



Member's

## Corner

### Still . . . it's better than a slow boat

by Steve Grossman, CPMR  
Former IHRA President and Chairman

*(Please note: Steve Grossman is currently on his 3rd (or is it his 4th?) trip to China and is unable to provide us with his usual column. We thought it appropriate to rerun his column from one of his earlier trips.*

Well I made it up and back to China without any major hitches. I dreaded the thought of a 20 plus hour plane ride, but I must admit that with the 3 meals, multiple movies, naps, friendly conversation, and 3 books, the time moved along pretty well.

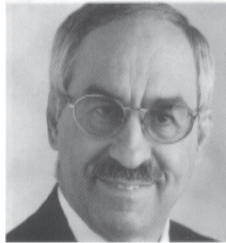
Hong Kong was my first stop. I networked before I left and I visited some trading companies based there. Then I headed off to the Housewares/Giftware/General Merchandise Show — the one cancelled during the height of SARS.

The trading companies are like us, they represent many manufacturers; many represent themselves as the factory. The show had many prime manufacturers, along with trading companies. Most of the attendance was Asians, Europeans, Australians, Indians, and some Americans.

It is somewhat like visiting a Housewares Show, but everything you see is not warehoused in the USA. You need to find a way to get it here, either by taking the risk yourself; working thru a trading company, or, a few times, the foreign manufacturer will shoulder the risk.

I would add that at times I have questioned the wisdom of foreigners trying to sell our market because they do not understand our system. Well I offer this advice to you, I would not assume how their system works either, and you need

*continued on page 3*



Gerald Newman

## Legally Speaking

### Compensating key employees with stock options

by Gerald M. Newman, IHRA Legal Counsel and Leonard Gambino, partners in the law firm of Schoenberg, Fisher, Newman & Rosenberg, Ltd

#### THE CHALLENGE:

Your long-time valuable employee has come to you asking that you give him/her some stock in the company as a reward for his/her many years of loyal service. For many owners of closely-held businesses, it seems only natural to seek to retain key employees by offering them some stock in the company. The issuance of stock to an employee as compensation for services, however, results in taxable income to the employee in an amount equal to the fair market value of the stock. If the employee pays less than the fair market value for the stock, the employee has taxable income in an amount equal to the difference between fair market value and the amount he paid. In either case, it is prudent from each party's point of view to perform an appraisal to determine fair market value. Depending on the nature of your business, hiring an appraiser can be a costly matter.

#### THE SENSIBLE SOLUTION:

**Issuing Stock Options.** A stock option gives an employee the right to acquire company stock at an agreed-upon price (the "strike price") for a certain period of time. The receipt of a stock option issued by a closely held company *does not* result in taxable income to the employee. A stock option in a closely held company can be useful because it allows the employee to exercise the option, acquire the stock, and pay any associated tax liability at such time as the plan allows. For example, the Stock Option Plan could provide that an employee can exercise the option only upon the employee's retirement, or only if the company is sold.

In the case of a non-qualified option, the employee will recognize ordinary income *upon the exercise of the option* in an amount equal to the excess of the fair market value of the stock over the strike price. This same amount is also fully deductible by the company as

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## Legally Speaking (from page 1)

an ordinary business expense in the year in which the employee exercises the option. The company is free to grant nonqualified options for any period of time and at any strike price.

Because the exercise of a non-qualified stock option is a taxable event for the employee, nonqualified options work well where the employee will exercise the option in connection with the sale of the company. The employee can exercise the option, acquire the stock, and then receive a pro rata share of the net proceeds from the sale of the company. If, on the other hand, a non-qualified stock option plan allows the employee to exercise the option upon his or her retirement, the plan should also provide that the company will redeem the stock acquired by the employee at the same time. The plan should also provide a method for valuing the employee's stock, as well as for paying this amount to the employee over time. By doing this, the employee gets a stream of income over time, and the company does not have a former employee as a minority stockholder.

In the case of a qualified option (commonly referred to as an Incentive Stock Option or "ISO"), the employee will recognize income only *upon the sale of the stock* which was acquired by the exercise of the option. Subject to the special tax known as the Alternative Minimum Tax, which applies in some situations, the income in this case would be equal to the excess of the net proceeds from the sale of the stock over the strike price, and provided that the employee held the option for more than one year before exercising it, this income would constitute longterm capital gain. Unlike nonqualified options, however, ISO's must meet the requirements of the tax code. For example, an ISO may not have a term of more than ten years and may not be issued with a strike price which is less than the fair market value of the stock (or in some cases 110% of the fair market value of the stock) at the time the option is issued. In addition, the company is never entitled to a deduction in connection with the grant or exercise of qualified options.

Unlike the employee who is issued actual stock in

the company, an employee who owns stock options will not have any of the rights of a stockholder in the company unless and until he or she exercises the option and acquires the stock. Under each state's corporate law, a stockholder in a closely held corporation has certain statutory rights and is owed certain fiduciary duties by the officers, directors, and other stockholders of the company. This can complicate both corporate governance and the ability of the majority owners to engage in certain types of transactions to the detriment of the minority stockholders. These issues can be appropriately avoided by the use of stock options.

**Using a Stock Appreciation Rights Plan.** A Stock Appreciation Rights Plan is simply a form of deferred compensation which bases the amount of the deferred compensation on the appreciation in the value of the company's stock. Such plans are designed to give employees some of the economic benefits associated with stock ownership without creating any adverse tax consequences associated with the receipt of actual stock as compensation for services. A Stock Appreciation Rights Plan benefits the company because it does not create any of the governance or fiduciary issues which arise if the employees receive actual stock. In addition, amounts paid to the employee under the plan are fully deductible by the company as an ordinary business expense in the year(s) in which they are made.

With a Stock Appreciation Rights Plan, the employee does not acquire actual stock in the company, nor even the right to acquire stock in the company. Instead, the employee is granted stock appreciation rights having a value which is tied to the value of the company's common stock.

In a typical Stock Appreciation Rights Plan, the employee will be granted stock appreciation rights having an initial value equal to the fair market value of the company's common stock as of the date such rights are granted. These rights will then be valued again upon the happening of certain future events (for example, the sale of the company or the retirement of the employee), and the employee will be entitled to receive deferred compensation equal to the appreciation

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*Gerry and partners participate in Expert Access, the program that offers telephone consultations to IHRA members. Contact them at (312) 648-2300; fax at (312) 648-1212; eMail: gerry.newman@sfnr.com and leonard.gambino@sfnr.com.*

**Grossman** (from page 1)

an experienced person to guide/work with you. American know-how is not enough to maneuver thru their maze.

Hong Kong is just different and not what I expected. I have never seen so many tall modern high-rises and many of them next to dilapidated buildings. All the buildings are zero lot lines since space is at a premium and the average home/apartment is 600 square feet. Since it was once part of Britain, they drive from the right side of the car and they drive on the left side of the road. My friends and I had to watch each other that we did not step out in the street without looking the wrong way—old habits are hard to break. Food is about the same cost. For those who do not like Asian food, there is KFC, Pizza Hut, and McDonalds. They have a great subway system that

is easy to use.

After 4 days in HK it was a 45-minute train ride to Shenzhen in Southern China. One needs to get a visa to travel into Mainland China. One needs to go thru both customs to leave HK and enter China. Mainland China has a different money system than HK and is usually about half the price. Space, like in HK, is at a premium and again I have never seen so many beautiful high-rises. This 20-year old city has 7 million people.

I then went to visit a few factories. Since many of the workers come from up north, most of the factories have dormitories for them. They work a 10-hour day and get Sundays off. You can now understand when Chinese New Year comes about in January, and all the workers go home, there is no one to run the factories for 4 weeks.

When you meet some of the owners of the factories, they all have cousins or family that own or run other factories,

so what ever you want they can supply it and sometimes it's true and sometimes not. Also, when in HK or Mainland China, expect to be entertained. It is part of the selling experience, and to not participate is to offend your host. I cannot imagine traveling without experienced people to support my efforts in finding new sources of supply.

I wish I had done this 10 years ago; it is the mother of all sources of supply. I expect to be there at least once a year if not more.

I have a few ideas on how we could use our rep network to benefit a lot of us. If I can put it together I will use our "Hot Line Service" to share a plan or two with you. If you have any questions feel free to email me, I will do my best to answer. **eMail me at Steman4@aol.com.**

*Here is a special bonus SENSIBLE SOLUTIONS article from our legal counsels at Schoenberg, Fisher, Newman & Rosenberg, Ltd.*

## **Are your employees taking your profits?**

### **THE CHALLENGE:**

You discover that a trusted employee has been stealing from your company. Indeed, small businesses are especially vulnerable to embezzlement and dishonest employees. Moreover, studies indicate that small businesses are not likely to survive the impact of such losses.

### **THE SENSIBLE SOLUTION:**

You can lessen the chances for loss by instituting the following polices and procedures to protect yourself:

- Establish checks and balances. Have different people open the mail, make deposits, process payables, and reconcile the checking account.
- Insist that all your employees take their vacation. A great deal can be learned when one is not there to cover their scheme.

- Determine if your bank can electronically provide you with daily detail regarding your account.
- Discuss your insurance policy with your broker or agent. Determine what is covered regarding employee dishonesty and what additional endorsements may be purchased. Most insurance companies require charges be filed with the police in order to be eligible for coverage. If you are not prepared to bring charges, purchasing insurance for theft is not a good investment.

Finally, routinely perform background checks as part of your hiring procedures.

*SENSIBLE SOLUTIONS is published by Schoenberg, Fisher, Newman & Rosenberg, Ltd., 222 South Riverside Plaza, Suite 2100, Chicago, Illinois 60606; Phone: 312-648-2300; Fax: 312-6481212; Please visit us online at [www.sfnr.com](http://www.sfnr.com)*

## MANUFACTURERS:

***Are you looking for well-qualified, performance-committed representatives?***  
**Use the no-charge “Manufacturer Seeking Representatives” service that will put you in touch with IHRA-member Field Sales Professionals to interview before, during and/or after the Las Vegas Gourmet & Hardware Shows**

### MANUFACTURER SEEKING REPRESENTATIVES

Fill out the following form and mail to IHRA or fax to **(312) 240-1005**. It must arrive no later than **May 7th!** We'll make this information available - **FREE** - to over 250 of the best representatives in the home, housewares and hardware industries two weeks before the Show! Just in time to schedule appointments during the Shows.

Products \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Seeking Reps  by State/Partial State (please indicate states);  All US;  All US, except;  Int'l

\_\_\_\_\_

Your Name \_\_\_\_\_

Company \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Phone \_\_\_\_\_ Fax \_\_\_\_\_

eMail \_\_\_\_\_

**Or tape business card in this area**

Yrs in Business \_\_\_\_\_ Gross Sales \_\_\_\_\_ Commission Rate % \_\_\_\_\_

Are you currently using reps in territory(s) listed? Yes  No  Some

Contact, if different from shown above: \_\_\_\_\_

Gourmet Show Booth # \_\_\_\_\_ Hardware Show Booth # \_\_\_\_\_

If you wish to interview during the Show, please indicate best time and location:



**INTERNATIONAL HOUSEWARES REPRESENTATIVES ASSOCIATION**

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This is an IHRA service to keep members advised of lines available. The listing of a manufacturer should in no way be construed as an endorsement of that line by IHRA, it being the obligation of each member to make their own evaluation of the line.

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The REReporter® is sent to more than 2,000 manufacturers each month. In addition, the REReporter® is posted on IHRA's website and receives hundreds of "hits" each week. What better place to get the exposure you need with the audience you want to reach?

Here are the details and costs:

Each IHRA member firm may place one ad, like the ones on the right, in a monthly edition of the IHRA REReporter®. All ads are the same size: 2 1/8" wide x 3" deep. Please send original artwork or use the space below to plan your ad (ads with color are acceptable): If you want us to produce your ad, please indicate copy:

**Size of ad**

**Costs for Member advertising in The REReporter®:**

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We want to contract for \_\_\_ ads in The REReporter®

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Name on Card \_\_\_\_\_

**Please fax to: 312-240-1005**

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**2005 INDUSTRY CALENDAR OF EVENTS****May**

May 4 - 6

FISPAL MIAMI

The Americas Food Market Place

Miami Beach, Florida

May 14 - 17

INT'L CONTEMPORARY FURNITURE FAIR (ICFF)

New York, New York

May 15 - 18

NATIONAL STATIONERY SHOW

New York, New York

May 17 - 19

LAS VEGAS GOURMET HOUSEWARES SHOW

Las Vegas, Nevada

May 17 - 19

NATIONAL HARDWARE SHOW WITH LAWN  
& GARDEN WORLD

Las Vegas, Nevada

May 17-19

OFF-PRICE HOME GOODS SHOW

Las Vegas, Nevada

May 23 - 25

KEHE SHOW

Chicago, IL

**June**

June 24 - 27

DALLAS INT'L GIFT &amp; HOME ACCESSORIES

Dallas, Texas

June 23 - 27

DALLAS HOLIDAY &amp; HOME EXPO (FORMERLY SILK)

Dallas, Texas

**July**

July 15 - 18

THE GIFT FAIR IN ATLANTA

Atlanta, Georgia

July 19 - 21

IFAM: INT'L FURNITURE &amp; ACCESSORIES

Las Vegas, NV

July 22 - 25

CALIFORNIA GIFT SHOW

Los Angeles, California

Jul 24 - 27

WASHINGTON GIFT SHOW

Washington, DC

Jul 30 - Aug 2

ORLANDO GIFT SHOW

Orlando, FL

**August**

Aug 6 -10

SAN FRANCISCO INT'L GIFT FAIR

San Francisco, California

Aug 7 - 11

CANADIAN GIFT AND TABLEWARE ASSOCIATION

Toronto, ON, Canada

Aug 13 - 18

NEW YORK INT'L GIFT FAIR

New York, New York

Aug 15 - 19

ASD/AMD TRADE SHOW

Las Vegas, Nevada

Aug 27 - 31

THE SEATTLE GIFT SHOW

Seattle, Washington

**September**

Sep 10 - 13

BOSTON GIFT SHOW

Boston, MA

Sep 15 - 18

NATURAL PRODUCTS EXPO EAST

Washington, DC

Sep 17 - 19

DALLAS INT'L GIFT &amp; HOME ACCESSORIES MARKET

Dallas, Texas

Sep 24 - 26

LOS ANGELES GIFT &amp; HOME MARKET

Los Angeles, California

**October**

Oct 15 - 17

ART &amp; FRAMING SHOWCASE

New York, NY

Oct 15 - 17

COFFEE FEST SEATTLE

Seattle, WA

Oct 16 - 19

NEW YORK HOME TEXTILES SHOW

New York, NY

Oct 16 - 19

NEW YORK GOURMET HOUSEWARES SHOW

New York, NY

For a complete list of ECRM-EPPS Conferences, see their website at: <http://www.ecrm-epps.com>*Field Sales Professionals Serving the Home • Housewares • Hardware Industries*

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