. The most recent data suggest that Boeing's backlog was about 5,700 commercial airplanes worth about \$485 billion, and Airbus reported a backlog of 6,787 aircraft worth about \$996 billion. (Side note here: Airbus has opened an assembly plant in the Mobile, Ala., area.)

What does that mean for us? First, all of that manufacturing means that there is the potential for considerable sales in that huge market for the next several years. Second, with all those airplanes going into service, the MRO potential is also huge. Some forecasts suggest that the global MRO market will grow to more than \$100 billion by 2025. The North American share is pegged at between \$17 and \$21 billion. That can help offset the current downturn in the oil and gas industry. I would suspect that downturn will not be long term, so a rebound there, coupled with a strong automotive market, could bode well for us.

Shifting gears a bit, a recent headline read "Consolidation is everywhere." It highlighted the merger of Tyco and Johnson Controls and some others. Check out some of the distribution changes in our industry. Have you followed the HISCO trail of acquisitions? How about EWD is now Test Equity. Tek Products is now part of VWR. Stanley Supply and Services just assumed the name of one of its brands. That company is now Jensen Tools & Supplies. Some suggest that is a precursor to a sale. Stay tuned. I expect that we will see more in the not too far distant future.

(continued on next page)

INSTRUMENTATION AUTOMATION & CONTROLS

Tom Diercksmeir, CPMR

A. G. Technologies, LLC
Scottsdale, Ariz.

**More manufacturers are
seeking highly technical
sales reps**

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**Aerospace industry is
driving new sales and
MRO potential**

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JM Harris Sales, LLC
Apex, N.C.

**While military markets
may be flat, other sectors
should be strong**

Note: much of the information in this column has been compiled from either High Frequency Electronics Magazine and/or Microwaves & RF Magazine.

Electronic Warfare System (EWS) spending is expected to grow at a compound annual growth rate of 3.7 percent for the next eight to 10 years. That works out to an approximately 36 percent total growth from 2014 to 2024. Frequency agile radar systems (airborne platforms and land based) could become the highest priority. Existing system (drones/RPV) performance in an ever more congested and contested RF/microwave spectrum will become increasingly critical design requirements. Overall, DoD spending in command, control, communications computers, intelligence and reconnaissance ("C4ISR") systems is expected to be flat over the next five to six years.

Seamless connection into the Internet of Things and "5G" systems, with additional embedded sensor capability, are becoming essential. New components and capabilities will, in turn, further occupy available spectra.

All this calls for more comprehensive and better test equipment. Watch as Keysight Technologies, Rhode & Swartz, Anritsu, Tektronix and others turn out test products with new capabilities just ahead of new requirements.

Not to be overlooked are increasing RF/microwave applications in the medical field. Devices can be worn or implanted which communicate at high data rates using the ISM "tri-band" frequencies available at 2.4 GHz, 5 GHz and/or 60 GHz.

While the normally lucrative "military market" may be slow or flat over the next few years, commercial, research and medical business should continue to be strong. Biggest requirements will come from ever increasing RF power needs, higher data rates, extreme component and sensor miniaturization and long-term reliability.

Upcoming trade shows of interest to those in the RF/microwave sector are:

- MTTTS-Integrated Mobility in San Diego on May 19-20;
- MTTTS-IMS in San Francisco on May 22-27; and
- MTTTS-RF Circuit Symposium in San Francisco on May 22-24.

Reps on the West Coast might be able to visit them all.

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LEGALLY SPEAKING: Court awards rep damages

(continued from page 17)

business” it generated for Lindy.

Once liability for post-termination commissions is established, the question becomes “for how long?” Here, TwentiethCentury didn’t claim the parties agreed commissions would be paid “indefinitely,” merely that a 5 percent commission would be paid as long as Lindy enjoyed the Chrysler business that TwentiethCentury procured. Lindy responded by contending the industry standard was 30 days.

As “evidence,” Lindy relied on its in-house rep who took over the Chrysler account. He testified at trial that the 30-day post-termination commission limit in his written contract was “typical.” However, on cross-examination, the Lindy employee admitted that his negotiations with Lindy began by his handing them “a standard contract form developed by the Electronics Representatives Association.”

The ERA form contract provided for compensation “for representative’s efforts in developing customers in its territory, which because of representative’s efforts, would be likely to continue to purchase products from the manufacturer after termination.” Lindy’s direct rep also acknowledged that when he signed on with Lindy, the company had never heard of a 30-day limit on post-termination commissions.

Meanwhile, another independent rep for Lindy testified it was his expectation while working with Lindy that he would receive post-termination commissions on any business he procured. The testimony of TwentiethCentury’s owner echoed the view that post-termination commissions were expected. Unknowingly, the owner accurately defined the “procuring cause doctrine” applied by many courts when he testified: “unless the parties agree otherwise, a manufacturer’s representative should be paid commissions on all business generated by the efforts of the representative.”

Because no other agreement was reached here, commissions were owed on all sales attributable to TwentiethCentury’s efforts. The court found the custom and usage evidence favored TwentiethCentury. However, it noted such evidence cannot be considered if it conflicts with a statute, so it turned to analyze the Alabama Sales Representative’s Commissions Contracts Act.

That statute requires not only that commissions due at the time of termination be paid within 30 days, but also that commissions yet to accrue be paid within 30 days of the date when they become due. Thus, the statute contemplates payment of commissions that accrue on accounts post-termination due to the rep’s pre-termination efforts. Lindy’s failure to timely commission TwentiethCentury post-termination required trebling of the amount due under the statute.

On appeal, Lindy also contended the jury award was excessive, and that at most, TwentiethCentury could collect gross commissions, deducting its expenses and overhead. Alabama’s Supreme Court quickly dispensed with this claim on the basis that sales reps don’t incur expenses or overhead post-termination.

Lindy also claimed the jury’s award of future commissions was improperly speculative when “too many contingencies” could plague its relationship with Chrysler. The Court rejected this argument as well in light of the Chrysler testimony about five years of projected business if Lindy simply stayed off its “no bid list.” This rendered non-speculative the jury’s conclusion that “TwentiethCentury’s efforts on behalf of Lindy reasonably resulted in Chrysler’s five-year projection for its business with Lindy.”

In seeing its \$2.2 million recovery of post-termination commissions, treble damages, attorneys’ fees and interest affirmed by Alabama’s highest court, TwentiethCentury scored an important victory that could well aid similarly situated independent reps shorted by their principals in the 21st century. ■

LEGALLY SPEAKING, CONT.

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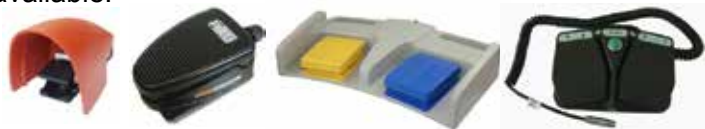
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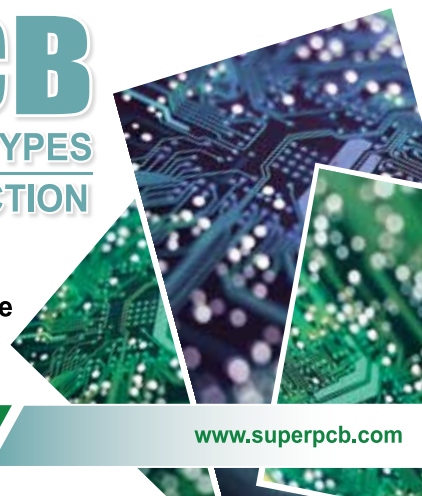
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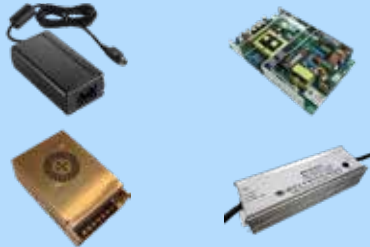
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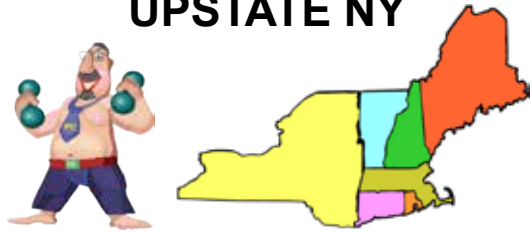
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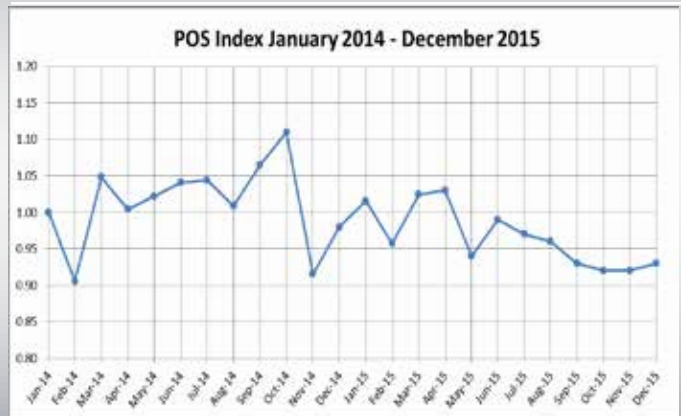
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