



News & Views

ASSOCIATION OF INDEPENDENT MANUFACTURERS'/REPRESENTATIVES, INC.

Where Rep Professionals Come to Succeed

Winter 2013

President's Update

This is my first column as your new AIM/R President, and I want to thank the AIM/R Board of Directors and membership for entrusting me with this responsibility. Burke Agency has been an active member of AIM/R, attending conferences and serving on various AIM/R boards and committees for almost 30 years. I have been the AIM/R Conference Chair twice, most recently in Boston (2012), and Burke Agency has represented independent reps on ASA committees, rep councils, and the Ferguson rep advisory board. Like many members, it is easy for me to quantify our return on this investment in AIM/R — it has simply been enormous. I look forward to serving as your President for 2013-2014.

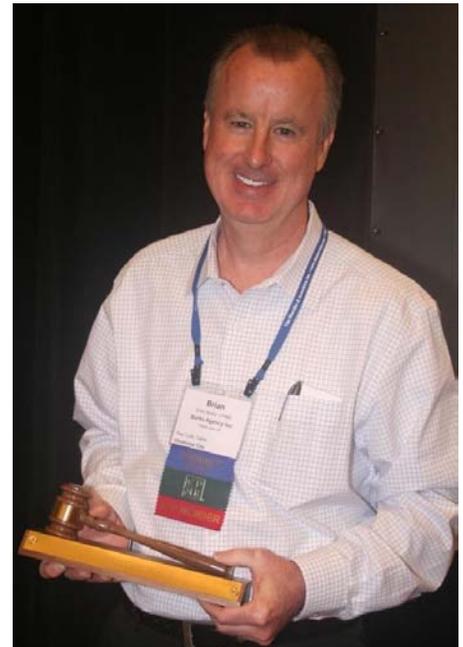
I have management experience that will serve me well as your new President. My grade school teachers recognized leadership potential very early, and put me in charge of managing critical class functions. I was thrust into a Six Sigma boot camp in 3rd Grade (measure, analyze, control, and improve eraser cleaning), project management in 5th Grade (head mimeograph operator), and supply chain officer in Junior High (monthly pencil distribution.)

After reviewing my transcripts, my high school college counselor felt that I should plan on taking showers after work, not before...as a PHCP industry rep, I'll admit that he was close.

In any event, the first column from a new President is always about goals for the next 12 months. I have outlined two in particular below, (1) hiring and transitioning to a new AIM/R trade association management company and (2) enhancing AIM/R's ability to advocate on behalf of AIM/R members and our independent rep agency business model.

New Trade Association Management

Our primary goal for 2014 is to hire and onboard a new trade association management company. AIM/R employs a professional trade association management firm to run the day to day operations of our group. This outside firm provides AIM/R an office and phone number, an Executive Director, accounting services, marketing, conference planning, and other functions. The transition to a new management is like buying a company and quickly merging it into your organization — integrating



Brian Burke, President

new people, company culture, computers, accounting systems, and more.

Our current management company is Manufacturers' Agents National Association (MANA). Many of you are familiar with MANA, the umbrella trade association for reps in all industries (www.manaonline.org.) You may not be aware that MANA also manages other rep organizations like AIM/R.

President's Update continues on page 2

In This Issue

2013 Albuquerque AIM/R Conference	4
I'm Already Psyched Up!	5
Are You Using Your Resources?	6
Canadian Connection	7
Half Of Being Smart... ..	8
When Is A Rep Not A Rep? When It Is A "Buy-Sell" Rep	10

President's Update – continued from page 1

However, the MANA board has decided to exit the trade association management business at the end of 2013. We appreciate all that MANA has done for AIM/R over the many years of our affiliation.

To create an RFP for a new management company, your board solicited input on what would define the ideal management firm for AIM/R. Many of our Past Presidents contributed, as well as various rep organizations such as ERA, PTRA, MRERF, industry consultants, legal counsel, other rep association Executive Directors, and of course our members. These discussions helped AIM/R craft our ideal new management company profile. Not surprisingly, this RFP forms the basis of our short and long term trade association goals:

- Advocacy for AIM/R Reps in the PHCP Industry
- AIM/R Member Benefit – the “24/7/365” Value Proposition
- Annual Conference that focuses on Relevant Education & Peer Networking
- Financial Stewardship
- Membership Growth

We have received tremendous interest from trade association management companies that want to work with AIM/R. Watch for more details on the hiring and our transition plan as we head into 2014.

Advocacy for AIM/R Reps in the PHCP Industry

Of the five goals listed above, I believe our most important long-term goal is advocacy. The balance of our goals can be easily met, if we achieve this primary AIM/R objective and create a strong foundation for our association. Allow me to explain why I believe this is true.

How many times have you attempted to explain what you do for a living to someone you met at a party? It isn't

always easy for people to understand what an “*outsourced sales professional*” really is. In reality, many of our industry partners, the people we talk to every day at work, don't fully understand our independent rep business model. For instance, are commission dollars equal to your rep agency “revenue?” Or is commission equal to “compensation” paid to the employees at your rep firm? Many distributors would incorrectly assume commission is equal to compensation. (Who needs money for cars, computers, or health insurance?)

I believe it is safe to say that our business model, how reps add value and how we are compensated, is not always fully understood by our PHCP industry partners – including manufacturers, distributors, contractors, and designers. And this lack of clarity can inflict serious damage to our rep business model if allowed to go unchecked. Example? Many years ago, a distributor buying group pitched prospective manufacturers like this: it is easy to provide the buying group the financial incentive they desired – the first step is to reduce the rep commission by “just” 1%. Is a commission adjustment from 5% to 4% equal to a 1% decrease...or is it a 20% cut? Reps instinctively know the answer to this question – but do our industry partners?

Commission does not equal compensation. And a 1% cut in the commission rate typically equals a severe double-digit hit to our revenue. Misconceptions like these are why AIM/R's primary goal must be advocacy. AIM/R must effectively describe all the value-added services reps provide, and make certain our PHCP industry partners understand our independent manufacturers' representative business model. This includes obvious functions like outside sales, customer service, and critical product training. However, it also includes creating demand for

our products (engineer and contractor calls), in field product service, warranty administration, warehousing, data entry, and our regular “no-charge” consulting gigs...strategic planning, forecasting demand, street level intelligence reports on competitors, and product development assistance for our principals.

Our AIM/R trade association advocacy will come in many forms, including advertising and education. The best advocacy programs actively engage our business partners. Great examples include inviting manufacturers to our annual conference, the “Manufacturers Advisory Committee” meetings at trade shows, and our active involvement in the ASA. However, the most important advocates are you and your employees. Every AIM/R member must be able to clearly describe our business model and how we add value – even to a sometimes skeptical listener (“*You guys just play golf!*”)

How can you help? Sure, we all want you to come to the annual AIM/R conference. The educational opportunities are a terrific investment of your time and resources. And yes, tell your rep peers and manufacturers why belonging to AIM/R has made you a better rep...and made you a lot of money too. However, the **BEST** way you can help is to **become an advocate for reps**. Make sure you and your team clearly understand our rep value proposition and can defend it every day in the market. An actively engaged AIM/R member is an advocate for the rep profession.

Have a great holiday season, and I wish you a prosperous 2014!

Brian W. Burke
AIM/R President
Burke Agency Inc.
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248-669-2800 x615

Chairman's Update

It's hard to believe a year has passed since the conference in Boston and my year as President with it. After many discussions at this year's conference in Albuquerque and the time to reflect on them, I thought I would say a few words about AIM/R and where we have been and where we are going.

It should come as no surprise to anyone that the last 5 years in our industry have certainly been difficult. Along with the speed bumps in our business world we have certainly had our speed bumps as well at AIM/R. Our own businesses were not the only things hurt by budget cuts. MANA too has had their own challenges and this all came to a head with their decision to exit the Association Management business. I am sure the factors leading up to this decision were many, the least of which was a drop in personnel that helped service AIM/R. We are now challenged with starting the next chapter in the storied history of AIM/R by finding a new Association Management Company. It is important that the entire membership knows and understands this is a project that the BOD has been working on since we first received notice that MANA was exiting this business. We have had proposals put forth by a number of companies which does include one from our own Doug Bower and his new startup company. Finding a new Association Management Company is our number one priority at this time.

It is important for us all to understand at the end of the day it is not the As-

sociation Management Company we are partnered with that defines AIM/R. AIM/R has always been and always will be a board-driven organization. It is this entrepreneurial spirit that makes AIM/R a leader in our industry. It is this entrepreneurial spirit that motivates members to step up and want to help grow our organization. AIM/R needs the help and energy from its entire membership to continue in its quest to be the best and grow members. AIM/R needs all of us to be talking to our peers and asking them why they are not more involved. Next time you are at a customer golf outing, function or show make it a point to talk to one of your competitors and ask why they are not members of AIM/R.

Another topic that has come up the last few years at the conference is the idea of partnering with ASA every few years for a combined conference. I spoke very openly about this during our town hall meeting. This is certainly a topic that has created spirited discussion, but also one that needs to continue. As was brought up during this year's town hall meeting, this subject is a lot like the first time we discussed manufacturers coming to our conference. I agree with the analogy and it was also suggested we put together a white paper on the topic so that at next year's conference we can make a decision on this topic. I also agree with this suggestion and the board will put this together. It was said on more than one occasion while the manufacturers were in attendance, that the role of agents has risen greatly

in the supply chain. In one manufacturer's eyes, the rep is the key number one component in the supply chain. Remember that nothing happens unless something gets sold. We need to be part of the industry's largest gathering of suppliers and manufacturers and we need to be part of it as a partner not just as a participant. By partnering with ASA every few years this can be accomplished.

Lastly, the BOD will be sitting down in February of 2014 to have our strategic planning meeting. I am calling on all of you as members to give us your feedback and input on where you want to see AIM/R going in the future. We both want, and need your input. This is OUR organization, not the BOD's organization. I can't promise we can accomplish everything you want out of one meeting, but I do promise we will look at and talk about any and all input we receive from the membership. The future is certainly bright for both AIM/R and our industry and we need your help. Enclosed below is my email for any questions, comments or ideas.

Thanks and Good Selling to all.

Alan Guidish
AIM/R Chairman
Preferred Sales Inc.
guidisha@preferredsales.com



Alan Guidish
Chairman

Vision

AIM/R will promote and improve the rep function through education, networking, communication and leadership.

Mission

AIM/R is the premier national trade association where rep professionals go to succeed in the plumbing, HVAC/R, Kitchen and Bath, waterworks, and related industries.

2013 Albuquerque AIM/R Conference



Steve Fleming
Senior VP
2013 Conference

As your 2013 Conference Chair, I have had the opportunity to reflect on the conference. The conference venue was fantastic. The Tamaya Resort overall did a fantastic job. The membership support and the manufacturers support turned out to exceed my expectations. Thank you to all that attended the conference. I sincerely hope that you all took something away that will be beneficial. On a personal note, being a part of AIM/R and having the opportunity to work together with so many dedicated people has been a highlight of my career.

As many of you know, one of our goals in putting the conference together and bringing our membership together is to put a value-added proposition that will keep people coming to the conference and bring new membership to the organization. Our recent conference brought out some great highlights. The Rep/Manufacturer Rep Café, our Rep to Rep Café, Tim Schoeneckers' "The Perfect Rep," and our selection of speakers, Roger Balzer, Rick Farrell and our keynote speaker Brian Beaulieu, all did a fantastic job.

When a conference attendee gets a "take away" from the conference that truly helps his business, or saves some money by doing something different, that is what keeps our membership strong and coming back to the conference year after year. One of our board members, and the 2014 Conference Chair (Stew Chaffee) paid for the conference, his wife's attendance and one of his employee's attendance, by making a change in his insurance coverage, that came out in the Rep to Rep networking Rep Café.

For all of my colleagues and the manufacturers that attended the 2013 conference, I hope you all had at least one "Take Away."

We did have a negative — we ran out of rooms at the Tamaya Resort. We did make an effort to make Lemonade from the Lemons. For those that made the extra effort to stay offsite, we thank you.

The AIM/R Board of Directors is making continued efforts to listen to the membership, and make modifications to the conference that will be beneficial to conference attendees and to the membership.

For the Independent Manufacturers' Representatives that are not currently a part of AIM/R, please consider joining and attending the 2014 conference. Many manufacturers are endorsing AIM/R and truly believe that AIM/R Reps do have the desire to constantly hone their skills, develop best practices and are committed to be the very best we can be.

The 2014 Conference Chair is Stew Chaffee. I know the experience he will have in putting the 2014 conference together will be as a rewarding of an experience as I had in putting the Albuquerque Conference together. Please reserve your spot now.

Thanks and see you next year.

Steve Fleming
AIM/R President-Elect
2013 AIM R Conference Chair
Reid Pacific Co.



AIM/R — your route to success

I'm Already Psyched Up!

We have ridden off into the sunset, like the western heroes do, back from Albuquerque, NM to our homes and offices. It would be very easy to get caught up in all the daily buzz of activity associated with our businesses, and put off reading our notes from the conference, and taking action on what was important enough to write down at the time. That's exactly what I did last night: sat down and reviewed all of my notes, and tried to decipher my scribble. That's when I got psyched up again. Steve Fleming's Rt. 66 AIM/R — Route To Success conference is going to help me be more profitable in 2014 and beyond.

Brian Beaulieu's economic forecasting was an invaluable look forward into the upcoming years and how we should prepare. His firm's track record is in the 95%+ accuracy range, so what they say happens more than 9 out of 10 times. Just his 90% probability prediction of what the stock market will do in 2014 could save me oodles. I'm too old to be losing oodles any more. I've taken action. Back that up with Roger Balser's program "Why Some People Almost Always Make Money in the Stock Market." He described my broker to the tee, so I called Roger. I'm not too old to make oodles in the stock market.

Couple that with what those two taught us along with the other speakers, and all of the vendor sponsors showing what the latest in software can do to help us and it's an awful lot to digest. This is one reason why I don't do it alone. I reward our CPMR grads by bringing them and their significant others to the conference. Just one of our company perks.

Not every speaker or vendor can meet all of the attendee's needs or desires. We just may not be in the market for what our vendors are offering to us at the time. This can't be said about the Rep Café forum, because the topic of need is yours. For those of you who

haven't attended a conference recently, I'll give you a peek under the hood of what your peers around the country are doing. Oh yes, your competitors are doing it as well.

Rep Café is a program where we are placed in groups of 8-10, primarily with reps from markets other than your own. This round table becomes your personal consultants to help you solve any problem or opportunity you may be struggling with in your business. My group, nicknamed Sante Fe, had a combined industry experience of over 150 years and was absolutely awesome with their candid answers and openness in sharing information and experiences to help solve the problems on the table. In fact, our Santa Fe group committed to keep the forum open all year to help one another, so this isn't a "one and done" gig. This is where the power of the "conference" comes into play.

Hopefully you're psyched up by now as well. So where will we be gathering for our 2014 conference you ask? The Resort at Squaw Creek in the Lake Tahoe Region, home of the 1960 Winter Olympics! Yes, we too will be "Going For The Gold!" The conference dates are Sept. 29 through Oct 1st. The final details are being worked out, but for now I encourage you to visit their web-site at www.squawcreek.com to see this fabulous resort. So block out your calendar. This will be one you don't want to miss.

Stew Chaffee
AIM/R Senior VP
Conference Chair 2014
Rich — Tomkins Co., Inc.



Stew Chaffee
Senior VP
2014 Conference



Resort at Squaw Creek

Are You Using Your Resources?



Stew Chaffee
Senior VP
2014 Conference

Sometimes we get so wrapped up in the day to day activities of running our businesses and growing sales for our clients that we can forget about some of the resources available to help us become better representatives. I confess, I'm guilty as charged, hence the penning of this article to share with you what tools you have at your disposal.

The Manufacturers' Representative Educational Research Foundation (MRERF) is a charitable, education foundation sponsored by manufacturers' representatives from various industries. The MRERF Education Program provides educational opportunities through certification, sales training, and continuing education programs. One of the most popular courses taken by our members is the Certified Professional Manufacturers' Representative (CPMR). You'll see the proud graduates wearing their green ribbon on their name badges at our AIM/R conferences. Some of the adjectives describing the program from recent grads are "outstanding, dynamic, engaging, thought provoking and eye opening." This course is ideal for anyone involved in the management of a rep agency or those who are being groomed to assume more responsibil-

ity. Our company has just enrolled our third employee to embark on this certification program. The first two brought back many useful ideas which we have implemented. I'm confident Paul will do the same for us. The next CPMR program runs from January 6-10, 2014. To learn more about CPMR or the other programs available from MRERF, visit their website at www.mrerf.org.

Good fortune has enabled our agency to hire several newbies to our team this past year. Then I was faced with the realization that these youngsters didn't know the difference between a water heater and a water closet. This is a problem because we sell both. During this time I also had the good fortune to participate on my first ASA Education Foundation Board of Trustees meeting. The Board consists of twelve distributors, five manufacturers, one Buying Group Executive, several ASA administrators, and me representing AIM/R. The Foundation develops, promotes, and delivers training programs on virtually every topic imaginable in our industry.

This was a rather eye opening experience for me on several levels. First being in the room with the Who's Who from our industry brain storming together about the future educational needs of our industry and how to deliver it to the people who need it. I assure you that this brain trust would have resolved our government shut down in hours,

recant, this brain trust never would have allowed a government shutdown to occur. This is a get it done group, dedicated to the future of our industry.

The second eye opening moment was the scope and depth of the educational material already available of which we have never taken advantage. Not sure why we hadn't, we were one of the charter contributors to the Foundation, so we knew it was out there. It may be safe to say there are many of our AIM/R members who also made contributions to get the Foundation launched yet haven't benefited from the great work the previous Foundation Trustees have created.

Suffice it to say, I have found the training needed for our newbies to get ramped up more quickly, and we also have some of our oldbies brushing up on some courses. Bottom line, these courses aren't just for distributors, we as manufacturers' representatives can benefit as well. You can visit www.asa.net/store to view all of the courses offered, and to discover how you and your agency can benefit.

A special thanks to all of the previous ASAEF trustees who worked so hard developing this resource for the benefit of all of us.

Stew Chaffee
AIM/R Senior VP
Conference Chair 2014
Rich — Tomkins Co., Inc.

CSP is Enrolling Now For 2014

Finally, a seminar your sales force will be glad they attended! Three days of instruction, interaction and role-play will energize attendees and increase their productivity and profitability. After the written and verbal exams, successful graduates will thoroughly understand consultative selling and be able to do it, too!

CSP (Certified Sales Professional) complements the CPMR designation nicely.

For details call Sales Certification Headquarters at MRERF 303-463-1801 or visit www.mrerf.org

Canadian Connection



Brian Morgan
Director

As the sun set on Saturday, September 28th into the Albuquerque horizon, it marked the end of another successful AIM/R Conference. There was a group amongst the crowd that began the journey home to the Great White North. This past conference was attended by four individuals from three organizations from Canada. Robert Parkinson returned and brought Ryan Bristow for his first conference, from Equipco Sales based out of Vancouver, BC. Andy Gallagher from E.S. Gallagher, also a first timer, and myself made the trip from Toronto, Ontario.

Collectively we would agree that this was time well spent with our American friends.

The issues, successes and challenges faced by our profession as Reps are similar across North America and the opportunity to learn and share from each other is invaluable. The exposure for AIM/R within the Canadian borders has been limited; however, the Board has taken measures to grow membership north of the border. Robert Parkinson and I have been asked and accepted positions as Directors. Over the next 12 months as we approach the next conference, we will be working with the AIM/R Board to grow the annual participation from Canada.

We need your help! Over the next few months, all of us will be attending sales meetings with your manufacturers and industry events where participants will include many neighbours from the North. Please encourage them to join us at the next conference in Lake Tahoe. As fellow Reps, we can continue to learn from each other to make a stronger North American Association.

Some interesting parting facts about Canada, even a couple from a plumbing and heating perspective:

- 20% of the world's drinking water is in Canada.
- If you ever dreamed of an aquatic bath tub race — head to Nanaimo, BC, it is an annual event.
- Top five world's producers of gold, copper, zinc, nickel, aluminum, and natural gas.
- Canada produces so much energy, that it provides it to the U.S. too.
- The border between Canada and the United States is officially known as the International Boundary. At 5,525 miles, including 1,538 miles between Canada and Alaska, it is the world's longest border between two nations.
- **And no surprise** — 80% of all alcohol consumed by Canadians is beer!

See you in California!

Cheers
Brian Morgan
AIM/R Director
The Morgan Group

L.O.T. Leaders Of Tomorrow



Bill Horsman
L.O.T.
Representative

What is L.O.T. and what is its value to AIM/R? L.O.T. stands for Leaders of Tomorrow, and within AIM/R it is a program where today's regional sales manager, salespeople and sons or daughters of the owners of an agency get educated on how to be the future business leaders of tomorrow.

L.O.T. runs at the annual AIM/R conference with breakout and networking sections. The attendance for the L.O.T. section has grown by over 400% in the last four years and L.O.T. currently has close to 100 members — all future leaders looking to network and bounce ideas off each other. Any Sales Representative Agency who is not sending their succession plan to the L.O.T., is serving an injustice to themselves, their successors, their agency and manufacturers.

Thank you,
Bill Horsman
AIM/R L.O.T Representative
Focus Sales

Golfing at Squaw Creek



Half Of Being Smart...



Tim Morales
Senior VP
Membership

Like many others, I joined AIM/R years ago simply to attend the Golden Eagle banquet. The Golden Eagle banquet, then held each year at the American Supply Association convention, was a place to see and be seen. It was a couple hours of food and drink with the industries top factory executives and rep firms; a soiree culminating in the recognition of AIM/R's Golden Eagle Award winner recognizing a factory executive who most typified the ideal agency client.

Well, even for me, it didn't take too many Golden Eagle banquets (or Crown on the rocks) to recognize the amazing amount of knowledge and unique industry experience gathered in those

banquet halls. Year after year, I began to attend the AIM/R Annual Conferences. Admittedly, each year saying to myself, "I don't have time for this" and "the monies would be better spent elsewhere" only to leave every conference saying, "Damn, I'm glad I went." I learn so much from my fellow reps.

I often tell my coworkers that if you and I were engineering students and I get a 99 on a final exam and you get a 98... "high fives" we both passed. In the real world of a manufacturer's representative, I get the order and you get nothing. That's the cold hard truth; that's the reality of the world in which we compete.

I am an AIM/R member for one reason: it makes our Agency better. The industry's top manufacturers also recognize the value and the "edge" that AIM/R brings to their representatives. They

show their support with their money and their presence at our Annual Conferences. This year's gold sponsors included Bradford White, Delta Faucets, Rheem Water Heating and TOTO USA.

It was Trammel Crowe (at one time the richest man in Texas) who was quoted as saying "half of being smart is knowing what you're dumb at." For some of us, that list is very long. AIM/R is where you go to scratch things off that list.

So whether you are the largest rep in your market, or the smallest; the largest manufacturer in your category, or an up and coming force; AIM/R can and will make a difference. If Trammel Crowe were a rep today, he would surely say, "Half of being smart is joining AIM/R."

Regards,
Tim Morales
AIM/R Senior VP Membership
Tim Morales & Associates, Inc.

AIM/R Manufacturer Members

AIM/R agency members are encouraged to urge all of their principals to become associate members. Take a look and see if all of your principals are here. If not, urge them to join!

AIM METALS & ALLOYS, LP
ANVIL INTERNATIONAL, INC.
APOLLO VALVES
ASHLAND PUMP
BASCO MANUFACTURING CO.
BEMIS / CHURCH SEATS
BRADFORD WHITE CORP.
CHICAGO FAUCETS
CIMBERIO VALVE CO., INC.
CONTINENTAL INDUSTRIES, INC.
DAHL BROTHERS CANADA LTD.
DANZE, INC.
DELTA FAUCET CO.
DURATRAC PRODUCTS
ESCO
FALCON STAINLESS, INC.
GERBER PLUMBING FIXTURES, LLC
GRAND HALL USA
DIV. ETERNAL WATER HEATERS

HAILIANG AMERICA CORP.
HERITAGE PLASTICS, INC.
IPS CORP.
JACUZZI LUXURY BATH
KROWNE METAL CORP.
LEGEND VALVE & FITTINGS, INC.
LIBERTY PUMPS
LKG PRODUCTS, LLC
MEGAPRO MARKETING USA, INC.
METALLICS
NEOPERL, INC.
NOBLE CO.
NOMACO INSULATION
OATEY SUPPLY CHAIN SERVICES
OMEGAFLEX
RED-WHITE VALVE CORP.
REED MANUFACTURING CO., INC.
RELIANCE WORLDWIDE / CASH ACME

RHEEM WATER HEATING
ROYAL BUILDING PRODUCTS /
PLASTIC TRENDS
SERENITY WALK IN BATHTUBS
T & S BRASS & BRONZE WORKS, INC.
THE KEENEY MFG. CO.
TOPP INDUSTRIES, INC.
TOTO USA, INC.
ULTRA FAUCETS
UPONOR, INC.
VAUGHN THERMAL CORP.
VICTOR TECHNOLOGIES
WALRAVEN, INC.
WARD MANUFACTURING
WATTS
WORTHINGTON CYLINDERS
ZOELLER PUMP CO.

Welcome New AIM/R Members!

We are pleased to welcome the following rep firms that have joined AIM/R in 2013.

BANKS & HEAD AGENCY, INC.

Richard Banks
Anniston, AL
(256) 235-9000
www.bankshead.com

BOBIER SALES

Frank Vesce
Phoenix, AZ
(602) 304-0001
www.bobiersales.com

DSC PACIFIC, LLC

Lee Davis
San Jose, CA
(408) 626-7892
www.dscpacific.com

DELLON SALES

David Dellon
Albertson, NY
(516) 625-2626
www.dellonsales.com

DYNATECH CONTROL SOLUTIONS, INC.

Carl Mende
Amherst, NY
(716) 877-7180
www.dynateches.com

ELMCO & ASSOCS.

Kirk Kleinen
Sacramento, CA
(916) 383-0110
www.elmcoassoc.com

E.S. GALLAGHER SALES, LTD.

Andrew Gallagher
Toronto, ON Canada
(416) 789-5385

FLO-SPEC, INC.

David Tahmassebi
Verona, OH
(937) 321-7237
www.flo-spec.com

G & S SALES, INC.

Clay Smith
Salt Lake City, UT
(801) 972-0659
www.gandssales.com

GREEN PROPERTY CONCEPTS

J.C. Kootnekoff
Portland, OR
(503) 407-7702
www.greenpropertyconcepts.com

JOHNSON & WHITE SALES CO., INC.

Dustin Johnson
Olathe, KS
(913) 390-9808
www.jandwsales.com

KA SALES ASSOCS.

Kevin Lutz
Overland Park, KS
(913) 515-7456
www.kasales.net

PHILIP J. LYNCH CO.

Chad Martin
Salem, NH
(603) 458-6100

MARATHON FLOW CONTROL

William Clay
Grand Prairie, TX
(214) 201-0100
www.marathonflowcontrol.com

MISSION SPECIALTY

John Berra
Chesterfield, MO
(636) 530-1992
www.missionspecialty.com

MORLEY ASSOCS., INC.

Christopher Morley
Branford, CT
(203) 488-8944

MULLEN CORP.

Eric Lewis
St. Petersburg, FL
(727) 527-7138
www.mullencorporation.com

NOVA PLUMBING TECHNOLOGIES

John Martineau
Boca Raton, FL
(561) 910-1498
www.novaplumbingtechnologies.com

ONE SOURCE MANUFACTURER'S REPRESENTATIVES, INC.

Jack Block
Elmhurst, IL
(630) 516-3900
www.onesourcecmfgreps.com

PARAGON SALES & MARKETING

Matt Shearman
Omaha, NE
(402) 393-7590
www.paragonsalesandmarketing.com

PRO MARKETING, INC.

Danny Cash
Spartanburg, SC
(864) 578-4334
www.promarketinginc.net

RV / KINCAIDE & ASSOCS., INC.

Timothy Kincaide
Benicia, CA
(707) 745-3655
www.rv-k.com

S&S MARKETING, INC.

Steve Ambroso
Arlington, TX
(817) 226-5644

SUMMIT SALES, INC.

Darcy Mullen
Olathe, KS
(913) 791-9599
www.summitsalesinc.com

TWIN & ASSOCS.

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When Is A Rep Not A Rep? When It Is A “Buy-Sell” Rep



Daniel E. Beederman
AIM/R's Legal Counsel

Of the many programs at AIM/R's Annual Conferences, the one that I most enjoy is speaking to AIM/R's "LOT" members. These "Leaders of Tomorrow" are truly the life-blood and future of AIM/R, your industry, and of their respective compa-

nies. While last year's LOT program at the Boston Opera House was well-attended, at this year's Conference, the meeting room was filled to capacity with LOT members (as well as a few veteran "Leaders of Today") who were there to listen to three presentations and to meet and confer with each other. AIM/R Board member Bill Horsman (Focus Sales, LLC), Chairperson of LOT, and the entire LOT Committee are to be congratulated not only for the success of this year's program, but also for the incredible growth that LOT has had over the past few years. If your company's "Leader of Tomorrow" does not already attend AIM/R's Annual Conferences, he or she should.

The goal of my presentation, titled "*Planning for Your Future*," was to make LOT members aware that to be a successful independent sales representative, not only do they have to be a great salesperson, but they also need to be an even better business person. I told them that as a professional in the business of selling, the scope of a Sales Rep's vision should not just be on making the next sale, but also on

long-term planning for their professional future. As such, during my presentation, I emphasized the need for all Reps to continue to educate themselves throughout their career in all aspects of their business and industry by attending conferences, by becoming a Certified Professional Manufacturer's Representative ("CPMR"), and by understanding the many essential business and legal issues that they will confront in the operation of a successful business.

One of the questions I posed during my presentation was "When is a Rep not a Rep?" The answer, of course, is when a Rep is acting as a distributor that buys and re-sells goods for profit, not for commission. I explained that a "Buy-Sell Rep" wears two hats. In legal terms, it is both a "vendee" that purchases products from its suppliers, as well as a "vendor" selling those same products to its own customers. Accordingly, Buy-Sell Reps have concerns and issues that commission-only Reps don't encounter, such as inventory financing, warehousing, product warranty, product liability and credit and collection issues. Moreover, a Buy-Sell Rep not only needs to have (and use) its own commercial forms (i.e. Requests For Quotation, Purchase Orders, Supply Agreements, Acknowledgments, Invoices), it also needs to scrutinize the commercial forms it receives from both its customers and suppliers, for the terms found in those forms can be the basis of the parties' legal relationship with each other. Thus, no matter how small the boilerplate print may be, it is imperative to read and fully understand

the terms of each form, before either accepting or placing an order. If not, a Buy-Sell Rep could unknowingly find itself subject to contractually binding terms that are adverse to its business interest — such as limitation of liability or damages, being obligated to litigate disputes in another jurisdiction, being responsible for consequential and incidental damages and the like.

At the LOT meeting I explained that courts often are called upon to determine what terms control a transaction by reviewing and interpreting commercial forms that may contain conflicting terms. The resulting analysis is referred to as the "Battle of the Forms," and which, despite its name, is not a new reality television program. It arises when a buyer's purchase order contains terms that are contrary to those set forth in the seller's quotation. It can also happen when the terms in a seller's acknowledgment form differ from a buyer's purchase order. In such instances, a court must first determine whether a contract has been formed and then on what terms. Recognizing the commonplace use of commercial forms that contain conflicting terms, the drafters of Article 2 of the Uniform Commercial Code (the "UCC"), a statute that has been adopted by all states, sought to devise a solution to this "Battle of the Forms."

The UCC provides that if the parties exchange documents demonstrating that they intend to enter into a contract, differences in standard terms of such documents won't prevent the formation of a contract. Although this UCC rule preserves the parties' intent to enter into a contract, it creates the sometimes difficult task of figuring out the exact terms of the contract which has been formed.

Since the standard terms of each

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Ed Moran of OmegaFlex Wins 2013 Golden Eagle Award

document will almost certainly differ, the UCC regards a term in the second document exchanged between the contracting parties as an “additional term” if it does not contradict a term in the first document. If a term in the second document contradicts a term in the first document, then it is a “different term.” In a typical case, additional or different terms in the second document (such as those found in a purchase order issued in response to a quotation) become part of the parties’ contract unless (i) the first document expressly limits acceptance to its terms, or (ii) the additional or different terms are material, or (iii) the initial document objects to additional or different terms. This would be the end of the issue, except that the other party’s first document likely also contains language limiting the terms of the parties’ contract to the terms expressed in its own commercial form, and which also expressly rejects the terms proposed by the other parties’ form. In such cases, the UCC provides that a contract is still formed based on the terms on which the parties agree, together with certain “gap-filling” terms contained in the UCC. These gap-filling terms are terms that reasonable parties would consider to be commercially acceptable terms.

Therefore, if a Buy-Sell Rep fails to maintain the content of its own commercial forms, it could inadvertently (negligently) allow a transaction to be subject to the terms of the other party’s form. Obviously, if all goes well in the transaction, there will be no problem. However, since that is not always the case, to avoid becoming a casualty in the Battle of the Forms, a Buy-Sell Rep (and indeed anyone who sells goods) needs to monitor both the content of its commercial forms and, if necessary, reject any objectionable terms found in the commercial forms it receives from its suppliers and customers.



Rick Root
Senior VP
Industry & PR

It is really quite daunting to imagine another year has gone by since our last AIM/R annual conference held in Boston last year. Seriously, where on earth does the time go? This year’s event, held in the beautiful surroundings of Albuquerque, New Mexico at the Hyatt Regency Tamaya Resort, will be just another subject line in the very short year to come, but one thing that won’t be just another subject line will be part of the reason we are there — just like many years prior to this one, AIM/R is very proud to give the prestigious Golden Eagle Award to one very qualified and deserving individual in the manufacturing chain of our businesses.

The AIM/R Golden Eagle Award is voted on completely by the membership under the following criteria:

- The manufacturer works cooperatively and develops, as well as maintains, a positive working relationship with representatives.
- The manufacturer promotes the industry and has a positive influence on the industry by providing quality products, as well as quality assurance.
- The manufacturer provides efficient communication of information to their manufacturer’s representatives and assures they are kept up-to-date on the industry and their products.
- The manufacturer strives to facilitate the representative’s job through prompt filling of orders, prompt payment of commissions, provides fast factory support in the event of any issues or problems that may occur and works closely to insure customer satisfaction.
- The manufacturer utilizes Independent Manufacturers’ Representatives, is a supporter of AIM/R and participates on panels and industry events when invited.

This year’s award had the largest number of ballots submitted for consideration for meeting the previously mentioned criteria. We had over 20 separate nominations, and 9 of which were in attendance, 3 of which were past recipients of the award. This year also had the closest vote in history, with the top two separated by only 2 votes!

It was our pleasure along with our undying gratitude to award this year’s AIM/R Golden Eagle Award to an individual who not only met all of the awards criteria, but went above and beyond on all counts to Mr. Ed Moran of OmegaFlex.

Rick Root
AIM/R Senior VP Industry & PR
Bailey Sales & Assocs., Inc.



Ed Moran of OmegaFlex

AIM/R Members Subscribe To This CODE OF ETHICS

The Association of Independent Manufacturers' Representatives, Inc. is a trade association of multi-line, field sales professionals organized to:

- ❖ *Promote, protect and improve the multiple-line representative function and provide benefits and services to its members; and*
- ❖ *Create and foster a spirit of mutual respect and esteem among members and others within the industry and other industries; and*
- ❖ *Educate the industry and other industries as to the advantages of doing business through multiple-line, field sales professionals.*

In furtherance of these objectives, the Association develops and participates in programs and activities for multiple-line, field sales professionals designed to elevate ethical standards, improve business operations and provide more efficient service to principals, customers and the industry. To implement these goals, the members of AIM/R are expected to:

- ❖ *Represent only those lines they can effectively market and sell.*
- ❖ *Maintain a fiscally-stable firm.*
- ❖ *Operate a well-managed firm.*
- ❖ *Never degrade, malign or make false representations of a fellow representative.*

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