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2022 Outlook: Long-Term Growth Drivers Remain Despite Nagging Disruptions



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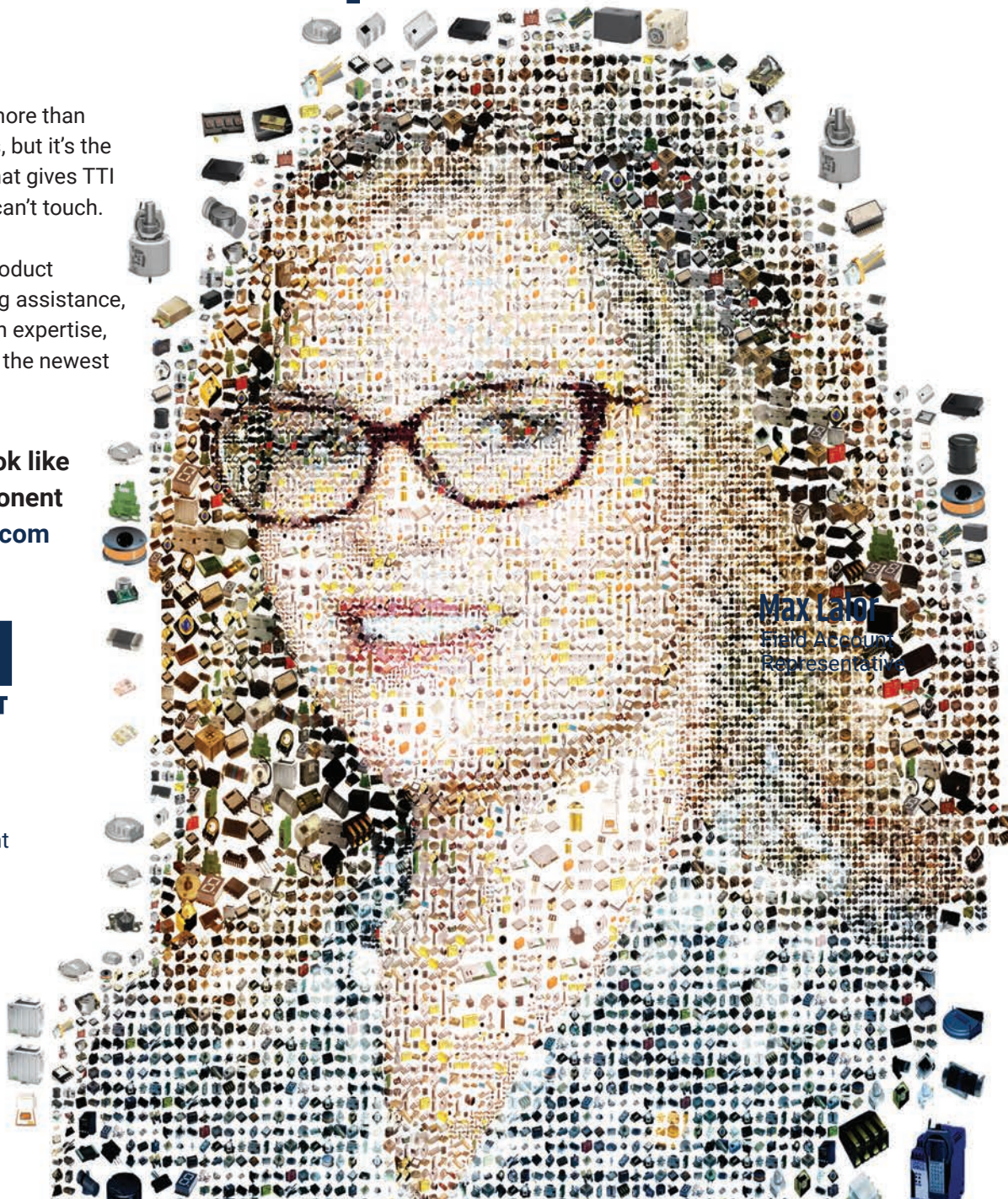
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■ THE REPRESENTOR (ISSN 1057-0373) (Vol. 33, Issue 1), is published by Electronics Representatives Association, 1325 S. Arlington Heights Road, Suite 204, Elk Grove Village, IL 60007. First annual subscription per ERA member company or manufacturer member is \$15.00. Additional ERA member company or manufacturer member annual subscriptions are \$12.00 each. Non-member annual subscriptions are \$24.00. Foreign annual subscriptions are \$40.00. Single copies are available at \$6.00 per copy. (All prices quoted are payable in U.S. dollars.) American Express, MasterCard, Visa and Discover charges accepted.

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WINTER 2022

2022 Outlook:

**Long-Term Growth Drivers Remain
Despite Nagging Disruptions**



By all accounts, the electronics industry has bent but not broken in the face of several years of unprecedented challenges and disruptions throughout the supply chain. As the industry enters 2022, it continues to face some of the nagging disruptions, but is also migrating towards a more normal operating environment. Inventory levels have been largely replenished, production output is being boosted by record capital spending, and demand is expected to return to more “normal” patterns after two years of upside. While the long-term growth drivers for the industry remain, the pandemic and resulting disruptions pulled forward demand across several areas, and we expect these demand tailwinds will likely abate in 2022. Our outlook for 2022 is cautiously optimistic, with results expected to be more closely tied to real end demand as the supply side tailwinds fade.

Strong Sales Growth Despite Multiple Supply Chain Disruptions

The entire electronics industry faced an unprecedented number of disruptions in 2021 including the COVID-19 pandemic, multiple natural disasters resulting in factory fires, water and material shortages, and other logistics pressures. As shown in Exhibit 1 below, despite these disruptions, the semiconductor industry once again proved nimble in growing an estimated 18 percent. The industry has grown nearly 30 percent or close to \$70 billion, off the pre-pandemic levels, with strong revenue growth across all product subcategories. Discrete and passive semiconductors led growth at an estimated 37 percent year over year (Y/Y). High-performance analog growth of an estimated 21 percent, likely constrained by capacity, with several high-performance analog suppliers remaining the key bottleneck driving continued backlog volatility across the supply chain.

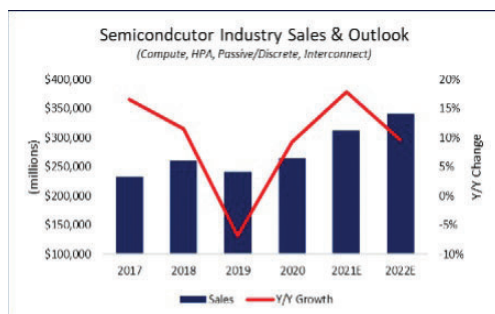


Exhibit 1.

Supply Chain Inventory Levels Appear Largely Restocked

Entering 2022, the industry outlook remains broadly favorable, with lead times extended and capacity still constrained but improving. Pricing also appears firm across the industry with suppliers remaining active in passing through rising material, shipping and logistics costs to distributors and direct customers. Despite the favorable fundamentals entering the year, we see signs of a potential pending slowdown, most notably from the growth in inventory levels across the supply chain. Exiting 3Q21, supply chain inventory levels rebounded sharply on both a days and dollars basis. As shown in Exhibits 2 and 3 below, on a dollar basis inventory grew ~22 percent Y/Y, and are up 32 percent from pre-pandemic levels in 3Q19.

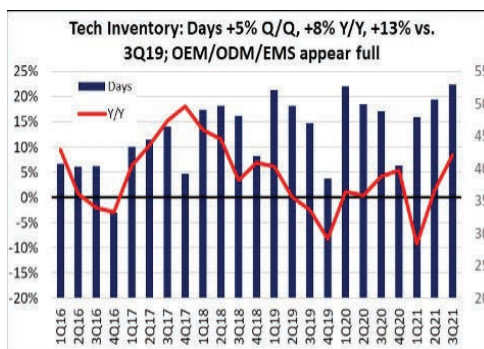


Exhibit 2.

The growth in inventory dollars is likely skewed higher by suppliers actively raising prices throughout 2021 across almost all product categories. However, inventory days

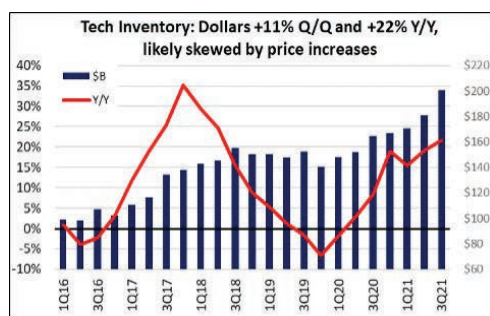


Exhibit 3.

(continued on page 7)

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shows a similar trend, with days up 8 percent Y/Y and 13 percent over 3Q19.

While demand has undoubtedly surprised the supply chain to the upside throughout the pandemic, warranting increased inventory levels, a larger driver may have been adding stock as a hedge against the continuing shortage of components and supply chain disruptions. This motivation and the data itself make it difficult to deem inventory levels “lean” exiting 3Q21, and forecasts are for inventory levels to again move higher, the opposite of typical seasonality, in 4Q21. Further complicating the inventory situation is where most of the inventory has been built – in distribution (+26 percent Y/Y), at ODMs/EMS (+18 percent) and at the OEMs (+50 percent). The distribution channel and customer levels appear largely restocked on a dollars and days basis with constraints now narrowed to just a handful of key components.

Despite the data showing inventory levels appearing largely restocked, especially at the customer level, company management commentary across the supply chain in the 3Q earnings cycle pointed to supply chain disruptions and key component shortages continuing to negatively impact demand and driving record backlogs for 4Q21 and into 2022. While aforementioned industry backlogs reported are robust, it is possible that the majority of suppliers and distributors are not sufficiently discounting the potential for double and triple bookings as a key driver. On the supplier side, many suppliers have tried several programs aimed at reducing double and triple bookings, including non-cancelable/non-returnable programs, and price increases on existing backlogs. Thus far these programs appear to have had a limited impact on order backlogs as customers and distributors continue to believe the end demand signals are real. Historically, this bullishness eventually proves overly optimistic, and feedback suggests many in the supply chain remain on the lookout for potential order cancellations.

Record Capital Spending to Drive Increased Capacity

With the supply chain inventories appearing largely restocked, record capital

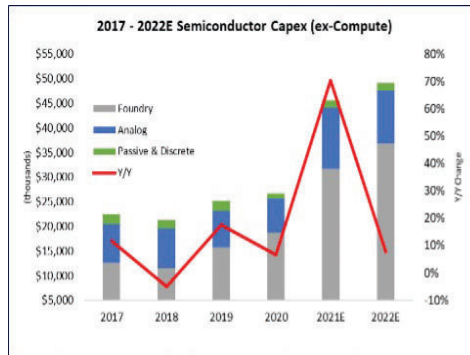


Exhibit 4.

spending in 2021 is likely to lead to a more balanced operating environment with the growing potential for a cyclical correction sometime in 2022. (See Exhibits 4 and 5) In 2021, capital spending is projected to increase 70 percent Y/Y, with foundries and high-performance analog suppliers growing their spending 70 percent and 76 percent Y/Y, respectively. Passive and discrete spending is estimated to grow 40 percent Y/Y. This level of spending growth is unprecedented. Capital spending had been relatively stable in the four years prior to 2020; the sharp rise in 2020-2021 appears in reaction to the increased bookings and backlog growth as the industry faced significant shortages throughout 2H20 and 2021.

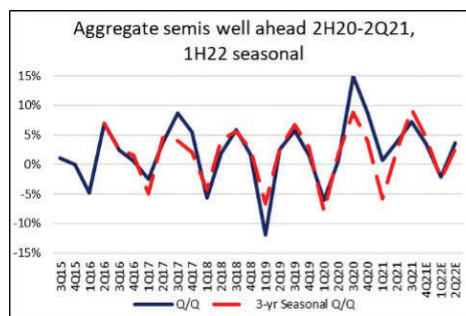


Exhibit 5.

Entering 2022, lead times, while overall still extended, started to show signs of contraction in 2021. Most noticeably lead times have returned to more normalized levels in several more interchangeable products like MLCCs, resistors, interconnects and several other passive and discrete lines as seasonal order decline in consumer products (TVs, gaming, smartphones, etc.) and compute

(continued on next page)

have freed manufacturing capacity to be allocated to other markets. More proprietary categories like microcontrollers and power products have seen some, but less, relative lead time contractions in our research with the supply chain experiencing some pockets of improvement from several suppliers. With aggressive capacity expansion plans expected to continue in 2022, backlogs appearing artificially inflated, and inventory levels restocked, the supply side of the equation appears to present more risk than opportunity in 2022.

Supply Side Less Favorable, End Demand Growth More Muted than 2021

While the supply fundamentals of the industry appear less of a tailwind in 2022 than 2021, industry forecasts still call for 8-9 percent Y/Y growth in 2022 in our research. Growth is expected to be driven largely by pricing actions taken in 2021 rather than

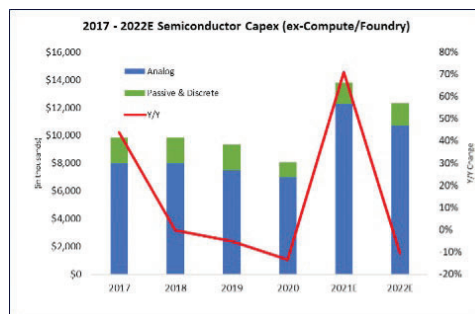


Exhibit 6.

material unit/end demand growth.

The overall demand environment has remained surprisingly resilient but is expected to decelerate Y/Y as the pandemic likely pulled ahead spending across multiple product categories, most notably in consumer electronics and compute. With overall 2022 end product demand expected to track closer to flattish and less favorable supply side tailwinds, growth forecasts appear to have more risk than upside potential.

As shown in Exhibit 6 and 7, Wall Street consensus estimates (per FactSet) appear to be reflecting a more muted demand environment and less supply side tailwinds in early 2022. Following four straight quarters of analog suppliers out-shipping their three-year historical averages (3Q20 through 2Q21), the industry peaked with nearly a 19 percent rolling

Q/Q revenues	Cons./Actual Revs./Est.	3-Year Seasonal	Delta	Rolling 12 Month Delta
3Q19	6%	7%	-1%	-8%
4Q19	2%	3%	-1%	-1%
1Q20	-6%	-8%	2%	-1%
2Q20	1%	2%	-1%	-2%
3Q20	15%	9%	6%	6%
4Q20	9%	4%	5%	12%
1Q21	1%	-6%	6%	16%
2Q21	4%	2%	1%	19%
3Q21	7%	9%	-2%	11%
4Q21E	4%	5%	-1%	5%
1Q22E	-2%	-2%	0%	-1%
2Q22E	4%	3%	1%	-2%

Exhibit 7.

12-month delta between historical growth rates and actual sales growth rates. The current outlook for 1H22, is more in line with seasonal patterns and likely reflects the previously discussed supply-side dynamics and risk for a potential cyclical correction. While 2021 was a year marked by disruption, 2022 appears to have less supply side tailwinds entering the year. Barring any significant disruptions or lockdowns, the industry is likely to approach a more balanced state than many companies are currently projecting. Passives and discretes have shown signs of supply side improvements in late 2021, leaving us wary of a potential cyclical correction in late 1H22 followed by a correction in high-performance analog in late 2022. With a cyclical correction expected in 2022, many market participants should feel relief as the day-to-day operations should return to design win focused from managing expedites and shortages across the industry. ■

About the Author

Dennis Reed is a senior research analyst, technology, at Edgewater Research. Reed can be reached at dennis@edgewater.com.



Learning from seasoned colleagues while piecing together his own approach

Please tell us a little bit about yourself (personally and professionally).

I grew up in Colorado Springs, Colo. and thanks to family and college ended up in Indianapolis about six years ago. I received my degree from Butler University in International Business in 2019 and landed in the electronics industry. I am currently an outside sales representative at C C Electro Sales Inc., covering a large portion of Ohio and Kentucky. Outside of work I enjoy fly fishing, golfing, woodworking, kayaking, cycling and supporting my favorite sports teams.

How long have you worked in the electronics industry?

Almost three years full-time, but I did two internships during college in this industry.

What made you choose this industry as your current career path?

By word of mouth and “right place at the right time,” C C Electro Sales approached me in college with an internship offer. It’s been a fun learning process over the last few years and is an incredibly dynamic and ever-changing industry.

What are some of the main challenges you encountered as you embarked on your career journey?

More recently, COVID-19 has altered the traditional sales process, forcing many salespeople in the industry to change their marketing and sales strategies. When I first started in the industry, I struggled to understand the ongoing and dynamic relationships between reps, distributors and principals as well.

What steps have you taken to overcome these challenges and ensure that you can establish and nurture a successful career?

Learning from those around me. Nearly everyone at our rep firm has been in the industry for several years and they possess a wealth of knowledge regarding many of these challenges. There is a diversity of opinions and approaches to address current challenges today, but as I piece together my own approach, I value any input I receive. I have found this a valuable resource, and we have worked

collectively to overcome COVID related challenges and drive numbers up and to the right.

What were some training tools or networking/industry events that you found beneficial to your professional growth?

I think new talent is always welcome in any industry and anything that brings in younger and newer faces is a benefit to the industry as a whole.

I think one of the largest hurdles at present in making this field more attractive to future young professionals is that the industry is relatively unknown. I think the phrase “you don’t know what you don’t know,” holds true in this scenario, and I think if we want to attract new talent to the industry then one of the first steps is educating prospects that it even exists.

Do you think that there is enough new talent entering the electronics industry and what could make this field more attractive to young professionals?

I have found many of the ERA resources to be helpful, including the Water Cooler series and the podcasts. ECIA and ERA also put on a SPARK series for young professionals in electronics with several useful sessions. Local ERA chapters have a lot to offer in terms of learning about the territory and networking with other reps and distributors. I have my direct manager, Ellen Coan, to thank for this as she has been involved in the local chapter for years.

Do you think that there is enough new talent entering the electronics industry and what could make this field more attractive to young professionals?

Honestly no, but considering the current demand for labor in this country I think most industries are actively seeking out young talent. Our calling card will be the fact that this is the tech industry, with rapidly advancing input products and end products with the ability to improve the lives of many across the globe. This point should be emphasized by all reps, distributors and principals trying



Adam Brames
C C Electro Sales, Inc.

To gain a better insight into how young professionals in the electronics industry have turned challenges into opportunities and ensured continued growth, The Representor interviewed Adam Brames, outside sales representative at C C Electro Sales, Inc.

Brames shared how learning from and valuing the knowledge that seasoned colleagues bring to the table helps them all work to solve current challenges supply chain back-ups, continuing COVID-19 challenges and attracting new talent to the industry.

(continued on page 11)



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RISING STARS: Adam Brames

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to attract new talent.

Where do you see your profession and the industry 10 to 20 years from now?

Great question. I think we will see a continued expansion of online resources such as datasheets, white papers and case studies simplifying the design-in process. Personal relationships developed during the sales cycle are a key to success in this industry and will always play a role. Ongoing education regarding adaptive sales strategies and effectively solving customers challenges needs to be emphasized. Technological advances are going to continue rapidly, particularly in the fields of IoT, robotics, automation and electric vehicles. Global demand for these advances will only grow over time, and it is critical we adapt in order to effectively bring new technologies to market.

Professionally, what keeps you up at night?

In the short term, the current global supply chain constraints concern me. What we are currently seeing in terms of lead times and delivery are unprecedented and permeate nearly every level of the electronics supply chain, ranging from shipping and transportation to raw materials. Mining, resin production, energy markets, metals and even assembly capabilities are facing enormous pressure and considering current market demands, it's unclear when or how this pressure will be alleviated. If not resolved, this could become a long-term issue. ■

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SOMEONE YOU SHOULD KNOW

Tell us a little bit about yourself.

Essentially, I am a problem solver, lifetime learner and adventurer who is always ready to take on challenges. Also, I am persistent, and easily jump in with a can-do attitude. I was born in Buffalo, N.Y. and grew up in Rockville, Md. (Washington D.C. metro area) and now live in the Raleigh-Durham area. As a young girl, I enjoyed building and creating random things. Since ours was a thrifty household, the necessary hunting for materials made each project an adventure. I remember making a Speed Racer's Mach5 racecar, a two-story dollhouse with an elevator, moped ramps, string art ships, and 3D art projects from household items. In high school, I had an inspirational physics teacher who made physics fun and encouraged me to join the Physics Olympics Team (so I was a little nerdy...). Hence, I first chose physics as my major at the University of Maryland, where I ultimately graduated with a Bachelor of Science degree in mechanical engineering. Since graduation, I held various roles in engineering, manufacturing, program management, product management and business development. I have experience working in several different industries including power tools, defense, utility power, automotive, LED lighting and medical devices. I have been married to a wonderful techie husband for 27 years and we have two grown children. So far my life has been a grand adventure!

What are some things you enjoy outside of the workplace?

In my free time I enjoy traveling, construction projects, woodworking/wood finishing, gardening, skiing, hiking, book clubs, movies, Toastmasters, SpaceX tech videos, playing board games/card games, listening to music and spending time with family and friends.

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

I joined ERA in 2017 after I joined Aurora Technical in Raleigh, N.C.

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

When I was in engineering roles, I would occasionally interact with reps from various firms. There were some reps I encountered who wasted my time or talked too much. However, my thoughts changed after I met Bob Ball. I credit Bob with introducing me

to the value of a rep and Aurora Group. Bob quickly became my go-to person to find manufacturers to make cable assemblies and thin fin heatsinks for LED lighting products. His best qualities were that he was responsive, respectful of my time and expertly handled questions and sampling while we were pushing hard to meet our customers production deadlines. I learned from him that a trusted rep CAN be quite helpful in the engineering and product development process. A few years later, I ran into Bob Ball again at a networking event in Raleigh, where we reconnected. At that time, I was in the midst of setting up my own consulting firm. He introduced me to Bob Kirkland, one of the owners of the Aurora Technical Group rep firm, who offered me an outside account manager sub-rep position. I decided to give it a go! The longer I worked with the team, the more I enjoyed it. What I like most about The Aurora Technical Group is the people! The inside sales manager, Cathy Hill, is THE most amazing, capable, competent, and caring person I have ever worked with in any industry! On the outside sales team, Ken Jacobson, Bruce MacLeod and Karen Brown all have years of technical sales experience and possess qualities which has proven to build longstanding trusted customer relationships. I especially learned a lot from Bob Kirkland. Bob has a pragmatic coaching leadership style and ran the firm smoothly. On one of our principal visits in New York, Bob introduced me to Rick Vairo, the other owner of the Aurora Technical Group. The Aurora Technical Group in the Southeast is affiliated with the Aurora Marketing Inc. in New York, and three other firms on the East Coast, which makes the Aurora Group a larger rep organization with inherent synergies. After I met Rick, I realized I could learn a lot from him too! Both Rick and Bob were instrumental in encouraging me to take the leap to manage the firm. On Jan. 1, 2022, I purchased Bob's shares and took over as the COO and VP of the Aurora Technical Group. I am excited to manage this rep firm as my next adventure!

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

I found that the most rewarding part of the rep business is helping customers meet their goals.



Aparna Sproelich
Vice President
Aurora Technical Group - Southeast

With so many ERA members, it is not easy to get to know every rep, manufacturer and distributor 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 Aparna Sproelich, vice president /partner at Aurora Technical Group - Southeast..

The Representor asked Sproelich a few questions about her time in the electronics rep business and her experiences with ERA. Here is what she had to say.

(continued on page 31)



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What a Great Year 2021 Was ... 'Wait, What?'

No, the above title was not a typo – and I have not [yet] lost my marbles.

Allow me to put aside the tragedy of the sickness and death caused by COVID. With so many of our fellow citizens getting sick and dying, I am not trivializing this loss for our country, our industry and our families.

Having said that, I maintain that 2021 was a great year for most/all of us. Let me try and explain a bit and perhaps even convince you why we are all better off at the end of 2021 than we were at the beginning.

First, we survived. Your company not only survived but perhaps even thrived. Oh, I know how much time we all spent listening to our customers looking for parts; begging us to help them get their supply chain back in shape; trying to expedite open orders; tracking shipments from overseas; becoming experts on shipping costs, locations of cargo containers and the rising costs of shipping a container from wherever to the U.S., etc. Most of your time was spent helping your customers out of jams and getting product to their manufacturing floors so they would build and ship their products to their customers.

But who did you get to talk to at your customers? Who called you to ask/beg you for help? In many cases, customers' expedites got elevated to Directors, VPs, SVPs and C-Level managers at your customer. These are folks that perhaps you have never spoke to, but always wanted to get to meet who are maybe blocked by the engineers and buyers. Suddenly, they are calling you looking for your help. You worked hard to try and help – developed a dialogue and relationship with them – and if/when you solved their shortage issue, you became a "trusted resource" in their eyes! This would probably have never happened if the chaos of the supply chain did not happen. Thus, you ended 2021 with a whole new set of senior relationships at many of your customers.

We all learned new things and new ways of communicating. Video conferencing

technology has been around for over 30 years – yet, did any of us use it as a part of our day-to-day communications before 2020? No! So, what happened? The pandemic hit and we all pivoted to the work-from-home model and BAM! We all started using video conferencing within 30 days. This was the tipping point of mass usage of video conferencing and it is now here forever – accept it and get good at it! Get a professional background, put the dog/cat in another room and close the door. It is a business call!

We also learned new ways of organizing and time management. When did any of us even think of sending out a Doodle poll and then scheduling our own Zoom calls? We learned new ways of delegating; managing our team members who are now remote; trusting them in their ability to do their jobs without being in the office; relying on them. The confidence that you put into them would perhaps have never happened if the work-from-home phenomenon did not occur. I am guessing that you have emerged as a better manager – perhaps more trusting – and they have emerged as better, more productive work-from-home employees, and feeling more confident in their ability due to your confidence in them.

With the arsenal of all of these new things, we need to do a complete inventory of what old things we did that we should/will never go back to and what new things we will continue to do – and get even better at doing them. Do this now. The new normal is already here and has been here for over a year. Do not yearn for the "good old days" – they are gone...forever...this is it! Not only have YOU changed, your customers have changed! They are also doing an inventory of their new skills. They may love the work-from-home model. They are also more productive and may never want to do some of the things they did in the past. Ask them, they will tell you. Work-from-home is here forever in some form or another. Get good at it...get GREAT at it...your



by **Walter E. Tobin**
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(continued on page 26)

2022 Industry Forecast

ERA strives to stay on top of industry trends and opportunities. To keep its members up to date on current industry issues, ERA put together its sixth annual industry survey.

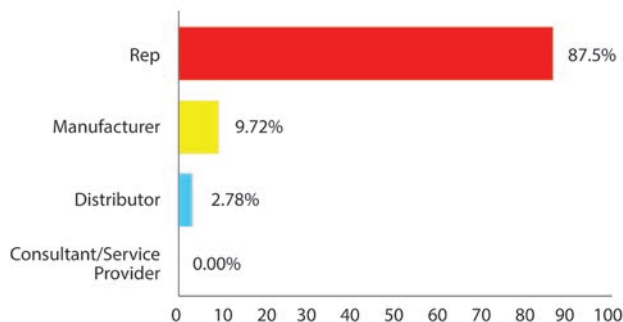
The survey was conducted online in December 2021 and presents ERA rep, distributor and manufacturer feedback about business in 2021-2022 and offers a current industry assessment and 2022 business outlook.

While there are certainly areas of concern – COVID-19 still remains an issue, as well as supply chain disruption, chip shortages and inflation; and 80 percent of respondents expect operating costs to increase in 2022

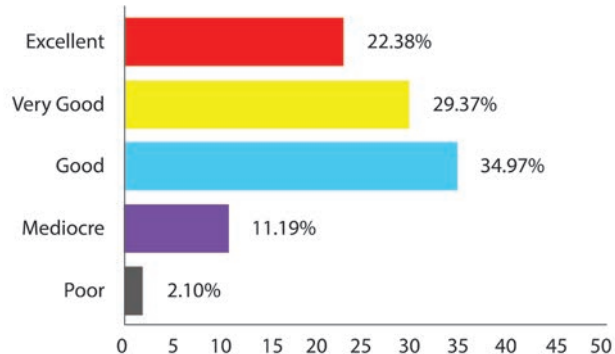
– there are still many positive key indicators.

Eighty-four percent of members anticipate that 2022 will be a good business year for their organization. Seventy percent of respondents reported an increase in business revenue for 2021 compared to 2020. More than 60 percent expect an increase in revenue in 2022, and nearly 90 percent of respondents reported their firm is in very good or good overall health. The economy, revenue streams, cash flow and business partnerships were the top areas of importance to members who took the survey. ■

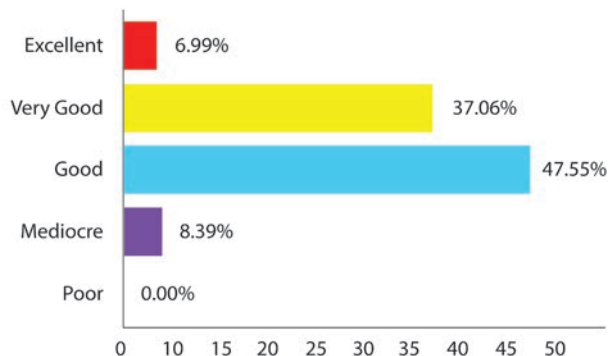
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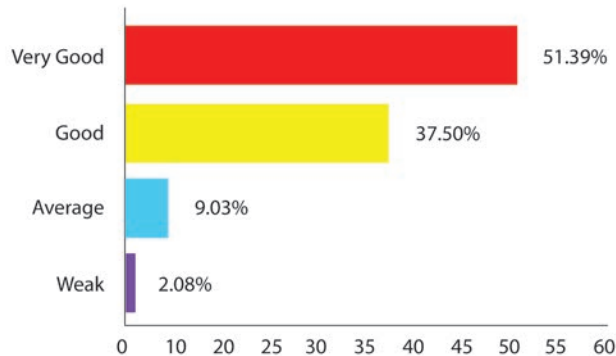
How do you rate 2021 as a business year for your organization?



How do you expect to rate 2022 as business year for your organization?



How would you rate the overall health of your firm?



Pushing Forward New Initiatives in the New Year

A lot of times in a new year article, I would take time to look back on everything we've been through in the previous year. However, I think enough has been written on 2021, so I'd like to take a run at what I'm looking forward to in 2022.

First and foremost, the 2022 ERA Conference in Austin is shaping up to be a conference the likes of which we haven't seen in more than 25 years. With over 450 current registrations and an all-star line up of keynote, general session and breakout sessions, this conference will be the first in-person event many of us have attended in almost two years. There is a real pent-up desire to get out and travel and to meet with friends and colleagues as we look at life and business and where it's going in the future.

Speaking of meeting with friends and colleagues, EDS 2022 is right around the corner. We will head "Back to the Summit" at the Mirage Hotel in Las Vegas from May 10-13. Here we'll continue to network and strategize on how to mutually grow our businesses, while rekindling old friendships and business partnerships and developing new ones.

When I look internally within the ERA, there are a number of new and exciting things happening within our own organization. First, I'd like to welcome Clare Kluck as our Director of Communications. Like many of you, I've already witnessed how Clare came on board and has hit the ground running.

The Executive Committee had a very productive meeting in Phoenix in 2021. I am excited about a number of initiatives coming out of that meeting, some of which have already been announced and are underway:

The ERA Rep Locator is getting a refresh. I've seen the initial design and Walter, along with Alan Ahern are diligently working to provide a more accurate, interactive

experience with the online locator. Please watch for coming announcements.

Ellen Coan of CC Electro and ERA's senior vice president of education has launched the Next Generation Special Interest group (NGSIG). This special interest group is looking for talented next-generation employees who are interested in networking with other next-generation reps and discussing various issues in their business life as well as work-life balance. The group will share their persistence, creativity and tolerance for the world as we know it today and help plan for the future. Members of the group will share ideas for improvement and/or changes in the rep business model. This is a great opportunity to help train, motivate and inspire our younger talent in all of our organizations.

I will be heading up a committee to review split strategies in the changing climate of our business. While our customers are shifting to remote work, some are choosing to live somewhere other than where their companies location resides. How do we as reps address this phenomenon and provide guidelines for our industry to fairly compensate all parties?

Cameron English of English Technical Sales and ERA's senior vice president of industry is working within ERA to research and develop rep contracts, specifically for new and pioneering lines. His goal is to come up with a custom framework that we as reps can view as a guideline on what to try to maintain in a pioneering style agreement.

While 2022 holds a number of uncertainties regarding raw materials, logistics, product availability and the spread of COVID, one thing is for sure: ERA is pushing forward and driving new initiatives all with our membership in mind. ■

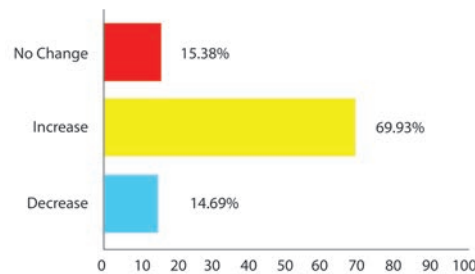


by John O'Brien, CPMR
Coakley, Boyd and Abbott
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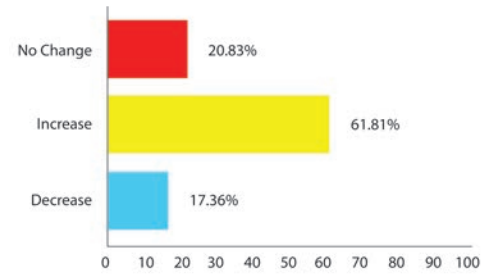
FEATURE ARTICLE: 2022 Industry Forecast

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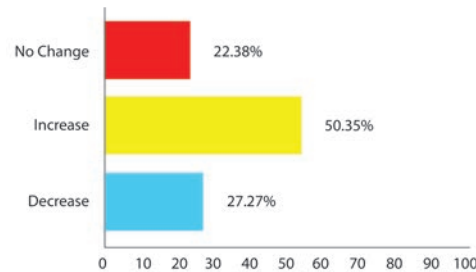
How has your organization's revenue changed from 2021 compared to 2020?



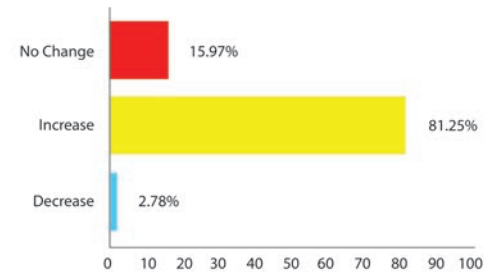
How do you expect your organization's revenue to change from 2022 compared to 2021?



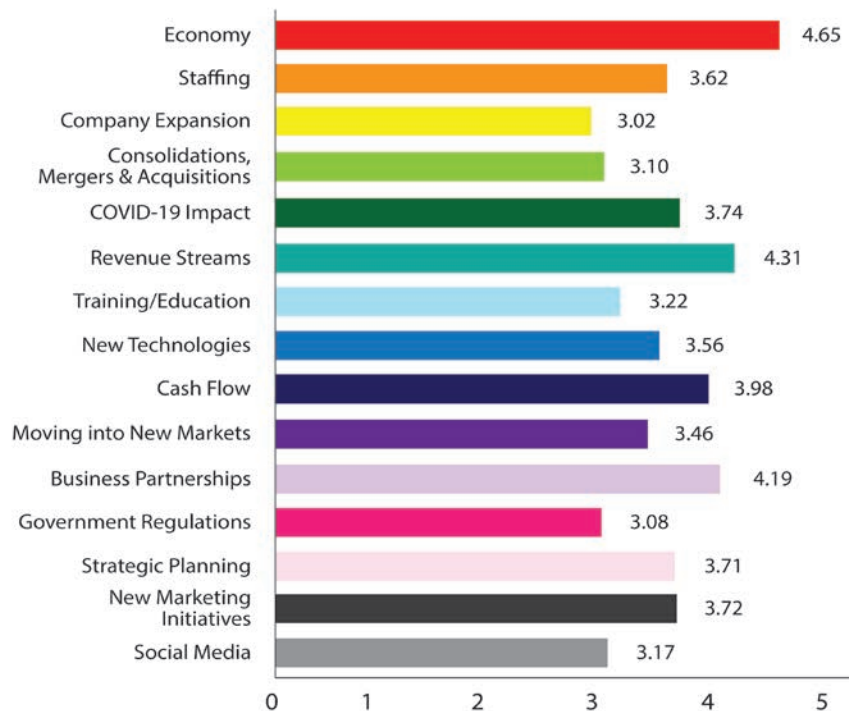
How did your total operating cost change in 2021 compared to 2020?



How do you expect your total operating cost to change in 2022 compared to 2021?



Rate how important each of the following topics will be in the coming year to your organization. (1 = not at all important, 5 = very important).



Visit era.org to view the complete ERA 2020-2021 Industry Survey results.

Trends in Proposed Contracts: Representative Viewpoint

(Foreword note: One of the observations I wrote about in my last article ("I Think, I Think") was pandemic fatigue. Sadly, I could write about that again, but I'm not going to because it's a different feeling of sadness that guides my writing today.

For me personally, it starts with the realization that I have recently lost three friends, some to COVID-19, some not — but all way too early. One of those friends was a fellow representative, Steve Alford. As I begin this article, I want to pay a special tribute to Steve and his contributions to the industry and the ERA, both in metro New York and nationally; and to me as a friend. Time and space limit the ability to detail my thoughts but suffice it to say that sometimes we worked together, and sometimes we competed; but at all times, I considered Steve a friend — a man of keen insight and the highest integrity — and I will miss him.)

On a professional level, I have had the opportunity to review multiple representative contracts over the years. Recently, I've noticed some alarming trends in proposed contracts that have frankly added to the melancholy, because no matter how good the manufacturer's people, product or position are, signing a bad contract is not sustainable in the long term for anyone — and that's sad. So, today, I thought I would address a couple of contractual topics in composite along with some observations.

As I bring these forth, I recognize they are probably not new, but I believe the trends I've seen warrant comment. I also fully understand that for every guideline there is an exception, and nothing I write changes that; but they are called exceptions for a reason.

Point 1. If the contract structures commission payments to control costs on some accounts, the contract should structure commission payments to provide ROI on all accounts. I've seen an increasing attempt to limit/regulate/control commissions paid as a regular component of the contract on accounts where success occurs. Whether it is adjusting commission rates, shortening terms of paying commissions or some other methodology, the premise that you can only be paid a limited amount by account is justified with the philosophy that "it doesn't cost as much" to service that account as the

commissions paid. So, what about all the efforts that don't lead to commissions that exceed the perceived costs of servicing an account? How are those paid for? No manufacturer (or rep) can guarantee a 100% success rate at all accounts; but both are looking for overall ROI. The net result of the approach described above is to limit the rep's ability to generate ROI; and will likely result in activity change — an unintended consequence. (By the way, if you can guarantee 100% close rate, please send your contract. We probably wouldn't be too sad to sign it!)

Point 2. You cannot contractually manage an indirect sales force (i.e., independent, commission-based representative companies) the same way you manage direct salespeople, who usually have some component of salary in their compensation; and as a corollary, not every territory should be managed the same way. I see an increasing number of unrealistic "mandated activities and expectations" being added to contracts to try to guarantee activity, whether it is a productive and mutually profitable activity or not. My unscientific research suggests these are often included to try to prevent the reoccurrence of prior bad experiences. (For every action there is an equal and opposite overreaction.) These are typically applied in a "one-size fits all" approach for all representative companies, or all rep salespeople within a company, regardless of the contracted territory, or the salesperson's account base. My experience also tells me that this approach invariably leads to unmet expectations, potentially with contractual financial penalties.

Point 3. Contractual one-sided cherry picking to compensate for unmet expectations is unfair, unwise and does not guarantee results. The argument is made that not every salesperson within a rep company performs the same (that's true), so the manufacturer should be able to pick and choose whether to add additional reps for specific areas or accounts, or handle them directly. Does every one of a manufacturer's products perform the same in the marketplace? (Not likely.) Would it not be fair then, for the rep to be able to cherry pick from a manufacturer's products and find alternatives at specific accounts for those that don't perform as well? The rep and



by Chuck Tanzola, CPMR
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For details on Florida-Sunshine ERA, go to
erasunshine.org

So long 2021, the “Great Disruptor.” Our industry faced a myriad of challenges last year, many of which are still with us. And yet, as is true with any business disruption, 2021 was also an example of survival, recovery and adaptation. It is important to reflect upon what key tenets emerged as essential to the rep model last year, and why we are better for having had the experience.

It was year two of a global pandemic, and while demand recovered, the supply chain was in disarray. Our principals’ growth expectations did not magically cease to exist, nor should they have. If there was potential to win business and ship product, we still had to deliver. If we could not hit our normal targets, the focus turned to our ability to demonstrate value. Our value was our ability to gather, communicate and act on critical information, including program status, component delivery requirements, early PO placement, customer production timing, principal capability to meet needs, BOM alternate sources, expedite capability and push out acceptance.

Reps navigated institutional barriers and brought the right decision makers together: engineers, buyers, product managers and distributors – and in some cases, working successfully with distributors to procure high win percentage components for our OEM customers in advance of POs (typically standard product). How was this done? By leveraging our role as a trusted resource. It may sound corny, but that is ultimately the core value of the rep model – high customer knowledge and great relationships with customers and distributors. Relationships that at their best are professional friendships, nurtured from shared experiences and success. In 2021, our ability to function as a trusted resource to our customers is what demonstrated value to our principals more than anything else.

2021 was also an opportunity for reps to expand the role of inside sales. To help manage the unpredictable supply chain,

many reps asked inside sales to interface more with principals, distributors and customers to immense success. As we saw our principals implement new CRM platforms at an unprecedented pace, inside sales integrated and adapted our internal processes to meet new requirements. With the exponential growth of incoming sales data, inside sales employed data mining techniques to identify leads. Armed with basic product knowledge from online training resources and study of customer applications, inside sales helped qualify leads and improve the quality of CRM updates. In 2021, reps benefitted from empowering, recognizing and rewarding our highly skilled inside salespeople.

Finally, a discussion of 2021 would not be complete without an acknowledgement of the psychological toll the pandemic and its economic impacts have had on all of us. For reps, it has been an opportunity to renew our commitment to the overall well-being of our employees. While we were able to address physical well-being with remote work, being remote deprives us of social connections and professional friendships that help manage stress and make work fun. To improve social connection and enhance emotional health, many reps have offered professional networks to our employees. Groups like local ERA Chapters, National ERA Committees, CPMR training classes, Women in Electronics and more all offer connections to outstanding peer networks. Also, the ERA virtual training offered during 2021 was embraced by both outside and inside sales as a welcome break from the day to day, and a reminder of the joy in learning and being a part of something larger than yourself. There is much more to learn on this topic in 2022 as we recalibrate our company cultures to protect our greatest asset – our people. ■

ERA XCOM Digest continued on next page.

INDUSTRY UPDATE

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Key takeaways from a year of disruption



MANUFACTURING
UPDATEKen Bellerio
Schaffner EMOSr. Vice President/Manufacturers
ken.bellerio@schaffner.comTrends in Proposed
Contracts: Manufacturer
Viewpoint

In the past year it seems to be increasingly difficult for me to put together a thought-provoking article that reflects what is not only happening in the electronics industry but how it affects manufacturers, reps and distributors. Especially when this never-ending COVID issue will not go away!

When my friend and colleague, Chuck Tanzola from The Fusion Sourcing Group, Inc. approached me with the idea to do an article together, I felt it would be a great way for us to show two sides of an issue from two different perspectives. But after some thought, it seems that the two sides may not be very far away from each other, at least from my perspective.

As Chuck has pointed out in his article on p. 19, contracts between manufacturers and their reps have always been a very interesting and sometimes painful process. On the manufacturers side, we have so many to answer to when it comes to the legal aspects of our responsibilities, so in the end we are expected to carry out this task to the best of our ability along with some legal advice. On the rep side, it is always important to show any manufacturer partner that they have what it takes to represent their products within the territory and to receive fair compensation for the service provided. In the end of any negotiation, it comes down to an agreement that is mutually respectful of a successful partnership.

Chuck has brought up three specific topics and, in each one, I can certainly understand his side of the story and the questions they invoke. They are valid topics and I do hope that most of my fellow manufacturers develop a communication strategy to avoid adding these to a contract agreement.

I agree that the contract should structure commission payments to provide ROI on all accounts. I do not agree with controlling cost because it does change the attitude of the rep and the activity level will change naturally when this is enforced.

My philosophy has always been when entering into an agreement to hire a rep firm for a certain territory, you need to find the most suitable group and team that will complement your direct sales team. Engage with them based on their ability to perform as the face of your company in their territory. Yes, it is always important that they understand the products you are providing and that you are somehow synergistic to other

lines they already represent. This always provides a better opportunity to be at the right customer with the right group of products with the right solution for the customer, and help everyone to win the final design and production order.

Manufacturers should not try to manage the indirect salesforce the same way you manage your direct team. Your direct team needs to provide the necessary information and education to help the rep to learn about your company, its products, culture and philosophies. Then, leave it up to those who know the customers from a personal and professional aspect to manage each opportunity to provide success. Trust has been my recipe for success with our rep organization and is reflected in our contract.

I believe manufacturers need to focus primarily on the business aspects of the contract and how it can improve the company growth structure. They should not dictate or try to “micromanage” a rep firm that has already proven that they are qualified to sell their product line in the territory. If the rep has made it to the contract phase or already signed a contract, then they must have what it takes!

In my opinion, changing a contract once you already have committed to a long-term relationship with your rep partner is a recipe for failure. I certainly think as manufacturers we need to sometimes tweak a contract due to a sudden shift in the business climate. If business is good, don't try to limit the rep – encourage them to do more. If business is slowing down or struggling, find out what are the causes and then see if there is a way to remedy the situation together. Accept that it may not be the rep at fault and losing a new design or a big piece of business should not be the only catalyst to make a change in a contract.

Let's face the facts. Limiting compensation of reps never seems like a good idea for either side of the fence. In the end it does not provide the intended financial gain the manufacturer is looking to provide to their management team. On the other side, it changes the level of motivation of any rep salesperson who, in their mind, is doing the very best they can to provide the window to a customer that is important to the growth of any organization.

Any time a contract review is necessary between the two parties, communication is

(continued on next page)

Budgets and forecasts start 2022 with a lot of ambiguity. Will there be a travel budget? Where can we put that money to grow our company efficiently? How do we forecast when we don't know if we can ship product? We just keep adjusting our sails and keep our seatbelt fastened tight!

Continuous education is the key to all of the above. Attending the ERA National Conference and listening to presenters on many key topics, as well as talking to so many great entrepreneurs that your head is spinning with all your new knowledge. My favorite saying is about why we have one mouth but two ears. Yet, we need to use our knowledge to share this amazing industry with the next generation. Some companies have hired new talent and are learning from them as they simultaneously teach them what reps do (that may never be understood well – but let's keep explaining!) The next generation can review POS data and make cold calls/emails and review the results toward design wins and

practice their synergism. They can shadow seasoned salespeople and ask questions that shed a new light on best practices. They can work with the distributors to help solve issues and keep everyone informed of the latest territory news. They can review markets and target products to find the design cycle to fit the need, and beyond!

ERA assists with teaching a new generation, as it offers a White Pin Internship Scholarship to find and hire (intern to full-time is the goal) new talent and a Next Generation Special Interest Group (NGSIG) to help the newest members of our industry network and keep communication open to discuss relative topics. No matter where a rep firm is in their personnel search or training, ERA is here to help.

As we welcome 2022, keep your eyes wide open to all the possibilities. They grow exponentially with the power of knowledge. ERA is here to foster that growth in ways you have yet to imagine. See you soon! ■

EDUCATION UPDATE

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The power of knowledge



MANUFACTURING UPDATE: — Trends in Proposed Contracts

(continued from previous page)

always the key to an ongoing successful long-term relationship between a manufacturer and all their reps. There should always be room for exceptions, negotiation and changes through discussion. This should be handled professionally and in the end be fair for both sides.

I strongly believe that what Chuck's father taught him about putting yourself on the other side of any situation is the best way to truly understand how to handle an issue when reviewing or changing a contract. I hope our insights spotlight the discussions necessary between a manufacturer and their rep organization to allow for continued success as partners. Please feel free to provide your feedback to me directly at ken.bellero@schaffner.com on other best practices that help to implement a good and fair contract with your rep organization. ■

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For a complete list of ERA's

Recognized Resources, check out the *Member Services* page at era.org. Then link to a service provider's home page for more information. Or take advantage of services from companies like **Avis and Hertz Car Rentals** (which are accessible **ONLY** via the ERA website).

CALCUQUOTE provides quoting and supply chain software for the EMS industry. With a focus on the future, CalcuQuote improves the speed, accuracy and efficiency of the quoting and supply chain process by optimizing operations and implementing sustainable digital solutions. CalcuQuote currently serves over 200 EMS companies and is based in Dallas, Texas. Visit calcuquote.com.

SCHOENBERG FINKEL BEEDER-MAN BELL & GLAZER LLC offers legal Expert Access services to all ERA members. An initial consultation on any commission recovery or other rep-related business matter is available without charge. Visit sfbbg.com or call Adam Glazer or Gerry Newman at 312-648-2300.

REPFABRIC is a mobile efficiency tool that speeds up the entire workflow of business including email, opportunity tracking, commission reconciliation and principal reporting. Contact Repfabric at info@repfabric.com, or call 844-737-7253, x225, to schedule a consultation.

SPYRE GROUP offers resources that help sales rep firms provide value to the manufacturers they represent and increase efficiencies for their sales teams. It provides web, print and presentation development services, along with packaged solutions. Contact Patrick Knoelke at 913-499-6014 or visit spyre-group.com/rep.

EMPOWERING SYSTEMS, an ERA Recognized Resource for over 20 years, helps electronic manufacturers' representatives grow their business. The company's cloud solutions are designed for reps and how reps work. AccountManager, SalesAnalysis, Analytics, Mobile and Microsoft 365 integration keep reps in front of their customer and away from administrative work. Ask about the ERA member special discount. Contact Carroll Boysen at 888-297-2750 x709 or visit empoweringsystems.com.

BUDDE MARKETING SYSTEMS is a leading provider of point-of-sale (POS) reporting. With 15+ years of experience, BMS provides solutions to drive business growth, improve efficiency and maximize profitability. BMS offers a vast selection of standard reports or can customize reports to achieve your business goals. Call 708-301-2111 or email sales@buddemarketing.com.

RPMS offers sales analysis, commission reconciliation and sales force data exchange software designed exclusively for manufacturers' reps. Visit rpms.com.

LECTRIX is a results-driven marketing company that serves electronics manufacturers, suppliers and representatives. The company specializes in brand awareness, content creation, online event creation and lead generation. Visit lectrixgroup.com.

JJM SEARCH is the global executive search firm founded by Carla Mahrt, a 20-year electronics industry veteran. JJM is part of the MRI Network – leaders in the search and recruitment industry for over 40 years. Let Carla connect your company with bright, qualified candidates for your openings. Visit jjmsearch.com.

UPS is an ERA member service provider for shipping of all kinds. For discounts of up to 34 percent, call 800-MEMBERS (636-2377). ■

A New Day, A New Way

Welcome to the “new day” and with this new day, we need to discover the “new ways” to become even more successful. The 2022 ERA Conference is fast approaching. This will be our first chance in two years to gather as an industry at the AT&T Conference Center in Austin, Texas from February 27 to March 1. I believe this year’s conference will be one to remember.

The conference committee selected the theme “A New Day, A New Way” because of these changes. The way we sell to our customers, the way we manage a team and the way we hire, retain and motivate employees have all changed. The 2022 ERA Conference is focused on providing the new ways to adopt these and become more successful.

You can expect the same great content, great best practices discussions, great takeaways and great networking.

Starting in May 2021, more than 55 volunteers from manufacturer’s representatives, manufacturers and distributors have been focused on putting together a program that will maximize your return on investment. This team has donated their time, energy, passion and knowledge to ensure that every session will give you new ways to approach this new day. I cannot thank them enough for their dedication to the ERA and the success of this conference.

Keynote Speaker Seth Mattison will start off the conference and discuss ways to position your organization for the future while creating a culture that will compete for years to come.

We are returning to four general sessions this year. Starting us off will be Bernard Baumohl, returning to discuss “The Great Transition.” I know I am interested to see how his predictions of 2020 compare to what happened. To continue our discussion on new ways, Jason Dorsey will give us some key points on how to bridge those generational gaps to help us move into a successful future. Crystal Kadakia will update us on what the future of the digital workplace will look like. This session will be packed with takeaways for our business but also how to be successful at

our customers’ workplaces. I am incredibly pleased to announce that Michael Knight will be closing the 2022 ERA Conference.

I have always found that the keynote and general sessions provide very high-level strategic takeaways, but the real benefit of the conference comes from the breakout sessions and the list of tactical takeaways and action items. This conference will have 15 different sessions available to attend. Topics range from succession planning, expanding and improving the rep model, attracting and retaining employees and rejuvenating the relationships with our partners. I’m going to find it exceedingly difficult to narrow down my breakout selections.

I am a little biased towards this one, but I feel that the 2022 ERA conference will be a most memorable one. I have been amazed by the dedication of the volunteers and overwhelmed by the support of over 130 sponsors this year. We cannot produce a quality conference without these sponsors and volunteers. Thank you.

Personally, I am counting the days until February 27. The idea of walking the conference center halls, shaking hands, fist bumping or hugging old friends and business associates, meeting new friends at the opening cocktail reception and conference party is just exciting. Adding to this, I will be learning new ways and best practices to make my company, team and partners more successful.

Can you afford not to attend? ■



by Bryan White, CPMR
Catalyst Unity Solutions
2022 Conference Committee Chair



MATERIALS, ASSEMBLY, PRODUCTION & SUPPLY

Troy Gunnin
Sun Rep Inc.
Tampa, Fla.

The new normal

Hello, and welcome 2022! And just what do you have in store for us? In looking ahead, I must admit that my crystal ball is much like many of our Florida mornings have been lately, very foggy.

As I prepared to write this, I looked back to December 2019 when I wrote the Winter column. It was just prior to COVID-19. It was filled with many positives and we were all looking forward to continued growth in sales and profits. Fast forward to December 2020. I pointed out that 2020 was like no other that I had experienced in my many years in this business and expressed some optimism that 2021 would be a rebound year and Covid would be behind us.

Well, guess what, Covid just keeps finding variants to keep us from returning to what was once normal. Is 2022 the year that we finally get it behind us? Who knows? One thing we do know is that we are learning to “live with it” and move forward.

We have learned that we must, and have, found ways to deal with it. Our people, as are many others, are now working from home offices. Will we ever return to congregate offices? Only time and necessity will tell. Many companies have scaled back their offices and are projecting either at-home or hybrid operations in the foreseeable future.

These trying two years have taught us that we can, and must, continually explore and find new and innovative ways to conduct our business. We certainly look forward to being able to return to face-to-face sales calls and meetings. However, we have, through these tough times, learned that we can continue to function using the many electronic options we have like Zoom and Microsoft Meetings, etc. When and if we eventually return to our once normal, I’m sure that we will continue to use these tools and others to help us be more efficient.

There are some “storm clouds” on the horizon. Inflation, supply chain shortages, labor shortages, long delivery times, and I could go on – but the economy, for now, is strong and employment numbers are good, unemployment is low. So, there are positive signs as well.

In times like this, the independent rep model certainly stands out. We are local and have the local contacts that allow us, by whatever means, to stay in contact with our customer base. That makes us valuable to our principals and customers. Let’s make 2022 a banner year! ■

EXECUTIVE COMMENTARY: 2021 — What a Great Year

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competition is getting really good at it!

I often hear: “I cannot wait until we get back to face-to-face selling.” What do you think a Zoom video call is? It is face to face! Yet, some of our folks get on a video call and do not turn their cameras on. It is a video call – cameras on! One of our members has a saying: “If I cannot see you, I cannot hear you!” Turn the camera on, go to your “Money Room.” Get good/better at this, because virtual selling is here to stay! It will be blended with in-person selling going forward.

Your customers will be very stingy in awarding in-person audiences going forward – they already are! If you insist on an in-person visit, you had better demonstrate that your goal and agenda was something that could not have been done via Zoom. You never want to hear during or after a meeting: “This could have been easily accomplished via a Zoom call.” Probably not what you want to hear...especially if you had a manufacturer come in/fly in for the meeting! What do you think your reception will be when you request your next in-person visit?

So, let’s all take a bow here. You led your companies through 2021. We all adapted and then adapted again. We had record results – some due to us, some due to the market. Do not look back – look forward. Get rid of the old ways and get really good at the new ways. Your customers and principals expect and demand it, as well as your employees. They are counting on you to lead and inspire them..

Full speed ahead, and remember: “Think positive and test negative.” ■

Classification of Manufacturer's Representatives as Employees or Independent Contractors

When manufacturers engage representatives to sell their products, a question arises as to whether the representatives are employees or independent contractors of the manufacturer. The determination is significant because different tax treatment results from the classification of the representatives.

If a manufacturer's representative is treated as an employee, then the manufacturer must withhold from the representative's wages, federal and state income taxes and FICA (Social Security) and Medicare taxes. As an employer, the manufacturer must also match the amount of FICA and Medicare taxes withheld from the representative's wages; other federal and state employment taxes are imposed as well. As an employee, the representative is entitled to participate in any employer-sponsored benefit plans, including health insurance plans, qualified retirement plans and other programs if the employee satisfies the eligibility requirements.

Representatives who are treated as independent contractors, on the other hand, receive a gross payment from the manufacturer without any deduction or withholding for federal or state employment taxes. As an independent contractor, the representative is not eligible to participate in the manufacturer's benefit plans or programs.

In distinguishing between the two classifications, the threshold issue is whether or not the manufacturer has the right to control the actions of the representative. IRS Treasury regulations provide that an

employment relationship exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the worker but also as to the details and means by which the result is to be accomplished. Accordingly, an employee is subject to the will and control of the employer, not only as to what is to be done but how it shall be done. On the other hand, if an individual is subject to the control or direction of another merely as to the result to be accomplished and not as to the means of accomplishing the same, then the worker is not an employee.

Due to the factual nature of any such determination, each circumstance must be evaluated on its own merits. Many years ago, the IRS issued a revenue ruling listing 20 factors which must be considered in determining whether a worker is an employee or an independent contractor. Some of the factors most relevant insofar as manufacturers' representatives are concerned are the extent to which the representative must comply with the manufacturer's instructions; whether training is provided by the manufacturer to the representative; whether the representative is specifically designated as the person personally obligated to perform the services; the hours of work, if any, set by the manufacturer; whether the representative must devote his/her full time to working for the manufacturer; whether the representative must provide oral or written reports to the

The determination is significant because different tax treatment results from the classification of the representatives.



by Bruce E. Bell, CPA/Attorney

Bruce E. Bell is a CPA/Attorney practicing at the Chicago law firm of Schoenberg Finkel Beederman Bell Glazer LLC.

A founding member of the firm, Bruce chairs the firm's transactional and tax practices. He concentrates on federal tax, estate planning and general business matters.

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TAX MATTERS: Classification of Manufacturer's Reps

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manufacturer; whether the representative must pay his/her own business expenses; whether the representative must furnish his/her own tools and materials in providing the service and whether the representative is permitted to provide similar services to the general public. Other factors may come into play as well. No one factor is determinative but rather all of the factors are viewed together to determine the representative's classification as an employee or an independent contractor.

The IRS has issued two consecutive revenue rulings involving manufacturers' representatives which relate to the employee/independent contractor distinction.

In the first ruling where the representative was deemed to be an employee, the IRS noted that the representative was assigned a specific territory, the company name was required to be exhibited in the representative's office and in the building directory, the representative was required to maintain consigned inventory and furnish monthly inventory reports to the manufacturer, the representative was prohibited from selling competitive products during the term of the agreement and the contract between the manufacturer and the representative could be terminated by either party on short notice.

In the second ruling, the IRS reached the opposite conclusion. Here the manufacturer entered into contracts with sales representatives who were granted exclusive rights to sell the manufacturer's products in specified territories, the representatives were required to possess a designated amount of capital to purchase equipment and supplies and the representatives were not required to work specific hours.

The consequences of failing to comply with the correct classification are significant. Most notably, where a manufacturer's representative is incorrectly classified as an independent contractor, the manufacturer could be liable for payroll taxes which were not paid as well as withholding and other tax obligations. In addition to being obligated to pay taxes for the current and prior years, the manufacturer could be responsible for interest and penalties on the unpaid tax obligation. Aside from federal and state taxes, the employer may also be obligated to provide company-sponsored benefits to the representative which were not provided. Alternatively, where the representative is properly classified as an independent contractor, the representative, not the manufacturer, will be responsible for paying his/her own taxes.

Suffice it to say, manufacturers and their representatives should take appropriate steps to ensure that representatives are properly classified as either employees or independent contractors. The harshest results fall upon a representative improperly classified as an independent contractor. To support independent contractor treatment, there should be a written agreement between the manufacturer and the representative documenting the arrangement which reflects the various responsibilities of the parties and demonstrates the absence of the manufacturer's control over the representative. As many as possible of the relevant factors that support independent contractor treatment should be reflected in the agreement. The representative should be required to pay his/her own business expenses. There should be a specific term to the agreement and the methodology for terminating the same should be specified. The representative should not have an office on the manufacturer's premises but rather should have his/her own office, even if the office is in the representative's home. Where possible, the representative should be permitted to work for more than one organization. Finally, it might behoove all the parties if there are no restrictive covenants such as a non-compete, although many manufacturers are unwilling to provide this flexibility to their representatives.

With significant consequences for improperly classifying workers, manufacturers are encouraged to work with their representatives to support independent contractor status. The failure to do so could be consequential. ■

The Nation's Best Sales Rep Statute Is Found in ...

Faithful readers of this column are familiar with sales representative protection statutes, legal protections provided by legislatures in most states in an effort to level the uneven playing field reps often find themselves forced to play on when contracts with their principals get terminated. These helpful statutes vary state to state, and the stronger ones enable reps to recover three times the amount of commissions not timely paid, plus attorney's fees and costs.

The significant variances in state statutes can lead a rep who does business in more than one state to look around for the most favorable language. Deciding which statute to invoke should involve evaluating more than just the level of recovery available; prudent reps will also carefully explore whether they are eligible to recover.

California: Strong, but Sometimes Difficult to Access

For example, sales reps deprived of their commissions who seek to sue under the California rep statute, which offers one of the strongest frameworks, sometimes get tripped up over the strict statutory language. It is not enough that the manufacturer does business in California; the rep must also "solicit wholesale orders at least partially within this state."

Note that the rep does not have to solicit orders exclusively or even primarily in California to avail itself of the statute, nor must it successfully make sales into California. It is sufficient to show that the rep made some effort to sell into California, even if the effort failed. Reps who cannot show sales efforts made in the Golden State, however, do not qualify for recovery there.

Minnesota: Quirky and with Limited Reach

Moving further east, Minnesota's unique version of the rep statute imposes limitations on a manufacturer's ability to terminate, and makes arbitration or litigation available to sales reps alleging a violation, but only arbitration to manufacturers. Significantly, the statute applies only to reps who: (1) reside in or maintain their principal place of business in Minnesota; or (2) have a sales territory set out in their contract that includes some or all of Minnesota.

Quite unlike most state statutes, this narrow application means that an out-of-state rep who does business with a Minnesota principal cannot avail itself of the Minnesota rep statute, unless the rep contract expressly enables the rep to sell into Minnesota. Even if the parties' contract expressly calls for Minnesota law to apply, and the rep has no alternative state statute to rely upon, courts have interpreted the Minnesota statute as unavail-

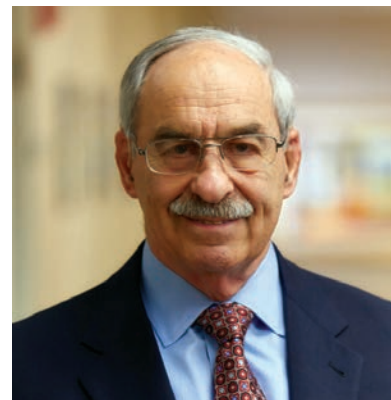
able to an out-of-state rep whose territory does not include Minnesota.

Unfortunately for reps based in a state with a weak sales rep statute or none at all, the otherwise advantageous Minnesota scheme offers the state's manufacturers the chance to avoid any statutory liability by making its contracts subject to Minnesota law, which may lie beyond the reach of out-of-state reps.

Many Other States: Protecting a Rep's Home Turf

A common provision in other sales rep statutes will subject manufacturers to a state's jurisdiction, even if they are not resident in the state, if they enter into a contract with a

A well-reasoned 2021 court decision handed down by the federal court in Newark demonstrates a sales rep's broad eligibility to recover unpaid sales commissions.



by Gerald M. Newman
ERA General Counsel

Gerald M. Newman and Adam J. Glazer are partners in the law firm of Schoenberg Finkel Beederman Bell and Glazer LLC, and they serve as general counsel to ERA. They are also regular contributors to The Representor, and participate in Expert Access, the program that offers telephone consultations to ERA members.

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Adam Glazer
ERA General Counsel

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LEGALLY SPEAKING: Best Sales Rep Statute

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sales rep to solicit orders in the state. This prevents a manufacturer from enlisting a rep to chase business in a location far from its headquarters, and then requires the rep to bring a claim across the country when a commission dispute arises.

While this approach is often helpful when the rep's locale offers a favorable statute, it does not enable the rep to assert a claim under the statute in the manufacturer's home state, should it prove more favorable. The state of Washington's rep statute, for example, among the weakest anywhere, includes such a provision. The Washington statute provides no additional damages when a principal fails to provide a timely commission to its sales rep, rendering its home turf language unlikely to get invoked.

New Jersey: Carefully Considered

In sharp contrast to both Minnesota's approach and statutes that protect a rep's home turf, the statute enacted in New Jersey, which leads the nation by making four times the amount of unpaid commissions in damages available to reps, plus attorney's fees, neither requires the rep to office in New Jersey nor solicit sales there to qualify for its protections. No arbitrary or unreasonable obstacles lie in the path of a rep cheated out of commissions by a New Jersey manufacturer.

A well-reasoned 2021 court decision handed down by the federal court in Newark demonstrates a sales rep's broad eligibility to recover unpaid sales commissions under the New Jersey Sales Representatives' Rights Act.

Norcom Research, LLC, a sales rep marketing telephone, energy and electricity services, is neither a citizen of New Jersey nor solicits sales in New Jersey. On this basis, its principal, Net2Phone Global Services, LLC, moved the court to dismiss Norcom's claim brought under the New Jersey statute.

After full briefing, however, Net2Phone was unable to convince the court that the New Jersey legislature intended "to limit the statute's reach to only sales representatives that have a place of business in New Jersey." Instead, it appeared the legislature intended the statute to apply when either the principal has a connection to New Jersey or the sales rep solicited orders in New Jersey.

Because Net2Phone was based in New Jersey, the court found it was "irrelevant whether [Norcom] has solicited sales in the state." Additionally, each of the members of Net2Phone Global Services, LLC was a New Jersey citizen, and the governing rep contract called for New Jersey law to apply, so the connections to the state were plentiful.

Accordingly, not only does the New Jersey statute apply if either the rep or the principal is connected to the state, it avoids the flimsy language often found in other statutes by definitively enabling the rep to recover upon a violation. ("A principal who violates . . . this act shall be liable to the sales representative" for the unpaid commissions, plus exemplary damages of three times the unpaid amount.) This kind of strong language commands the respect and attention of unscrupulous principals.

States that currently lack any statute protecting reps, including Delaware, Florida and Nevada, should not only look to belatedly protect the interests of their sales reps, but would do well to use the New Jersey statute as their model. ■

Electronics Representatives Association



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SOMEONE YOU SHOULD KNOW: Aparna Sproelich

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

Since March of 2020, like many others, we contacted our customers virtually and stayed connected with our customers, principals and distributors using all known methods. Video calls and text/chatting have now become one of the top methods for communication. When permitted by our customers, distributors and principals, we meet in person with masks on in café's or outside, respecting social distancing and their comfort levels and their company protocols. We also started doing virtual "Lunch and Learns" with our regional favorite convener for the engineering and IoT community, the Regional Internet of Things (RiOT). RiOT expertly offers guidance for startup, educational programs, learning sessions for engineers and networking opportunities. This past fall, we were also fortunate enough to participate in two in-person tradeshows (with masks on), RiOT Demo Day and PCB Carolina, both of which were attended better than I expected.

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?

The ERA Conference and the ERA in general has been a very good source of information to learn about industry trends and sharpen my skills. At my first ERA conference, I learned about CPMR and MRERF. The CPMR course work is intense and enjoyable at the same time as it directly applies to rep firms from all industries. I also had the chance to make new connections and friendships through the CPMR classes.

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

Yes, I am active on social media, and I follow ERA on social media. The ERA website, direct emails and volunteering on the ERA conference committee have been good sources of tips and connections for me. Since the start of the pandemic, I've tuned in to the Water Cooler bi-weekly meeting established by Walter Tobin. I found the Water Cooler meetings to be relevant and insightful. And I also liked the "learn from each other on a national scale" aspect of the Water Cooler meetings. That Walter is a class act!

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

I love to dance to country music like my Dad did. Also, one of my favorite songs is by Tim McGraw, called "Live Like you were Dying." ■

VIEWPOINTS: Trends in Proposed Contracts: Rep Viewpoint

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the manufacturer are interdependent – growth and performance are the mutual responsibility of both; but cherry picking diminishes the team.

My father taught me to ask, "If I were on the other side of the deal being proposed, would I sign it?" If yes, then consider it a fair deal. Otherwise, it is not. My suggestion to manufacturers is to read the contract you are proposing from the viewpoint of the representative. Does it read like a series of methods to limit compensation? Or mandate activity without regard for compensation? Or does it present a framework for interdependence and the team approach, with opportunity for ROI and mutual benefit?

Now, I recognize that my approach to these topics is naturally biased from the representative's perspective. I also realize that the representative must always provide value, and nothing in my comments relieves them of that responsibility. In the spirit of teamwork and candid discussion, I have asked my friend, Ken Bellerio, president of Schaffner EMC and the manufacturers' voice on the ERA Executive Committee to shed light on his viewpoint from the manufacturer's perspective. Please read his insights on page 22. ■



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.



SOUTHERN CALIFORNIA

Southern California ERA was finally able to host an in-person outing after a hiatus of almost two years. The chapter held its annual charity golf outing at the Black Gold Golf Club in Yorba Linda, Calif. in November. Seventy golfers had a brilliant Southern California day to demonstrate their golf skills on this challenging course. Golfers took the chance to renew old acquaintances and make new ones. It was one of those great relationship building events. Most importantly ERA Southern California Chapter, through the generosity of its members, distributors and principals, was able to donate \$5,000 to Operation Homefront. Operation Homefront supports active duty personnel, veterans, disabled veterans and their families through times of need with funding, housing assistance and caregiver support.



Winners of the tournament were the team from Luscombe Engineering. Foursome members were Michael McCaig, Gene Anderson, Kevin Smith and Brian Puckett. Awards were presented after dinner by Chapter President, Gary Smith and guest emcee Bryan Shirley. Shoutout to Steve Tennesen, Doug Johnson and

Rich Unruh for organizing the event.

The chapter looks forward to an active schedule for 2022. The goal for the chapter is to increase the value of ERA membership. The ERA Southern California Chapter wishes everyone a happy and prosperous New Year.

CHICAGOLAND-WISCONSIN

Chicagoland-Wisconsin ERA hosted a distributor panel event on Jan. 21, moderated by Rick LaPiana, Cain-Forlaw Co. The meeting was hosted virtually, and featured three distinguished panelists from Arrow Electronics, Heilind Electronics and TTI Inc. Topics discussed were rep/distributor collaboration, changes and challenges to the distribution model and a 2022 distribution outlook.

The chapter has appointed new officers for the 2022-2023 term. They are: Chairman: Rick LaPiana, Cain-Forlaw Company; President: Diana Nawrocki, Control Sales Inc.; VP / Fiscal & Legal: Fred Schneider, EAS Sales, a Mel Foster Company; VP / Education: Bob Evans, CPMR, EK Micro; and VP / Membership: Joe Braun, CPMR, of EK Micro. Officers elected for terms of three years (2022-2024) are: Director: Tom Trzeciak, ALT Technical Sales; National Delegate: Eric Sagendorph, Select Technology Sales; Alternate Delegate: Jeff Huntsinger, Huntsinger Group LLC. The following officers are continuing in place and serving through 2022: VP Marketing and Social Media: Zachary DeVillers, CPMR, CSP, Brainard Nielsen Marketing; Director: Kingsland Coombs, CPMR, CSP, Control Sales Inc.; Director: Daniel Knuf, DLK Technical Sales Inc.

Many thanks to all who voted and for your continued support of Chicagoland-Wisconsin ERA. And congratulations to all of the officers!

NEW ENGLAND

New England Chapter ERA was proud to partner with Molex to sponsor an annual holiday event and Toys for Tots Drive on Dec. 16. The event was held at the Holiday Inn in Tewksbury, Mass. and was well attended by reps, distributors and Molex employees. Many toys were donated and a donation was made to the U.S. Marine Corps Reserve Toys for Tots Program. The event raised just short of \$22,500 (so far) for the children this year. On top of all the monetary support, 290 toys were donated. Thanks to all who helped make this event a great success!

NORTHERN CALIFORNIA

Northern California ERA recently announced its election results for new chapter officers for the 2022 term. They are: President: Larry Flores of Ross Marketing Associates; Vice President: Terri Straube of Straube Associates;

Treasurer: Joe McGovern of Meridian Technical Sales Inc.; and Jr. Secretary: Erin Fox of TAAR-COM Inc. Congratulations to all!

The chapter is also proud to announce that Larry Flores and Terri Straube completed COLT training in November 2021. Christian Alviso of Luscombe Engineering San Francisco has completed SPARK 2.0 training. More exciting events and updates are coming soon!

ROCKY MOUNTAIN

Rocky Mountain ERA hosted a chapter dinner meeting featuring guest speaker ERA CEO Walter Tobin in November. Walter joined the event via video and reported on industry trends, economic news, supply-chain disruption effects and general updates on the ERA.

CAROLINAS

The Carolinas ERA Chapter rolled through a challenging 2021 with a series of well-rounded networking events, featuring topics relevant to internal and external engagements: remaining relevant, customer capture and retention, staying motivated, cyber security, introducing a new supplier and others. The eight virtual events were well attended by reps and distributors, with lively engagement and sharing of industry experiences and best practices. The chapter is looking forward to a fresh roundup of discussions to kick off more inspiring and spirited discussions in 2022!

Carolinas ERA also held elections in December to appoint new officers for the 2022-2023 term.

Officers: Chairman of the Board: Buzz Reynolds, CSP, Performance Technical Sales; President: Penny Langdon, Alliance Electronics Marketing Group; VP / Finance: Annette Paden, South Atlantic Component Sales Inc.; VP / Education: Bryan Teen, CPMR, Tech Marketing; VP / Membership: Hunter Starr, Performance Technical Sales. Directors: Peter Flores, TTI Inc.; John Hurd, CPMR, South Atlantic Component Sales Inc.; Ken Jacobson, Aurora Technical Sales; Brad Starr, CPMR, Performance Technical Sales; National Delegate: Greg Thompson, CPMR, South Atlantic Component Sales Inc., who will remain in the position until December 2024. Congratulations to all!

SOUTHWEST

Southwest ERA is pleased to announce the appointment of new officers for the 2022-2023 term. They are: Chairman of the Board: Jim Moore, Fralia Co. & Associates; President: Tobi Cornell, CPMR, Kruvand Associates Inc.; VP/Legal: Jim Olson, CPMR, Erickson Sales Inc.; VP/Education & Secretary: Byron Holloway, Fralia Co. & Associates, VP/Treasurer: Mike Boswell, Blair Electra Southwest; VP/Membership & Events Coordinator: Chris Hodge, Fralia Co. & Associates. Directors: Austin Area Coordinator: Rob Curtiss, Kruvand Associates Inc.; Houston Area Coordinator: Jeff May, Logix Sales & Marketing. The National Delegate, Jim Moore, Fralia Co. & Associates will remain in the position until December 2024. ■



ERA WATER COOLER
EVERY OTHER TUESDAY
@ 4 PM EDT

NO NEED TO REGISTER

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by Stanton B. Herzog, CPA
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Stanton B. Herzog, CPA, serves as ERA's accountant and is a regular contributor to The Representor. He is available to speak at chapter or group meetings on a variety of financial and tax-related topics. He also participates in Expert Access, the program that offers telephone consultations to ERA members.

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Changes in Meal Deductions and a Credit

The last year has not been exciting for most people, but Congress has done some tax things that are highly unusual, including running for their lives. To start with, there has been an interesting change to business meals. For years, the law changes have clamped down on the deduction – first clamping down on the three-martini lunch, then requiring more record keeping to justify the deduction, then cutting the deduction in half while eliminating “entertainment meals” completely. Now, we have a reversal. For the years 2021 and 2022, the IRS will allow a deduction of 100 percent instead of 50 percent for business meals – but not every business meal, only those which involve restaurants. Is McDonald's a restaurant for purposes of this deduction? The IRS says “yes” to any facility not owned by the employer that prepares food for instant eating. Vending machines, or a room full of vending machines, are not restaurants. It seems pretty clear that the IRS will allow meals that are picked up or delivered as well as eaten at the facility. This would stand to reason considering Covid restrictions seem to keep fluctuating regarding eating in restaurants.

It is important to keep in mind that the justification requirements have not changed. The names of the people at the meal, the name of the restaurant, a dated receipt and a brief explanation of the business purpose of the meal are still required. Also, you may need a new expense category in your chart of accounts for restaurant meals as contrasted with homemade and grocery store-bought meals, which would still be deductible, but only at 50 percent. The 100 percent deduction also applies to meals in travel and employee meetings.

While we digest all that (well, I couldn't resist), Congress has come up with a new tax credit called the Employee Retention Credit. It is a credit against payroll taxes, not income taxes. The big advantage of this law in contrast to other new credits, is that it escapes recapture; it need never be repaid. There are a

lot of rules. This credit was retroactive to Jan. 1, 2020, and runs through Dec. 31, 2021, but the rules for 2020 and 2021 are different. Starting with what is common to both years are the following rules:

An employer must qualify for this credit. My view is that there are 2½ ways to qualify:

1. If your operations were shut down by government fiat – either federal or state – due to COVID-19. A significant partial shutdown would also count (e.g., no restaurant seating; or hours of operation curtailed, say 11 a.m. to 3 p.m.).

2. If there was a significant reduction in gross receipts between the same quarter in the previous year. For 2020, it was 50 percent of the 2019 quarter; for 2021, it's less than 80 percent of the 2019 quarter, but alternatively the 2020 quarter could be used.

2.5. A company start-up in 2021 is presumed eligible since there is no history. But note, a successor business is not a start-up and has to use the income history of the predecessor.

Assuming a company qualifies, the credit is computed by a percentage of payroll:

3. For 2020, the limit for computation of the credit is \$10,000 per employee per year. The allowable limit is 50 percent of the employee's wage. Therefore, the employer can get a maximum annual credit against payroll taxes of \$5,000 per employee, usually hitting the maximum by the second or third quarter.

4. For 2021, the limit is \$10,000 per employee per quarter and the allowable employee's wage is 70 percent, or \$7,000 per quarter for a maximum credit of \$28,000 per year. Some employees might not make the maximum.

Remember in all of this, this is a quarter-by-quarter assessment, so not all quarters may qualify. No double-dipping is allowed. If you obtained any of the other payroll credits you can't claim this one, and vice-versa. Also, PPP money will be disqualifying if used to pay salaries. ■

ERA ANNOUNCES CONFERENCE BREAKOUT SESSIONS

ERA announced 15 Breakout Sessions lined up for the 2022 ERA Conference, scheduled for Feb. 27 – Mar. 1, at the AT&T Center in Austin, Texas. Over the past nine months, volunteers on the Breakout Sessions Sub-Committee have been working diligently to develop these 15 sessions for the upcoming conference. For detailed information about the breakout sessions and the upcoming conference, please visit: <https://era.org/era-events/era-conference/>.

IN MEMORIAM OF HERB KRAMER AND BERT AARON

ERA is mourning the loss of Herb Kramer and Bertrand Aaron.

Herb Kramer passed away in December 2021. He retired from MicroSales, of which he was the owner, in 2006. Kramer held several positions in the Ohio chapter of ERA, including president, and was awarded ERA lifetime membership in 2005.

Bert Aaron passed away in December 2021 and would have been 100 years old in January 2022. Aaron was the owner of Aaron Technical Consultants, Chesapeake chapter, and owner of Bertram D. Aaron & Co. Inc., New York chapter. Aaron was awarded ERA lifetime membership in 2003. Aaron led a passionate life and illustrious career. Among many other accomplishments, he attained the rank of captain in the U.S. Army in the Pacific during World War II, which led to a position as aeronautical research scientist at NASA and then as an engineer for the U.S. Army Signal Corps where he received the Commanders Medal. Having lost two wives to breast cancer, Aaron organized and chaired the first Virginia Breast Cancer Foundation Symposium on state-of-the-art medicine for breast cancer diagnosis and treatment.

INTEL TO INVEST IN CHIP FACTORIES AND EDUCATION/RESEARCH IN OHIO

Intel announced at the end of January that it would invest \$20 billion for the construction of two new semiconductor factories in Licking County, Ohio, just outside of Columbus. It is hoped the new facilities will aid in meeting surging demand for semiconductors. In addition to the construction investment, Intel pledged an additional \$100 million toward partnerships with educational institutions to strengthen research programs and enhance the workforce and talent pool in the region.

EDS SUMMIT RETURNS IN MAY 2022

The EDS Leadership Summit is returning in-person in 2022 at the Mirage in Las Vegas from May 10 through May 13. The event is co-sponsored by ERA and the Electronic Components Industry Association (ECIA).

The Summit's goal is to provide a forum for manufacturers, representatives and distributors to plan, discuss new opportunities and set goals in an energized atmosphere. This happens through a combination of scheduled one-on-one meetings, educational programs and networking opportunities. For more information and to register, visit edssummit.com.

SEMICONDUCTOR MARKET NEWS

The global semiconductor market is projected to grow by 8.8 percent in 2022, to \$601 billion, driven by double-digit growth of the sensors and logic category, according to World Semiconductor Trade Statistics.

WHITE HOUSE WEIGHS IN ON SEMICONDUCTOR SHORTAGE

The Biden administration predicts that a global semiconductor shortage will persist until at least the second half of this year, Bloomberg News reported. Commerce Secretary Gina Raimondo said in January U.S. officials will investigate possible price gouging for chips used by auto and medical device manufacturers. Median inventory for semiconductors has fallen from 40 days to fewer than five days. The Biden administration is encouraging Congress to pass stalled legislation that would dedicate \$52 billion dollars to encourage semiconductor makers to build factories in the U.S. ■



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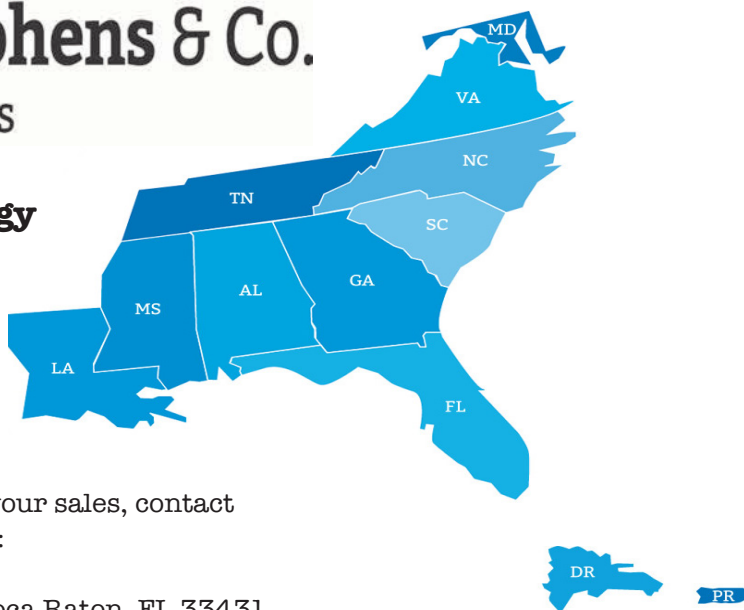
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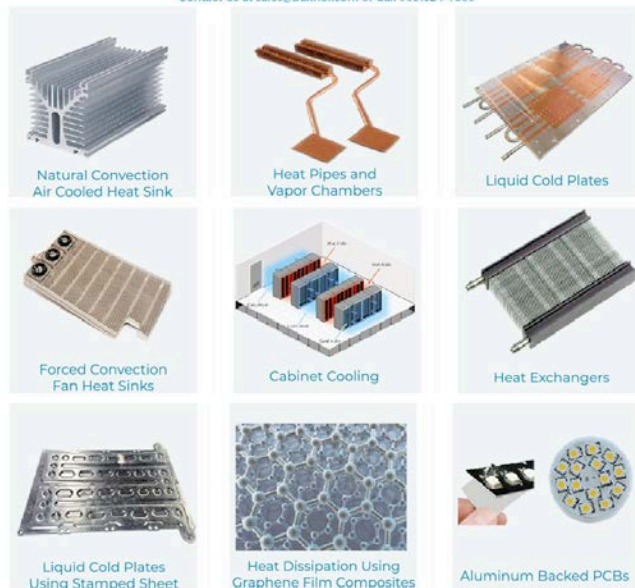
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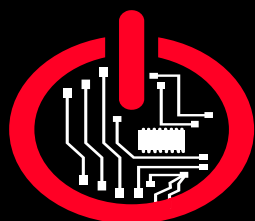
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1887

Emile Berliner receives the patent for the gramophone.

James Blyth builds the first electricity generating wind turbine.

Herman Hollerith receives a U.S. patent for his punch-card calculator.

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