

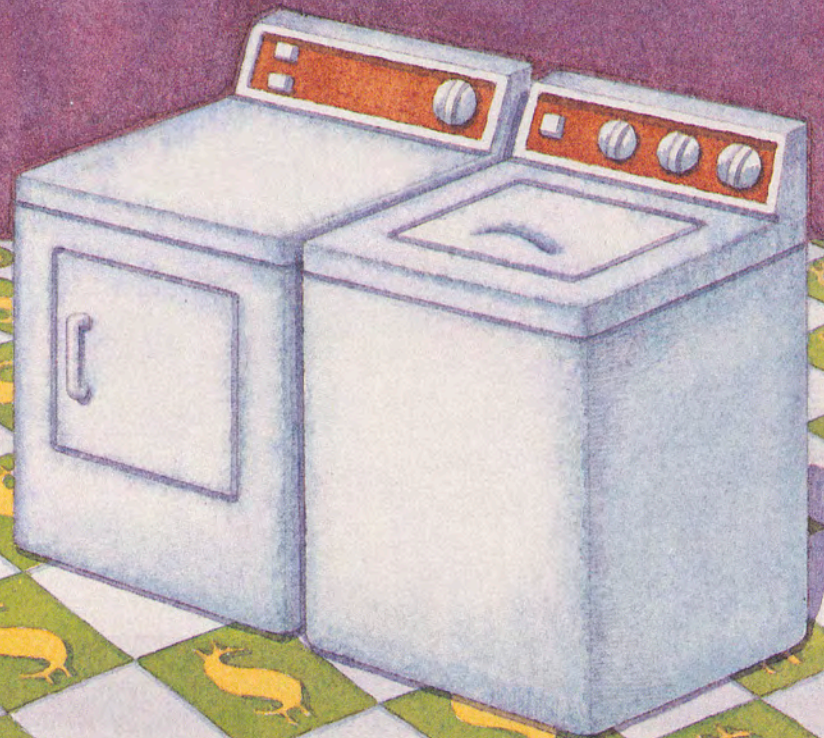
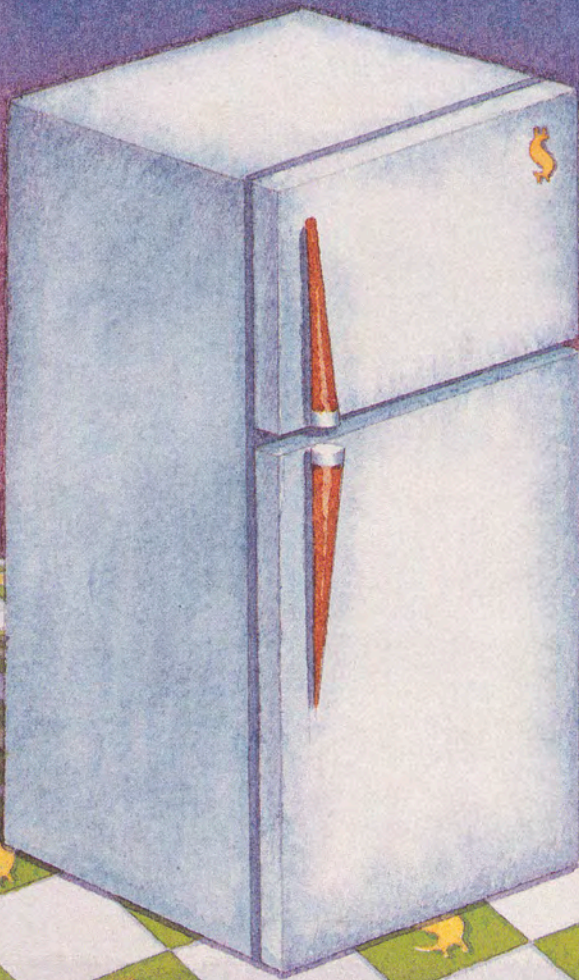
AUG./SEPT. 1988

the magazine of the home electronics, appliance, and furniture rental industry

# Progressive Rentals

## Appliances

**Proven  
Moneymakers**



**INSIDE-CONVENTION COVERAGE**

MROZ

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State \_\_\_\_\_

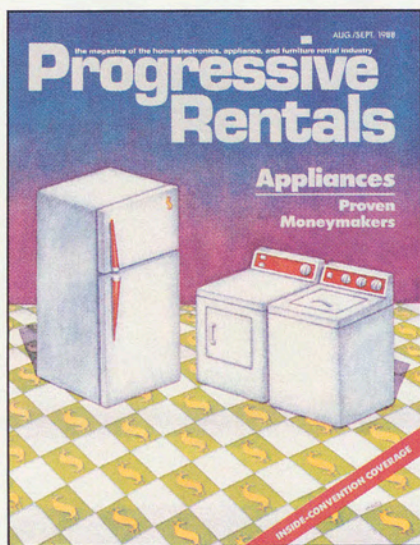
Zip \_\_\_\_\_

Phone \_\_\_\_\_

Call or write r:tracs to schedule a face to face demonstration. Contact Archie Rhines.

801 Deer Run  
Round Rock, Texas 78681  
**(512) 255-5284**

**r:tracs**™



**ON THE COVER:** Profits in appliances may not be as big as for other products, but they are steady and dependable. Find out what's happening in this part of rent-to-own in the cover feature beginning on page 8. The supplier listing on page 10 tells you where to find the products your customers want. Convention coverage starts on page 30.

COVER BY:  
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McNEAL PHOTOS BY:  
*Susan K. Elliott*

CONVENTION PHOTOS BY:  
*Ebel Photography  
Wichita, Kansas*

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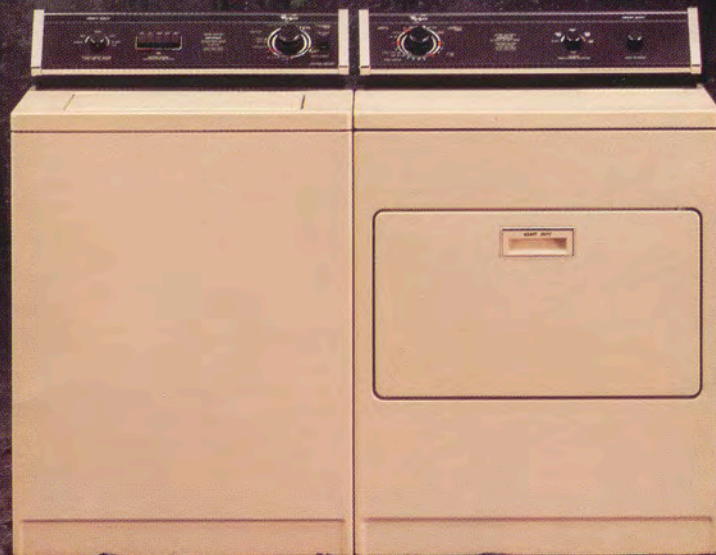
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# WHIRLPOOL: THE DEMAND LINE



## Build your laundry rentals from a strong base—Whirlpool quality.

Consumers associate Whirlpool with quality. And we deliver with a full line of well-built, feature-packed major appliances. Including our newest laundry products, which offer you special rental advantages. No wonder Whirlpool is the brand in demand.

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### The complete Whirlpool line is designed to cover your rental needs.

With Whirlpool, you can choose from more than just our direct drive washers. We offer a full line of quality washers and dryers. And you can supplement your steady laundry rentals with rentals of other fine Whirlpool® appliances including refrigerators, freezers, ranges and microwave

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### Convenient services you can count on.

Whirlpool appliances are backed by our nationwide network of authorized Tech-Care® service centers. And our toll-free, 24-hour Cool-Line® telephone service is ready to answer questions or help with problems.

To learn more about the full line of Whirlpool appliances and how they can give you the advantage of customer preference, write our National Rental Sales Manager at Whirlpool Corporation, 2000 M63, Benton Harbor, Michigan 49022, or call (616) 926-5143.

Choose the demand line.  
And make your world a little easier.

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Making your world a little easier.

## THE DIRECTOR'S DESK

The 1988 APRO Convention and Trade Show will be remembered as the most important, highest attended, and most enjoyable meeting in APRO history.

Commitments made by the members and the Board of Directors to significantly increase the Association's involvement in the legal and legislative affairs of the rent-to-own industry will have a far-reaching impact on the future of the industry. APRO will be the catalyst for bringing together dealers in a cooperative effort to provide a safe legal environment for individuals in the rent-to-own business. Plans unveiled at the convention include increased assistance and improved communications with state rental dealer associations, organizing new state associations for legislative action, expanding federal efforts in Washington, and a public relations campaign to encourage political participation of APRO members and to educate the public on the benefits of the rent-to-own concept. Details of the plan will be sent to all APRO members.

A special welcome was extended to new APRO members and first-time attendees at the convention. Colored ribbons were added to the name badges identifying new members, and an orientation meeting of all first-time attendees was held to help them organize their time to get the most benefit and enjoyment possible at the convention. A large turnout of new members and first-time attendees contributed significantly to the record-setting total attendance at the 1988 convention.

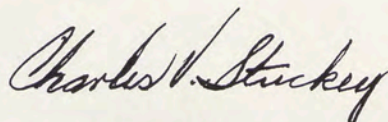
The need for member involvement in recruiting new members was stressed in all of the business meetings. Every member was asked to recruit one new member. The old adage "there is strength in numbers" has never been more appropriate than now as APRO launches a new era of political and legislative activity.

The APRO Board of Directors met during the convention in Las Vegas to outline plans for the new Association year. While focusing on increased involvement in legal and legislative activities, the directors renewed their commitment to continue providing the services currently available to members and to study opportunities to provide additional new services. In addition to the existing committee structure, several new committees were appointed by APRO's newly elected president, Dick Grauel. New committees include Public Relations, Education, Government Relations Finance, and Member Service. The next meeting of the APRO Board of Directors will be held in February in Washington, D.C., to give the directors a firsthand look at the facilities available at the 1989 convention headquarters hotel.

Plans are already underway for the 1989 convention and trade show. APRO's new emphasis on legal and legislative action will be highlighted at the 1989 convention, which will be headquartered at the Sheraton-Washington Hotel.

Plans were announced at the convention for an APRO group trip to London, England, in November. Information on the trip is available from the APRO headquarter offices. The group will depart on Sunday, November 6, for a seven-day visit in historical London. The group travel package includes a sightseeing tour, parties, a banquet, and free time for optional sightseeing and shopping. Educational seminars are also included in the package.

The 1988 APRO Convention and Trade Show closed on a positive note after hearing reports on continued membership growth, expanded membership services, and record attendance at the convention. The growth of the Association continues to parallel the growth in the industry, and APRO strives to stay on the leading edge of industry change in order to keep members informed of trends in rent-to-own.



—Executive Director

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## Progressive Rentals

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***Philips Consumer Electronics Company***

# Appliances TODAY

*White goods add up to profits*

By Susan K. Elliott  
with Margo McBride

Appliances have become a solid factor in the rent-to-own quotient. The numbers and even the type of customers may vary widely from store to store, but any way you add them up, appliances contribute mightily to the total sum.

In an informal survey of dealers and suppliers nationwide, white goods continue to add to the overall rental profit picture, requiring only minor fine tuning.

Once limited to washers, appliance selection now centers on washers, dryers, and refrigerators. Dealers report varying degrees of success in renting ranges, freezers, microwaves, dishwashers, air conditioners, and vacuum cleaners.

Customers range from the typical low-income, credit-poor renter to young marrieds and even disaster victims whose homes have been

destroyed. Considered the essentials of life, appliances garner smaller profit margins than other rental products, but may still generate 20 to 35 percent of a store's revenues. Appliances tend to stay out on rent longer and go to term more often than other rental products.

Improved warranty programs provide even greater protection for dealers on products that already have high reliability records. Options of 18- to 24-month warranty periods ensure that the dealer will not lose money during the term of the rental contract.

None of the dealers with whom we spoke report any impact from the volatility of manufacturer mergers and acquisitions of recent months, nor expect to make major changes in their sources.

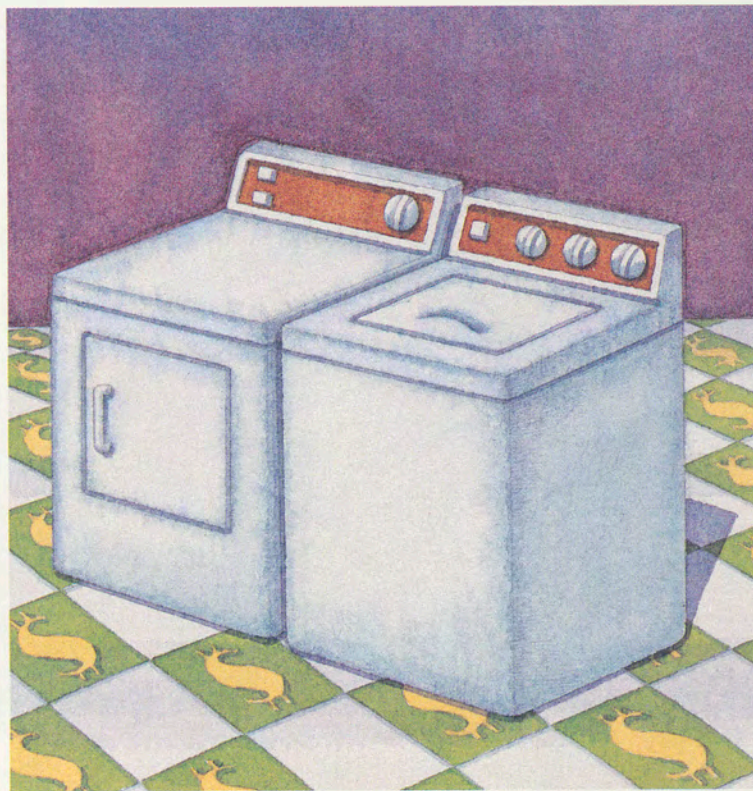
Almond and white dominate the color spectrum, although customers occasionally want to match an old copertone or brown appliance that they already own. Nationally branded merchandise has become the rule rather than the exception, creating instant

brand identification and allowing tie-in to national sales campaigns.

## Volume Up

As a percentage of total BOR, dealers reported figures ranging from 8½ to 70 percent for appliances. Richard Monson, president of Appliance Man Enterprises stores in St. Joseph, Missouri, and Cedar Rapids, Iowa, says, "We've had a good last couple of years, so our total volume is up. As a percentage, appliance rentals are dropping, in that we are adding other merchandise. We started out primarily as appliances as you can tell from our name, and so through time appliance BOR has dropped from 100 percent to 40 percent, but it's a very good part of our businesses, and yes, it is profitable."

Jim Brown, vice-president of ABC Rentals, a two-man partnership with three stores in Wichita, Kansas, notes, "In a single appliance, sometimes it's not so profitable, but in washers, dryers and bigger refrigerators it's a little more



profitable because you get more per month or more per week. All in all, I'd say appliance rentals have been pretty level for about the last three years."

The dealer reporting the highest appliance rentals, Virginia Marshall, owns Allappliance Rent Sells in Spokane, Washington, and says her appliance rentals are up 20 percent over a year ago. She carries White-Westinghouse products as an authorized franchise and offers a full two-year warranty on parts and labor for all rent-to-own contracts.

## Marketing

Techniques for marketing appliances generally follow the approach taken by dealers for all their merchandise, with larger operations opting for heavy television and radio advertising and smaller companies putting their dollars into point-of-sale materials, telephone directory advertising, and print ads.

Richard Monson spreads his advertising dollar around. "We're very heavy on television—both local networks and cable channels—and that's our primary advertising expense. We're also in the local shopper in both cities. Those are our two major expenditures, although I'm becoming more and more convinced that word of mouth, which is basically no-cost advertising, may well be our best advertising. But you've still got to get the new people" through traditional advertising.

Peter Bush, owner of three Ohio Appliance Central stores in Columbus, Ohio, observes that rental customers are not "feature oriented. They want something that works, gets their clothes cleaned and lasts, just as retail customers do," but are less concerned with frills and gadgets in appliances. Rentals of stereos and TVs follow an entirely different pattern, he says.

Bush selects top-of-the-line Gibson appliances, explaining that he once sold the same line as a wholesaler and wants his former customers to see that he "puts his money where his mouth is. Plus I have a great distributor in town and the warehouse warranty. I can pick up merchandise as I need it."

Tom Blasingame, operations manager for Action TV & Appliances, headquartered in Mesquite, Texas, oversees 36 stores in Texas and Louisiana. Marketing strategy for Action begins with the selection of brand name merchandise from Whirlpool and Kenmore. Action offers a Savers Program using rental return merchandise at a discount.

"We rent quite a few appliances on that program. A guy comes in and he doesn't really want to go rent-to-own with the 18-month term, he's got a little bit more money, so he may put it on this Savers Program and save himself some money."

Blasingame notes that appliance renters cover a broad category, with the majority 33 to 42 years old. He sees renters as being more educated about brand names than in the past and stocks primarily almond models for their decorating versatility.

---

## . . . white goods continue to add to the overall rental profit picture...

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### Quality and Value

Richard Monson stresses a "comprehensive selection, and we've always done that. We've used primarily Whirlpool as our white goods supplier for about eight years now, and they have really held the line as far as pricing at the wholesale level. It isn't much different today than it was several years ago. We offer good selections, but the competition is heating up obviously, so we have to be aware of that.

"Our customers do shop around, but I think the quality of appliances today is at least as good as it was seven or eight years ago. The pricing is, if anything, on the rental level, maybe a little bit less."

Monson says that customers like to have a variety of models from which to choose, although they may still select the least expensive. He finds almond and white to be equally popular, with periodic fluctuations.

Virginia Marshall sees the trend shifting from almond to white right now among her Northwest customers, with occasional requests for harvest gold or copper.

Convenience or money-saving features such as frost-free refrigerators and variable-water level washing machines make customers feel like they are getting good value for their rental dollar, even if they cost more than simpler models.

### Microwaves Need Boosting

Although convenience would seem to be the primary selling point for

microwaves, dealers with whom we spoke are still trying to find the ideal marketing approach. At press time, Peter Bush was planning a July promotion for microwaves highlighting their contribution to keeping kitchen temperatures cool during the summer months. "We hope it's strong," Bush said. "We don't have a lot of call for microwaves. Now, you would think we would. That's why I'm going to try to promote them, because it's hot and dry here."

Tom Blasingame also has problems with microwave rentals. "We carry them, but I don't see them as a strong rent-to-own item. We haven't had that much success with microwave ovens. It's a higher turnover item with us." Although he says he hates to admit that the problem is partly internal, Blasingame identifies inadequate employee training on microwave features for the high return rate.

Unless "the average customer knows how to use the microwave, they aren't going to keep it. The last six to seven months, our microwave oven business has begun to stick out there a little bit longer because we've gone away from the top-of-the-line models with all the different buttons. We went to those with simpler operation. If you give your people too many buttons to push, it confuses them," he says.

Richard Monson anticipates that there might be increased action in microwaves "if the price turned around and got back up to where it was several years ago."

Such a development might occur if Emerson's May announcement to increase microwave prices by 10 percent heralds a trend among manufacturers. Emerson cited the higher costs associated with currency fluctuations and foreign labor rates for the price hike and made a point of stressing that the new prices are here to stay.

### Keep it Cool

In refrigerators, dealers named a variety of styles and prices as their most popular models. Monson's customers prefer a 14-cubic foot refrigerator at \$48 a month for new models; Blasingame promotes monthly rates only, with the most activity in 18-cubic foot, side by sides at \$69 a month.

Marshall rents 17-cubic foot frost-free models at \$54 a month and up (for more deluxe models with special shelving options). Peter Bush reports his 19-cubic foot refrigerators to be his best value. ▶

# Who's Who in Appliance Suppliers

With 20 to 25 percent of a rental-purchase store's revenue coming from white goods, the need for appliances in rental is well established. The following list of appliance companies gives useful contact information, as well as detailing the kinds of appliances each manufactures or distributes. Each company listed supports APRO as an associate member, advertiser, or convention exhibitor.

\* = Associate Member  
+ = Advertiser  
‡ = Convention Exhibitor

## \*Appliance Distributors of CT

P.O. Box 8868  
East Hartford, CT 06108  
(203) 528-3781  
Distributor in N.E. of  
Litton, Crosley, Speed  
Queen brands

## +‡Cambridge Products/Regina

1030 St. George Ave.  
Avenal, NJ 07001  
(201) 750-2442  
Floor care/home products

## \*‡Eureka Co.

1201 E. Bell St.  
Bloomington, IL 61701  
(309) 828-2367  
Floor care/home products

## \*‡Frigidaire

P.O. Box 182056  
Columbus, OH 43218  
(800) 451-7007  
Refrigerators, freezers,  
ranges, washers, dryers,  
air conditioners,  
microwave ovens,  
dishwashers

## \*+‡General Electric/Hotpoint

Appliance Park AP4-243  
Louisville, KY 40225  
(502) 452-5439  
Refrigerators, freezers,  
ranges, microwave  
ovens, washers, dryers,  
air conditioners,  
dishwashers

## \*+‡Gibson Appliance Co.

P.O. Box 182056  
Columbus, OH 43218  
(800) 458-1445  
Refrigerators, freezers,  
washers, dryers, ranges,  
dishwashers

## \*‡Kelvinator

P.O. Box 182056  
Columbus, OH 43218  
(800) 323-7773  
Refrigerators, freezers,  
ranges, washers, dryers

## \*+‡Magic Chef/Admiral

740 King Edward Ave.  
Cleveland, TN 37311  
(615) 472-3371  
Refrigerators, freezers,  
ranges, washers, dryers,  
microwave ovens

## \*‡Quasar

1325 Pratt Blvd.  
Elk Grove Village, IL  
60007  
(312) 228-6366  
Microwave ovens

## \*+‡Sanyo/Fisher USA Corp.

200 Riser Rd.  
Little Ferry, NJ 07643  
(201) 641-2333  
Refrigerators, freezers,  
washers, dryers,  
microwave ovens

## +‡Sears Contract Sales

D/732G-Chicago Sears  
Tower  
Chicago, IL 60684  
(312) 875-6926  
Refrigerators, freezers,  
ranges, washers, dryers,  
microwave ovens

## \*+‡Speed Queen

P.O. Box 990  
Shepard Street Ripon, WI  
54971-0990  
(414) 748-3121  
Washers, dryers

## \*‡Tappan

P.O. Box 182056  
Columbus, OH 43218  
(800) 537-5530  
Refrigerators, freezers,  
ranges, washers, dryers,  
microwave ovens,  
dishwashers, air  
conditioners

## \*+‡Toshiba

82 Totowa Rd.  
Wayne, NJ 07470  
(201) 628-8000  
Microwave ovens

## \*+‡White-Westinghouse

P.O. Box 182056  
Columbus, OH 43218  
(800) 245-0600  
Refrigerators, freezers,  
ranges, washers, dryers,  
dishwashers, air  
conditioners, microwave  
ovens

## \*+‡Whirlpool Corporation

2000 US 33 North  
Benton Harbor, MI 49022  
(616) 926-5000  
Refrigerators, freezers,  
ranges, washers, dryers,  
microwave ovens

"We go weekly, every two weeks, or however the customer needs it," says Bush. A refrigerator can be rented at Ohio Appliance Central for about \$16.35 a week.

Jim Brown's Kansas customers pay prices ranging from \$12.95 to \$18.95 a week, with monthly payment plans available.

## Cleaning Up

Virginia Marshall recommends White/Westinghouse washers as "a very good item because they use less electricity, they get your clothes cleaner, and they're easier on your clothes. They're very very good for heavy-duty soil. We really try to discourage people from getting the little roll-around washers that hook up to the sink.

They're not cheap, and they're a pain. People try to cram as many clothes in them as they do the full-size machines. Both the roll-around washers and dishwashers cost the same as the full-scale sized items."

Marshall offers washers at \$37.50 to \$60 a month, and dryers at \$29.95 to \$39 a month. Other dealers' prices ranged from \$35 a week for both to \$60 a month for a Whirlpool 18-pound tub washer and dryer.

Among those who carry ranges, prices quoted were \$13 a week; \$14.95 a week and up; \$29.95 to \$115 a month for microwave-range combinations; and either gas or electric stoves at \$35 a month.

Dishwashers rent from \$14.95 a week to monthly rates in the \$32 to \$42 range. Only one of the dealers contacted offers

vacuum cleaners for rent: a Hoover upright for \$20 a month.

Air conditioners also find limited favor, with Richard Monson describing them as "very specialized. Most of them are short-term rentals. Our most popular one would be a 7000 BTU unit at \$45 a month. They come back. I've got an eight-month rent-to-own program, just to get enough money during the hot season so customers will be reluctant to turn them back in. That's an area, frankly, that I wish I wasn't in. I've got about 200 air conditioners in different sizes so we're in it. . . ."

Marshall also expresses regrets about her air conditioner inventory. "We get scalded on those. We have about three weeks of unbearably hot weather here. It's very costly to buy any kind of item and have it squat for the remaining 48 ▶

# Rent relief.

If there's a sudden rush on refrigerator rentals, what should you do before you get down to the last few?

Call us.

Because GE has distribution centers across the country that can get appliances on your floor in as little as 48 hours.

And when they arrive, something else comes with them.

The *best* back-up system in the business.

Which includes the GE Answer Center® service, that can offer help to renters 24 hours a day, 7 days a week.

Plus the only nationwide network of *factory-trained* service representatives, that's ready to handle problems no matter if your rental service is in Alabama, or Alaska.

And to give you even more peace of mind, our appliances are backed by some of the best warranties around. (Up to 10 years in some cases.)

So why buy from a company that just sells you appliances?

When you could choose one that offers a lot more.

GE.



Contact: Donald Linskey  
General Electric Appliance Co.  
Appliance Park AP4-243  
Louisville, KY 40225  
(502) 452-5439



*We bring good things to life.*

weeks a year on the showroom floor. We try to sell them on nothing but rent-to-own, but that's no protection. They all come home to roost anyway as soon as the weather changes."

Marshall rents air conditioners at \$32.89 to \$49.61 a month.

Henry Van Dam, vice-president of operations for Comcoa's 50 Rent-A-Center stores in Virginia and Florida, carries air conditioners for Florida customers, which he describes as "a limited market, good for five to six months a year. It's a very small percentage. They're almost not worth carrying, kind of like microwaves."

### **Service Contracts on The Horizon?**

Although none of the dealers surveyed offer service contracts to customers after contract fulfillment, all expressed interest in the concept and believe that they would be profitable.

"We're investigating" the idea, says Richard Monson. "There are a number of those five-year programs available. I've got them available in brown goods and I'm looking at them on appliances.

The product that is coming out today is relatively trouble free and I think we could even write them ourselves and be profitable.

"I think that if a person was going to be serious about marketing service contracts, they could be exceptionally profitable."

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**". . . if a person was going to be serious about marketing service contracts, they could be exceptionally profitable."**

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### **At the Supplier Level**

None of the dealers indicated plans to change their suppliers as a result of all the various mergers and reassigning of marketing responsibilities among appliance manufacturers.

To recap, GE bought RCA in 1986. When it sold the RCA consumer elec-

tronics business to Thomson of France in July 1987, GE retained rights to use the RCA name for major appliances. After a bidding war with Whirlpool, GE purchased Roper Corp., which it will now use as a vehicle for bringing out an RCA appliance line.

When RCA announced the new line in May, the company promised to deliver a full line of appliances, including cooking products, laundry, refrigerators, freezers, dishwashers, and microwaves, with some merchandise arriving in mid-July. The RCA brand will use the GE/Hotpoint product service operation, described as the industry's only complete factory-run service organization.

GE Appliances will now include four lines: RCA, GE, GE Monogram, and Hotpoint. Heavy use of electronic controls will characterize the RCA line, which may indicate that it will be positioned at a level comparable to the GE brand.

Confusion surrounds the position of Roper Corp., which GE appliances purchased, along with its factories. Whirlpool also tried to buy Roper, and

*continued on page 52*

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**Words of Praise**

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I want to take this space to publicly thank and pay my respects to a handful of rental dealers who have contributed time and effort far beyond the call of duty for the cause of the industry this past year. Those people are the members of the APRO Executive Committee and the Government Relations Committee: Mac Hennigan, Dave Egan, Bill Coleman, Terry Washburn, Maribeth Duffy, Glenn Davis, and Bill Morgenstern.

What they have done this year may not look like a lot. What they did may not earn them statues in any parks. But what they did was to give unselfishly and untiringly of themselves, and they gave to an industry, many of whose members will never know what was done or even attempted, and many more who simply do not care.

When the trade association got started nearly eight years ago, there was all of the enthusiasm and hoopla naturally associated with such beginnings. Over the years, the enthusiasm waned as enthusiasm inevitably does.

The Association has done all or most of the things that trade associations do for its members and done them fairly well, I think. There is a trade magazine for information about the industry; there is a trade show and convention; there are various insurance plans; seminars in exotic locales. But it is clear to those of us who have been around since the beginning that much of the romance of the project has gone.

What the people I have mentioned above have done is to take the Association issue by the horns and attack it in meeting after meeting, telephone call after telephone call, and they have

attempted to recreate the ideal of the association that was contemplated originally. Their ideas and efforts were directed at a specific project, rather than merely dressing the beast up in different clothes.

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**. . . what they did was to  
give unselfishly and  
untiringly of themselves,  
and they gave to an  
industry. . .**

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One of the things that has happened in the industry since the trade association got started is that there have been a lot of state rent-to-own laws passed and a lot of state associations started to help get the laws passed. APRO has been involved directly or indirectly in a lot of those efforts, but dealers in a few states have wondered what exactly APRO was doing to help. And, to be perfectly candid, APRO has occasionally gotten in the way of progress, although I like to think that we have learned from those mistakes.

What has existed for a year or two has been a healthy, if uninspired, national association and a handful of state groups, difficult to categorize. The brainchild of the people who have spent a lot of this year on the project was to fuse those efforts and from the union create renewed enthusiasm in their national association and better organization and purpose in the state groups.

I want to thank those people for the idea and for their effort in trying to put the plan into action. I serve as witness for the proposition that the task has not been easy. As simple as the notion seems, there are enormous logistical and even conceptual problems in creating what is nothing less than a restructuring of what has become a large and unwieldy institution. In fact, after a year of meetings held monthly, or even more often, and countless hours spent on the telephone, the job is still not done. There remain important and as yet unsolved problems of control, funding, and the other problems that confront managers of multi-layered organizations.

One point that I want to make to the membership is that these people have businesses to run just like the rest of you. None of the people I am praising has taken early retirement to piddle with APRO out of boredom. Rather, they have taken time away from businesses, which always suffer when the owner is away, to give something back to an industry that has, for the most part, been good to them. They wanted to help make the Association a better institution and ultimately to help make the industry a better one.

They did not have to do any of the things that they did. I do not think there would have been a revolution of the membership if these people had decided to carry on business as usual with a perfunctory meeting every now and then to talk about convention sites.

In an era called the "Me Decade," and in an industry not known for its altruism

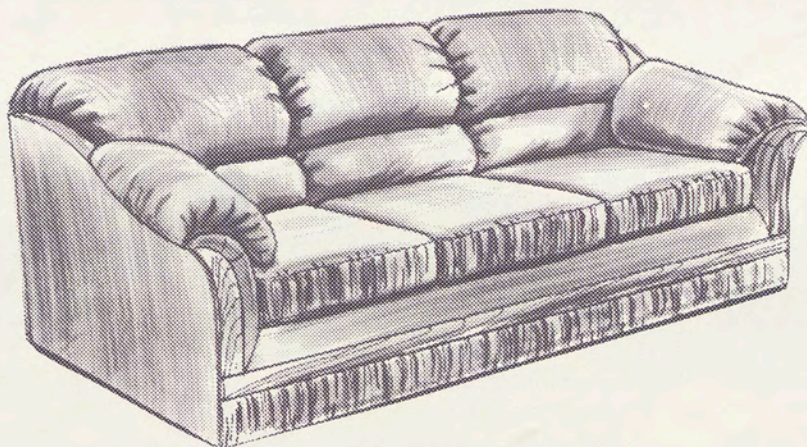
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## Good News

How often do you get good news from a lawyer? Bad news is our daily fare. No one needs a lawyer when the news is good.

So I am unaccustomed to delivering good news. If this article seems awkward, you will understand the inexperience with which I deal with the subject matter here at hand.

We have all anquished over the *Puckett* decision from the Sixth Circuit Court of Appeals. It has been the subject of discussion here in a previous column.

### Texas Court Rules Right

We now have for your consideration two very good cases. Both are favorable to this industry. The first comes from the United States Bankruptcy Court for the Western District of Texas, El Paso Division. That case is cited in the West Bankruptcy System as *In re Armstrong*, 84 B.R. 94 (1988).

In that case, Judge Leif M. Clark held in a Chapter 13 case that a Remco rent-to-own agreement was a "true lease." The circumstances of that case were typical of many encountered in the Chapter 13 area. The debtor contended that the agreement was a conditional sales contract which could be modified in the Chapter 13 plan and paid over a term which was longer than the term of the rent-to-own agreement.

Judge Clark was persuaded to rule in favor of Remco by the provisions in the agreement that gave the debtor the right to terminate the agreement simply by ceasing payments and returning the goods. He notes that a court must find that there is an "obligation" before it can consider the "time-honored 'no or nominal consideration' test."

### Some courts are simply more practical than others.

Once again, *Marhoefer* comes to the rescue (*Matter of Marhoefer Packing Co. Inc.*, 674 F.2d 1139 (7th Cir. 1982)). In the *Marhoefer* case, the debtor had the right to terminate the agreement before the nominal purchase option arose. While *Marhoefer* is not a rent-to-own case, its logic has supported this industry ably for many years.

A paragraph from Judge Clark's opinion is worthy of repeating here as follows:

"The Debtors in this case have no obligation to continue paying rent under this Agreement. The lease is terminable at will, with no strings attached. There can be no security interest without an obligation to secure. The lease in question must therefore stand as a true lease."

### Georgia Ruling Also Favorable

Following the same logic (but unaware of the *Armstrong* case), the Court of Appeals of Georgia has ruled in the case of *Elcan Investments Inc. vs Kirk* that a rent-to-own agreement is a true lease based upon "...the terminability of the lease contract at issue..." This language from that opinion is classic:

"Since Plaintiff could end the lease by not renewing it prior to the thirty-eighth renewal, and thereby fully comply with the lease without the transfer of owner-

ship provision ever becoming operative, there was no conditional sale or security interest."

The Georgia Court of Appeals cites *Marhoefer* as well as *In re Huffman*, 63 B.R. 737 (1986).

The *Elcan* case involved a claim of conversion. Under the Uniform Commercial Code, there are certain obligations on the secured creditor who repossesses goods. The failure to account to the debtor for the resale of those goods can constitute a conversion which, in turn, can lead to punitive damages. The Georgia Court of Appeals set aside punitive damages in the *Elcan* case by finding that the rent-to-own agreement was a true lease rather than an installment credit sale.

### Puckett Ruling Another Matter

Neither of these two courts had the same problem that was experienced by the Sixth Circuit in the *Puckett* case. That court found the requisite obligation by deciding that "...economic realities force the lessees to continue with payments and to exercise the options to buy or lose a great deal of money." The *Puckett* case does not guide us with any instructions as to when a terminable lease becomes non-terminable due to these "economic realities." Presumably this occurs some time between the second month and the seventeenth month.

The Texas Bankruptcy Court and the Georgia Court of Appeals had no difficulty reading the contract and interpreting the plain language provisions with an opposite result. They did not see the necessity to engraft "economic realities" language into the contract. Some courts



# The Washington Report

There is good news and bad news from Washington concerning APRO's continuing effort to have federal rent-to-own legislation passed.

The good news is that due to the dealers' support in March and April in coming to Washington and visiting with various members of Congress, we greatly expanded the number of our congressional supporters. The meetings were very well received.

The bad news is that due to lack of support by the Consumer Federation of America, the Consumer's Union, and the American Association of Retired Persons, the federal bill will not be enacted into law during this session of Congress.

### Outlook Still Bright

This is a disappointing development in a year when so much progress had been made. However, the outlook for passage during the next Congress is brighter than it has ever been, due largely to the progress made this past year. The effect of legislative work over the years in Congress is cumulative. Each year that we reinitiate our legislative program we start where we left off the previous year; we do not have to go back to square one.

That being the case, when our bill is reintroduced in the next Congress we will start out with more than 20 House sponsors. In addition, we will continue to have a commitment from the Democratic leadership in the Senate Banking Committee to push the bill to the top of their agenda.

Although there will be no legislation passed in 1988, the lobbying effort in preparation for 1989 continues at this time. We are contacting additional members of Congress to be co-sponsors so that when our bill is reintroduced in 1989 it will have as many sponsors as possible.

Of prime importance to our effort in Washington are the upcoming congressional and presidential elections. It is

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### Of prime importance . . . are the upcoming congressional and presidential elections.

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most important that all concerned APRO members participate in a meaningful way in the elections for membership in the United States House of Representatives and the United States Senate.

You should participate in these elections by getting to know the local campaign managers, making campaign contributions, and providing whatever grass roots support you can for your elected representatives. This is the way you will get to know your representatives and, more important, they will get to know who you are and what your business is. This is of particular importance when it comes time to contact your representative in Washington concerning support for passage of the rent-to-own bill.

When you make that visit, their perception of your industry will be identified with their perception of you. If you are an enthusiastic, hard-working, and generous supporter for their election, you will give them a positive impression of your industry.

This is a valuable lesson that all members of this industry must learn. Our experience in the state legislatures has been that when a member of the industry had been particularly active and supportive of key members of the legislature, bill passage was made much easier.

### Call for Support

During the remainder of 1988 we will request members of the industry to come to Washington and help us support the passage of federal legislation. Although the legislation will not be

passed this year, these efforts will bear fruit in 1989.

Your trade association is deeply committed to the federal effort. In spite of the fact that as of this writing 18 states have enacted laws regulating rent-to-own in a way acceptable to the industry, there is still a vital need for a federal umbrella to protect the industry.

This federal protection will affect states that currently do not have an acceptable rent-to-own bill and those states that already have such legislation in place.

In the former case, it is likely that the states that have not addressed the rent-to-own issue so far would not regulate the industry in a manner contrary to the way Congress has done. Those states that have adopted rent-to-own legislation will find the task of keeping that legislation intact much easier if Congress's regulation is consistent with their own.

You should not be discouraged or disappointed by failure to get our bill enacted into law in 1988. It has only been five years since federal legislation was initially proposed by the Federal Reserve Board.

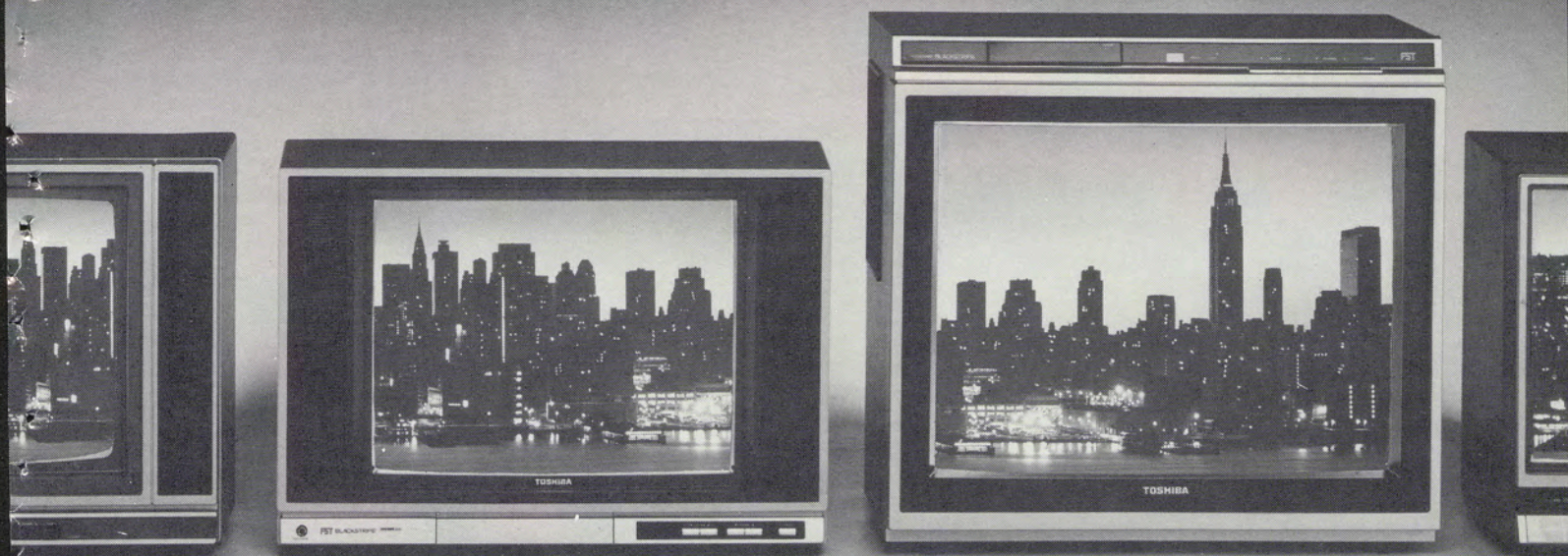
Since that time an industry-sponsored bill has been passed by the Senate on one occasion. During that five-year period members of Congress have been educated about the rent-to-own industry and they now understand and appreciate the need for your services and the need for an effective and balanced federal bill.

### Federal Legislation Different From State

In only two sessions of Congress we have made significant steps toward passage of this legislation. It is sometimes frustrating for those who have worked in the states and who have seen legislation conceived and passed in less than 60 days to understand why the process

*continued on page 48*

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# Selling a Business: Setting the Terms

*Structuring the deal is as important as finding a buyer*

You just decided to sell your rent-to-own business. You found the buyer and got the price and logistics all worked out. Except for one thing, the only important thing: the terms.

Now the fun really begins.

The rent-to-own industry, like many others, is riddled with myths and rules of thumb when it comes to setting a value on a business. One times gross. One times gross less the debt. Six times the profit after adding back the owner's excess salary and fringe benefits. Three times the profits, salaries, fringes, depreciation, and interest. All are mechanical formulas. All are arbitrary. All are useless without an understanding of one central fact: price is a function of terms.

I will buy your business today—sight unseen. I will pay you \$10 million for it regardless of the gross. Interested? Good. Shall we talk about the first installment? How about \$1 per year for 10 million years? Still interested?

I thought not. See, the price doesn't really matter, does it? The *value* matters. What you get for your life's work—after the taxes and attorney's fees and transaction costs are deducted—that's what matters.

## Satisfying Both Parties

Does the transaction meet your needs? Is the sale structured to provide you with a stable flow of income, plus a lump sum of money to pay off debts, invest for the future, travel, pay the advisor who helped you sell (very important), plus give you a good return on the property the business is located

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**What you get for your  
life's work...that's what  
matters.**

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on (assuming you own the property, of course)?

Does the transaction meet the needs of the buyer? If it doesn't, one of two things will happen. Either the sale won't be consummated because the buyer realizes it won't pencil out, or worse yet, the sale will happen and you'll wind up getting the business back. Except it won't be the same business you sold. You may be lucky to recognize it at all. Why? Because if the price is too high or the terms too stringent for the buyer, he's going to fail. He's going to incur additional debt, let the equipment run down, chase off your customers, offend your suppliers with his untimely, insufficient, crummy little payments, and presto! You get the business back.

Lucky you.

Now you will have to spend three times the money that you received in the down payment to repair and replace equipment, reestablish credit line, redevelop customer relationships and retrain the new employees you must hire to replace the ones you fired or shot when you stepped back in. Sound like fun?

How do you insure that this doesn't happen? How can you be sure that if the new buyer takes the business down the tubes you don't go with it? You'd better

do something. Many sellers who've been there will tell you that there isn't room in the commode for your business and you, especially at the bottom of the whirlpool.

## Securing the Deal

What you do is, you receive a pledge of security from the buyer that involves other collateral, not your business. The buyer can pledge real estate, trust deeds or notes, CDs, shares of stock in another company. He can obtain a standby letter of credit from a credit-worthy bank that will guarantee payment of his obligation if he defaults or otherwise fails to perform on his obligation to you. That way you are assured of payment on any notes carried back on the business.

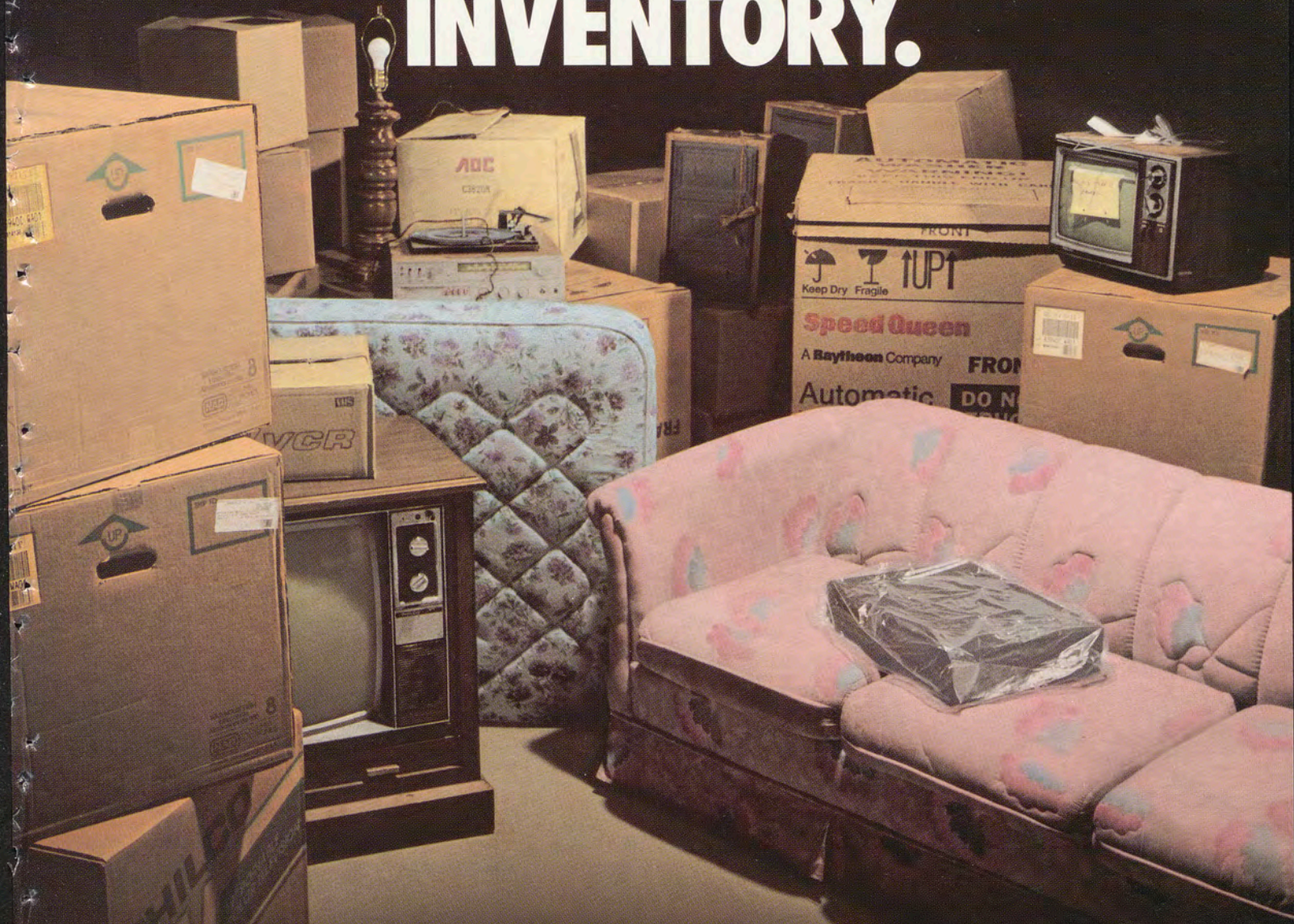
So how do we structure a sale? The most important thing for you to remember is that the buyer is buying an income stream. He is investing funds and attempting to secure for himself the maximum return on investment possible that is consistent with the risk level he is willing to assume. The price and terms you negotiate will determine whether he buys your business or someone else's. Let's see how this works.

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*continued on page 48*

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# Meet Perry McNeal

His company is on track and moving *ahead*

By Susan K. Elliott



As one of seven children growing up on a farm outside Macon, Georgia, at the end of the Great Depression, Perry McNeal understood what it was like to be poor. Today, he lives in one of Atlanta's most prestigious neighborhoods, drives a BMW, owns one of the fastest growing rent-to-own companies in the country—and makes sure that poor people are treated with respect in all his stores.

When McNeal started Network Rental seven years ago, he thought he saw an industry poised to grow as well as one to which he could contribute. Named to the *Inc.* 500 list of fastest growing privately held companies in America for the last two years, Network Rental now has 40 company-owned stores and three franchise outlets. Gross revenues this year will total approximately \$24 to \$26 million.

Growth has been rapid, and at first was taxing for McNeal. After a career as a Fedders air conditioning sales representative, McNeal sold Zenith televisions. Always looking for new customers, he heard about rent-to-own dealers and began tracking them down in the late 1970s. He found rent-to-own dealers "off the beaten path, and talked them into buying Zenith. They started buying a lot of TVs," says McNeal.

"I could see that the industry was going to grow, interest rates were going up, which eliminated a lot of people from buying then. At the same time, I

*Network Rental ventured out of its southern base of operations into northern territory two years ago, and Chicago's mayor, the late Harold Washington, helped Jean and Perry McNeal cut the ribbon at a store opening in the Windy City.*



was calling on retailers and thought about how the stores could be nicer, cleaner, have more professional employees, and treat customers better. I said, 'Shoot, I think I can do it, maybe even do it better.'"

Forty years old and seriously wondering what he would be doing at 50, McNeal had some cash to invest from the sale of an apartment complex. He considered buying a Burger King franchise, but decided rent-to-own offered even more potential.

## Ground Zero

"I didn't know anything about rent-to-own. Most people who go into this industry have come from other rental companies, but I just opened the doors and thought I knew stuff. In six months, I lost 18 pounds," says McNeal.

"I had never collected anything in my life, never, and I was so dumb. I remember the first customer I called who was past due, and she said, 'If you're going to call me every week, you can just come get this stereo.'" In his best southern gentleman voice, McNeal said, "'Ma'am, I'm sorry. I won't call you anymore.' That's *not* the way it works," he says now.

It obviously didn't take McNeal long to figure out how it did work, because within 14 months Network Rental had expanded to three stores in the Atlanta area. His goal to eventually open four stores was quickly revised to a much more ambitious agenda.

Today, McNeal says he "wants to keep building the business at 30 to 40 percent a year, make a profit, make a contribution to the employment rate, and have a lot of people in this corporation become successful." And, oh yes, "maybe have a public offering in two to three years."

Stressing that he likes his job and has no plans to sell the company outright, McNeal says that the only reason he would go public would be to generate the funds to help the company grow faster. Meanwhile, he anticipates that revenues would have to reach \$40 to \$50 million from 65 to 75 stores before he would be ready to change from a privately held to public corporation.

Bob Burkholder, chief financial officer for Network Rental, sees being a public company as "sort of an option. We feel like it's something we can do, and may do, not something we have to do. I think the people here would probably be as happy one way or the other. Internally, the management group of people are pretty well committed to the business."

## Looking to Buy

At the moment, Network Rental is more concerned with buying stores than selling stock, and is actively advertising to attract sellers. "We would like to buy stores," says McNeal. "We have a clear definition of what we want to buy and what we can buy. I suspect that in the next couple of years we would get

20 to 25 percent of our growth from acquisitions.

"Again, that depends on whether you are able to find what you want and are able to buy it at a price that is fair."

Recently, Network Rental has expanded outside its southern base, opening a total of eight stores in Chicago since November 1986. In entering a new market, McNeal identifies several factors as critical. "We look first at the size (we like big markets); we look at the demographic make-up of the population; we look at other factors like growth and industry; and then we study the competition in the marketplace. We're scared to death of competition," he says, with a broad grin.

"Basically, we look for underserved markets," says McNeal, and sees little difference in the application of rent-to-own practices from region to region. "Rent-to-own is rent-to-own is rent-to-own," he says.

## At the Top

At the same time McNeal has been tapping new markets, the company's management team has also been growing in new directions. "The human resources of a company have to grow with a company, or you have to change the key people," says McNeal. "This company reached a point where the upper management structure was more or less outgrown. During the last year and a half I have gone to great lengths to build a management team.

A typical Network Rental store interior with the company logo prominently displayed.



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**"We have a clear definition of what we want to buy and what we can buy."**

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McNeal adds, "We do psychological profiles on certain level managers and that personality trait always comes through on those people we're looking to hire. It's a high energy business. You can watch the folks around our office, or in our stores. They'll move fast."

### **Image Building**

From the beginning, McNeal has been concerned with finding the best way to run the company, frequently reaching outside his own experience to recruit expert advice. He also feels that the more professionally run the company, the better image it projects for rent-to-own.

"I have always been interested in improving the image of the industry and we did it from the very start. We put brand name merchandise in nice looking stores. We hired employees that didn't need haircuts and wore ties. We treated customers like human beings and still do. We bought nice looking vans and put our logo on the vans. We keep our vans washed. We keep our stores clean, or at least try.

"We hired an ad agency in the very beginning to produce a professional TV commercial. We selected our name from a survey. We narrowed it down to maybe 15 names and then we had a group of people do a survey at Green-

briar shopping center (in Atlanta), site of our first location, and asked them which company they would rent from if they were going to rent a TV, or furniture or appliance, and 57 percent picked the name Network. We hired an ad agency to make the logo, we got the logo registered as a registered service mark.

"We do monthly newsletters to our employees, we do press releases. We give to charity, we give to Big Brothers/Big Sisters through APRO, and for three years in a row were one of four sponsors for Toys for Tots in our markets. We have literally bought thousands of toys and given them to needy children at Christmas time. We give old merchandise to Goodwill. If a school lets us know that they need a TV, microwave, or VCR, we give those to the PTAs."

Somewhat embarrassed at tooting his own horn about accomplishments he obviously thinks are important, McNeal says, with a smile, "We're just the greatest people in the world."

Becoming more serious, he adds, "The industry has improved and it has grown so a lot more people know about rent-to-own, and that in itself probably puts pressure on us in the industry to improve our image."

### **Family Approval**

The question of image was so important to him that before McNeal got into the field, he sat down with his family to discuss his plans. A divorced father raising three children, he explained to them that rent-to-own was "not an industry that Dunwoody housewives (one of Atlanta's most affluent neighborhoods) deal with, and it's not an

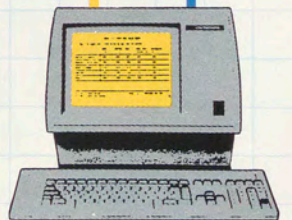
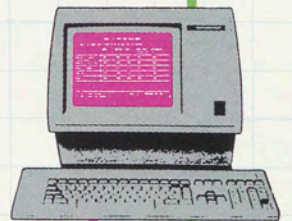
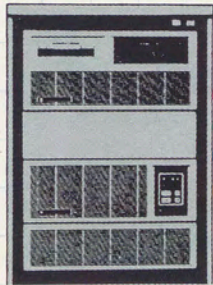
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*Less than 24 hours after this picture-taking session, baby boy Brooks McNeal was born. It was a joyous event for Jean, Perry, and Anna.*

industry that has an image like Coca-Cola or Delta Airlines. "What do y'all think?" My oldest daughter, who has great wisdom from time to time, said, "The industry already exists and if you get into it, it will probably be better, so you ought to do it!"

Except for the newest member, all of McNeal's family has been involved in Network Rental at some time or another. Gina, 25, now lives in New York City and works for the Diabetes Foundation as a writer. Cary, 23, is also a writer and plans to attend the University of Texas to study filmmaking in the fall, while 17-year-old Anna will soon be a high school senior in Atlanta.

McNeal is especially proud that he fought for custody of his children during his divorce 15 years ago and raised them on his own in a time when that was quite rare. All of the children have worked in the company's headquarters or stores for brief periods.

Perry's present wife Jean just had their first child, a boy named Brooks, on June 25. (Brooks' birth occurred less than 24 hours after this interview and the taking of the photographs accompanying this article.) A former teacher, Jean used to help scout sites for new store locations, and in the early days, came in three nights a week, staying until midnight to help Perry balance the cards.

"She's picked some great locations, but sometimes she had to convince me that they would be good ones," says Perry.

McNeal says he would not characterize himself as a workaholic because he probably doesn't spend more than 40 to 45 hours a week at the office. "I do spend a lot of my awake time thinking about business, but my diversions take my mind off it."

A few of those diversions include swimming laps with Jean each morning (until the latter days of her pregnancy), playing tennis with Jean ("she still beats me," he says), taking photographs, and playing with his HO scale model trains. In fact, if you ask him about his five-year plan, he might start talking about his plans to complete building his elaborate 25-foot train set (complete with four trains), rather than business.

### **Moving on**

Living up to the description of his staff as high energy, McNeal is himself currently in the midst of two other building/moving projects. First, he plans to move into a new home next year where his train set will be elevated from its basement setting to greater prominence in the house. Second, Network Rental recently moved into new

corporate headquarters in Atlanta to accommodate its growing staff.

McNeal takes a no-frills approach to office space, preferring to spend money in other areas such as a newly developed training department, store design, and new store acquisition. Employees at headquarters now number about 30, with 200 throughout the system.

### **The Franchise Equation**

Although franchising is a logical step in growth for Network Rental, the company's executives anticipate that it will never be the main vehicle for expansion.

"I like the franchise store concept because it is an area where we can expand. Geographically, it makes sense to do it. I'll give you an example. We're not in Augusta, Georgia, because from a management standpoint, we wouldn't want a district manager going to Augusta every few days to check on a store because it's a long drive. Augusta is maybe a one- or two-store market. We try to have our district managers managing 4-6 stores that are geographically close.

"Still, the idea of a franchisee in Augusta makes sense, because we do all this advertising in Atlanta, we have vendors in Atlanta, and it would be a

When the bell rings at headquarters, employees know a new milestone has been reached. This practice also extends to individual stores where the manager rings the bell to signal good news. From left, Bob Burkholder, Doug Mitchell, Perry McNeal, and Jimmy Almond.



natural to franchise a market like Augusta. Augusta is maybe 125,000 people and 75 miles from Atlanta.

"On the other hand, Bob Burkholder says we can never be a franchisor to a big degree because you can only charge up to a certain percent for your services. He says my personality is such that I would have to give them a lot more services than they would be willing to pay for, because I'm a fanatic about how the stores run."

## Financing

McNeal declines to name the individual lenders with whom he works, saying instead "we deal with the

typical industry lenders," but for this interview discussed with Burkholder the support that lenders provide to rent-to-own. Burkholder sees lenders as "focused on responsible operators who know what they're doing. I don't see most of them, at this juncture, looking for guys who want to start their first store in America, and I've certainly heard plenty of stories about them turning down guys who wanted to do those kind of deals and didn't have much experience.

"I've seen them turn down guys who had experience, but wanted to make poor business decisions as far as where they were going to go—for example,

*continued on page 52*

---

**"When I thought I couldn't afford heavy-duty department heads, I really couldn't afford not to have them."**

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Fifteen years ago, Perry McNeal won custody of his three children. Anna, at 17, is the youngest and the only one still living at home. Part of the company's growing collection of bells is housed in Perry's office.

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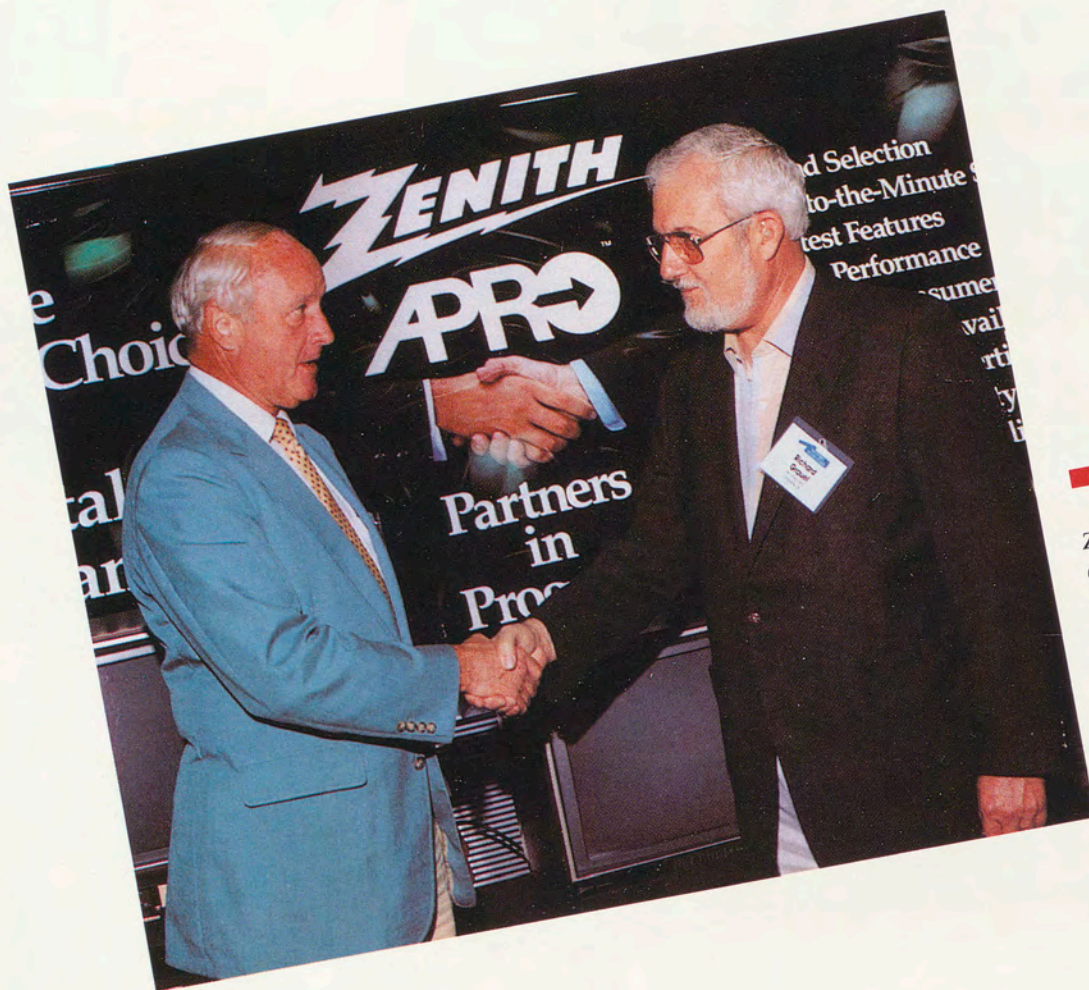
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Zenith's Partners in Progress exhibit paid tribute to the mutually beneficial association between that company and APRO. Norm Smith, national manager for rental markets at Zenith and a familiar sight at APRO conventions, congratulates the Association's new president, Dick Grauel.

# APRO '88: A Really Big Show

By Frances Knight

Federal legislation. State organizations. Board elections. All were important acts in the APRO show at Las Vegas in early August.

Getting favorable rent-to-own legislation and raising the funds to accomplish that was a dominant theme of meetings and conversations throughout the convention.

From President Mac Hennigan's opening speech at the general session to former Pittsburgh Steeler Rocky Bleier's keynote address at the awards

luncheon, members were challenged to make commitments and face changes.

Hennigan's opening speech was also his farewell address as he ended two years as APRO president.

Dick Grauel was elected president at the organizational Board meeting later. He issued the following statement regarding his goals for the coming year:

"This is indeed one of the highest moments in my life. I am humbled and honored to be your president. We have an excellent Board of Directors willing

to work, asking for work.

"We inherited the organization in excellent shape after two very capable years under Mac Hennigan and his two boards.

"While the need and funding for federal and state legislation seemed to dominate the convention, I never forget our remaining mission is to serve our members' needs as a communication link and act as the catalyst for needed changes in our industry.

"I feel we can easily obtain the support and funding for state and federal legislation if we direct our efforts toward gaining a minimum of 100 new members by next convention. We cannot do either if we do not create a look to gather in new members much the same as each of us do to gain market.

"I look forward to this year with a firm resolution to work hard to provide the environment for APRO to cause change for you, the members, through better communications both in and out, better services and seminars."



Above, APRO's 1988 Board of Directors includes, front row l-r, Dick Grauel, Bill Coleman, Curtis Parsey, Mac Hennigan, Terry Washburn, Wendell McNeal, Bill Morgenstern, and Ted Wilson. Back row l-r, Larry Tinney, Bill White, Wayne Chambers, Dave Egan, Roger Sharp, and Mac McCullar. Not present: Alan Dobzinski and Jerry Reppert. At left, Maribeth Duffy and Bill White watch while Mac Hennigan cut the ribbon for the exhibit hall to open. Attendance at the Las Vegas convention was up 150 over the previous high attendance in New Orleans.



## General Session

An outline of a new, expanded legislative program for the Association was presented. The program calls for intensified efforts in the U.S. Congress for favorable rent-to-own legislation, organizing new state associations and assisting those already in existence, plus a public relations agenda.

The plan calls for a revised dues structure, increased exhibit booth rate at future conventions, and member pledges to pay the cost of the program, estimated at \$500,000 annually. The program will be a cooperative effort between the Washington law firm, Choate, Filler & Nehf; APRO general counsel Ed Winn; and APRO headquarters.

An impressive slate of speakers addressed the general session, includ-

ing industry pioneer and former APRO president Chuck Sims; Dick Grauel, Grauel Enterprises, Lafayette, Indiana; Bill Morgenstern, Rent-Way Inc., Erie, Pennsylvania; Ed Winn; and Washington attorney and lobbyist Sam Choate.

Sims called the new program an exciting proposal, noting that by consolidating the state and federal legislative efforts, costs can be cut. He urged every member to budget a specific amount for the program just as they budget for advertising or payroll. Sims pointed out that suppliers, through associate memberships, convention booths, and APRO publications advertising, provide two-thirds of APRO's revenues. He urged members to get involved and be committed to promoting the Association, calling such commitment the opportunity to make a difference and

insure a safe environment for the rent-to-own business.

Pledge sheets were handed out at the close of the general session. Members were asked to consider pledging \$200 per store owned.

## Business Meeting

Eight members were elected to the Board of Directors from a slate of 11 names presented by the nominating committee, plus four nominated from the floor.

President Hennigan announced that a tally of pledges made during the convention, plus the anticipated increased revenues from other sources, will bring in \$350,000 for the new legislative program. The pledge drive will continue.

*continued on page 50*

# Sexual Harassment In the Rental Workplace

It's a lawsuit waiting to happen



Deborah Shamis

By Edward L. Winn III

As short a time as 10 years ago, there was no need for this article because, for all practical purposes, there were no women in the rental workplace. That is not to say that there were not a handful of female owners as well as several wives who assisted their husbands in the business—there were examples of both then and they still exist today. But for the most part, there were no female employees in the rental industry.

The industry was perceived, and in many cases actually was, a rough and tumble kind of business. Store managers were in charge of poorly organized, sparsely furnished and often seldom-swept stores. Account reps were in charge of delivering bulky televisions and actively pursuing people either for payment or return of the merchandise. Neither job was seen as suitable for women.

## The Times, They Are a'Changing

In recent times much of that atmosphere and the attitudes of the people in the business have changed. Stores are newer, cleaner, often computerized, and, to all the world, look like other specialty retail stores—where women abound.

Account reps still have essentially the same function that they have always had, but the strong-arm attitude that once prevailed has changed. The industry has learned that there are other, better ways to recover merchandise than with veiled or actual threats.

Into this new environment are coming increasing numbers of women. Their arrival is occasionally met with some deep-seated resentment, but they are coming nonetheless. They are coming to run the computers. They are coming to sell on the floor. They are coming

to manage stores. And they are even coming to deliver refrigerators and collect on accounts.

Rental dealers who have hired women have generally been satisfied with the result. Dealers are finding that women often have good solid skills and work well with customers at both the rental and the collection ends of the business. There are not yet, and there may never be, a lot of women in the rental workplace. Their arrival at all, however, has added a new burden for the rental dealer—the need to be aware of the possibility of sexual harassment of female employees, for which the company may be held accountable.

There have already been a dozen or so such lawsuits brought by women against rental companies, and the number of suits is likely to increase. This article will bring rental dealers up to date with the current status of the law of sexual harassment in the workplace. It is a hot topic in the law, and the law is ▶

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rapidly evolving as women go to court more and more often against employers who they feel have not let them work in peace.

The rental industry is hardly the first male bastion to be invaded by a female workforce. In the public sector, police, fire, and even sanitation engineers have all made accommodation for female employees. In the private sector, women are succeeding in every profession and trade, although not as rapidly as some women would like.

Many of the sexual harassment lawsuits against employers have been brought in federal court alleging a violation of the woman's civil rights. The argument has been that sexual harassment is a form of discrimination based on sex and, accordingly, is forbidden by Title VII of the Civil Rights Act. This is by no means the only cause of action that has been brought by women against employers in this area, but it is the primary one.

## Guidelines

The Equal Employment Opportunity Commission (EEOC) in 1980 issued guidelines on sexual harassment to which the courts have looked for

assistance. The EEOC is a federally funded regulatory body whose broad mission is to end impermissible discrimination in the workplace. The Commission has local offices all over the country. It is a place where disgruntled employees can go and almost always find a friendly ear.

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**. . .the law is rapidly evolving as women go to court more and more often against employers who they feel have not let them work in peace.**

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Employers who have dealt with the EEOC often find themselves buried in paperwork and marvel at the intricacies of a regulatory system whose rules defy comprehension.

The EEOC guidelines define sexual harassment as "unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature" when

1. Submission to such conduct is made, either explicitly a term or condition of an individual's employment,

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, and,

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creating an intimidating, hostile, offensive working environment.

## Two Kinds of Cases

Taking this language from the EEOC, the courts have identified two kinds of sexual harassment cases. The first and most often thought-of is the *quid pro quo* sexual harassment case, where the supervisor tells a female employee that some condition of her employment depends upon her granting him some kind of sexual favors. The proverbial "put out or get out."

The other kind of sexual harassment case is harder to conceive and that is the hostile work environment case. In such cases, female employees complain that they are subjected to a barrage of sexual advances—innuendoes, jokes, remarks, physical touchings—none of ▶



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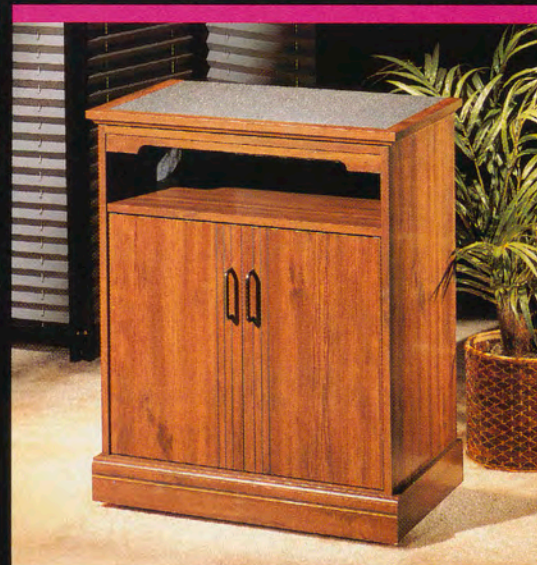
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which, when taken alone, amount to a direct threat, but when taken together create an intolerable work environment in which the employee's psychological and emotional well-being is affected.

It is not hard to imagine *quid pro quo* situations in the rental workplace. A store manager tells a prospective female counter clerk that a part of her duties will be to stay late and handle his account. Or a store manager tells a female account rep struggling to become assistant manager that the only way she will ever get the job is underneath his body.

These kinds of things should not happen, but we all know that they do. What rental dealers may not know is that the company is probably liable for such conduct and can end up paying large money judgments in such cases.

## Drawing the Line

What is not always so easy to understand, either for employers or for the courts, is exactly where the line should be drawn in *quid pro quo* cases. The line is essentially between harmless flirtation or an isolated instance of sexual attraction running loose, and genuine unwanted sexual threats.

There is simply no way for the law to make a rule that certain words or conduct in all cases will rise to the level of sexual harassment. It is always a heavily factual matter and the cases frequently turn on the testimony of the most credible witness. Even where the facts are clear, there are still issues of intent, since a store manager may admit having said something but insist that he was only kidding.

Is it automatically sexual harassment, for example, for a store manager to ask the counter clerk to go to bed with him? It will depend upon the circumstances of the asking. Are there strings attached to her saying "no thanks"? Where is the request made—in the store during business hours or later that night in a bar? How many times has he asked? Does he take "no" for an answer? Did other people hear the proposal?

The law does not say that just because the store manager does not specifically attach a job benefit to the request for sexual favors that his conduct cannot rise to the level of sexual harassment. Even without any overt or even covert threat—sleep with me or else—the manager's conduct may rise to the level of creating the second category of sexual harassment, a hostile work environment.



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## There is simply no way for the law to make a rule that certain words or conduct in all cases will rise to the level of sexual harassment.

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This second category is a much more difficult legal notion and is even more heavily dependent on the facts. One court, borrowing heavily from the EEOC guidelines, stated that sexual harassment under these circumstances

*Must be sufficiently pervasive so as to alter the conditions of employment and create an abusive working environment. Whether sexual harassment at the workplace is sufficiently severe and persistent to affect seriously the psychological well-being of employees is a question to be determined with regard to the totality of the circumstances.* (Katz v. Dole, 709F.2d 251 (4th Cir. 1983))

## Guilty as Charged

A recent case from the Eighth Circuit involving the construction industry indicates the kind of behavior that can lead a court to conclude that an employer is allowing a hostile work environment to exist.

In that case, three women went to work for a road construction company as "flag persons." They were the only

women on the road crew, and the facts were that the male members of the crew called them "f\*\*\*\* flag girls," urinated in front of them and in the gas tank of one of their cars, repeatedly asked them to perform sexual acts, and touched them in sexual ways. The foreman of the crew was told of much of this behavior and did nothing about it. No specific threats were made; rather they were made inordinately uncomfortable on the job because they were women.

The women finally quit and then sued, arguing that the workplace was so tainted that they had in effect been fired. The company's defense was that the conduct did not rise to the level of sexual harassment.

The court noted, "While Title VII does not mandate an environment worthy of a Victorian salon, it will not permit the unrelenting pattern of verbal, physical and psychic abuse to which [the women] were subjected." (*Hall v. Gus Construction Co.*, March 25, 1988, No. 87-1900)

Courts in these cases seem to be looking for more than isolated instances of inappropriate behavior. They seem to be looking for "pervasive" conduct, which is "severe and persistent" and can be seen to show a "pattern" of action directed at a female employee.

A part of any plaintiff's sexual harassment case is that the conduct complained of was unwelcomed. In the *quid pro quo* cases, employers will frequently argue that the female employee voluntarily entered into the sexual liaison and only complained when she got dumped.

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## Defining the Standards

In the hostile environment cases, an important legal issue is the standard to be applied to the plaintiff.

Must the employer take an outraged female employee as he finds her, with whatever her attitudes are towards men, or will courts apply a "reasonable person" standard to the workplace? Is it sufficient that a female employee prove that the pattern of conduct was offensive to her personally, regardless of how others might have felt about the conduct?

## A part of any plaintiff's sexual harassment case is that the conduct complained of was unwelcomed.

The EEOC guidelines suggest that a subjective standard is appropriate. But fortunately for employers, such a standard has rarely been applied in court. The trend seems to be for courts to

apply a reasonableness standard to the issue.

*To accord appropriate protection to both plaintiffs and defendants in a hostile . . . work environment sexual harassment case, the trier of fact, when judging the totality of the circumstances . . . must adopt the perspective of a reasonable person's reaction to a similar environment under essentially like or similar circumstances. (Rabidue v. Osceola Refining Co., 805 F.2d 611 (6th Cir. 1986))*

But even with this standard expressed, the debate is not over. Should not the test be that of what would be offensive to a reasonable woman, rather than that of a reasonable person? So argue those who would extend the protections of the Civil Rights Act to its broadest extent.

As an example, there exists in many industries the habit of vulgar talk. Workers spew forth obscenities like sailors. They may use body parts to refer to women in general or to a woman in particular. Such language might be highly offensive to reasonable women, and yet not bother the presumably reasonable men involved at all.

There is, after all, a wide divergence between what most women view as appropriate language and sexual behavior and the views of most men on those subjects. It is far from decided whose opinion will ultimately prevail in the workplace.

## Who Is Liable?

Is the dealer liable when the store manager harasses?

To what extent is an employer to be held accountable for the sexual miscon-

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## Got Something To Say?

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duct of its employees directed against other employees? There is the general legal proposition of *respondeat superior* which states that an employer is liable for the actions of its employees done within the course and scope of employment. It is that doctrine which makes the employer pay for an automobile accident caused by an employee on the job.

EEOC guidelines state flatly that an employer "is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer."

Perhaps because of the intensely emotional nature of these kinds of cases, courts have been reluctant to apply the EEOC standard in all cases. It has struck courts as unfair to charge companies for the sexual misconduct of employees when the company had no knowledge of the misconduct and took active steps to correct the situation as soon as it learned of the problem.

Employers are cautioned, however, that they may be held to have had constructive knowledge of a problem, even without actual knowledge. Otherwise, it would be too easy for employers simply to turn their heads and remain ignorant to abuses in the workplace.

Courts will quickly ask the question, "Should the employer have known about the problem?" If the answer is yes, then the employer will be held accountable.

Another question is who is doing the harassing. The EEOC and courts take a harsher view of supervisors who harass than they do of co-workers who harass. This is especially true in the *quid pro quo* cases, since it is the supervisor specifically who can give or withhold the benefits of employment and, by extension, attach sexual strings to those benefits.

The clear trend in *quid pro quo* is to hold employers strictly liable when it is a supervisor who is doing the harassing. The policy reasoning is as follows:

*Sex discrimination can best be eradicated by enforcing a strict liability rule that ensures compensation for victims and creates an incentive for the employer to take the strongest possible affirmative measure to prevent the hiring and retention of sexist supervisors.* (Horn v. Duke Homes, 755 F.2d 599 (7th Cir. 1985))

The matter is not so clear in the hostile environment cases. Offering an employee a raise or a better job in exchange for sex (examples of *quid pro quo*

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**Offering an employee a raise or a better job in exchange for sex. . .clearly impacts on the employer's business. . .**

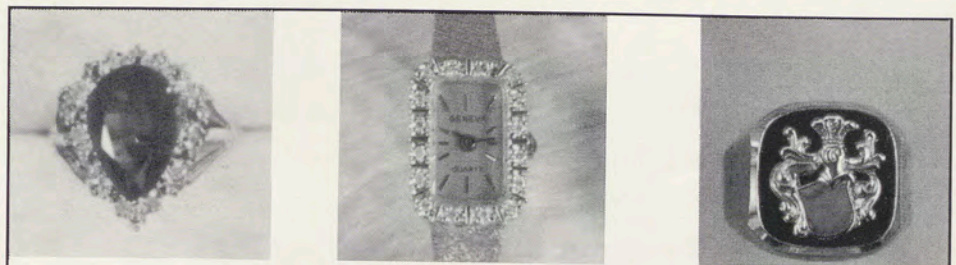
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cases) clearly impacts on the employer's business.

Merely being rude, crude or lewd, without attaching strings to the behavior, cannot always be seen to be as

closely connected to the job. Therefore, several courts have ruled that unless the employer can be held to have had notice of a hostile work environment and failed to take immediate corrective action there is no liability. Importantly, companies have successfully defended themselves by showing that they had a stated written policy against sexual harassment and a grievance procedure in place to solve any problems that arose.

In several cases holding for the employer, the court reasoned that there should be no liability when the em- ▶



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ployer did not know of the problem and was not given a reasonable opportunity to cure it. The employee failed to follow the procedure.

Rental dealers should be advised that having such policy and procedure in an operations manual is not an automatic defense by any means, but it should help. Such a procedure must provide employees with a mechanism to go over the immediate supervisor's head in the event that he is the cause of the problem.

Other problems that can arise with grievance procedures is that no one knows about them, or that the company merely has the mechanism on the books without following through—by investigating the allegations, taking written statements from all parties, and disciplining or firing the wrongdoers.

Insofar as sexual harassment by co-workers is concerned, these cases can only be hostile environment cases since, by definition, co-workers cannot grant or withhold job benefits for sexual favors. As a general proposition in such cases, as long as an employer takes prompt remedial action as soon as it knows or should have known of the hostile work environment, the courts will insulate them from liability for sexual harassment.

## Claims in State Courts

In addition to sexual discrimination claims under federal law, sexually harassed employees can bring a barrage of state tort claims against the individuals involved as well as the company. They can and do sue for assault, battery, invasion of privacy, intentional infliction of mental distress, wrongful discharge, and negligence.

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### Juries. . .do not like employers who can be shown to condone the sexual harassment of female employees.

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One defense used successfully by employers in a few states has been that all such claims are covered by workman's compensation, under which scheme damages are usually limited.

Otherwise, employers are left with traditional tort defenses. For example, in severe physical contact cases, employers argue that the harassing employee was acting outside the scope

of his employment and, therefore, the employer cannot be held liable for those acts.

In the tort area, employers need to be particularly careful of negligent hiring and negligent supervision claims. Even if an employer would not ordinarily be liable for a specific tort committed by an employee—for example, a battery committed when a store manager grabbed a store clerk's private parts—the employer will be held liable if it can be shown that the employer was negligent in hiring the store manager.

Evidence of such negligence might include a failure to check the employee's references adequately, which would have uncovered evidence of prior similar misconduct. Negligent supervision might be the failure to inform employees of the company's grievance procedure, or failure to enforce working hours rules, which allowed the employees to be in the store after store hours when the incident occurred.

Even without particularly egregious facts—a rape, for example—damages in sexual harassment cases can be substantial. Juries, as might be imagined, do not like employers who can be shown to condone the sexual harass-

*continued on page 50*



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# WAITING ON TABLES?



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# Look Before They Legislate!

*Proposed bill could cost you money*

Would you be in favor of a bill that would provide health insurance for the estimated 35 million American workers who are currently uninsured? Of course you would. However, would you still be in favor of such a bill if you, the employer, paid for all of this insurance?

The Minimum Health Benefits for all Workers Act of 1987 (S.1265 and H.R.2508) proposes that employers provide health coverage for all employees who work more than 17½ hours per week. The bill includes a requirement that spouses and dependent children be covered as well.

The bill also requires that the employer pay 80 percent of the cost for the employees and their dependents, unless the employee makes less than \$4.19 per hour (125% of minimum wage). The employer must pay 100 percent of premium for these lower paid employees and their dependents.

The Minimum Benefits bill, also known as the Kennedy bill since it was introduced by Sen. Edward Kennedy, represents a major intrusion by the government into decisions that you and your employees should make together.

According to Gary Robbins, on behalf of The Institute for Research on the Economics of Taxation (IRET), a non-profit public policy research organization, "The federal government, in effect, would be telling a worker that a specific part of his earnings must be spent on health insurance, leaving less for food, housing, education, pensions, and so forth." Robbins comes to this conclusion based on the fact that "labor com-

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**The bill represents a major intrusion by the government into decisions that you and your employees should make together.**

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pensation increases only if the value of a worker's product increases." Therefore, if you still charged the same prices for your products, you could not afford to pay your employees higher wages. You would have to decrease their actual cash wages in order to pay for the benefits that the government says you must provide.

## Effects on Business

Initially, before pay packages are redesigned, compliance with S.1265 will increase your payroll costs. You may have to let some employees go, or put off hiring needed employees.

Small businesses will be affected more than large ones, because they may already be unable to afford group health insurance. If the bill is passed, small businesses will have to provide the coverage, whether they can afford it or not. IRET's study of the impact of the bill shows that the retail trade would be hardest hit. This could have a serious impact on these employers. Some

will be forced to go out of business.

But the bad news doesn't stop there. Employers must provide health insurance that meets the benefit requirements included in the Kennedy bill. Preexisting conditions or negative health histories cannot be considered. Deductibles are limited to a maximum of \$250 per person and \$500 per family. Gary Robbins says, "In ten years, a \$250 deductible would be equivalent to a \$100 deductible today."

Certain benefits must be provided under the bill. They include:

- Inpatient and outpatient hospital care, other than mental care and experimental procedures.
- Inpatient and outpatient doctor services, other than for mental care, experimental procedures, routine physicals, and preventive care.
- Diagnostic and screening tests.
- Prenatal and well baby care. This benefit will be redefined annually by the Secretary of Health and Human Services, according to IRET.
- Eligible expenses incurred after the worker has spent \$3,000 out-of-pocket are paid at 100 percent.

Businesses that currently do not provide insurance at the effective date of the Minimum Health Benefits Act will be required to purchase their coverage through regional insurers. The bill states, "Almost all small businesses can be expected to purchase their insurance through the regional plan" and businesses with less than 25 employees "will be required to buy through the plan at the point they change insurers."

The regional insurers will be appointed through a competitive bidding process. Sue Martin, of ACI Financial Corp., stresses, "Once they're appointed, they're permanent." The regional insurers could be compared to your local movie theater's concession stand. When competition is eliminated, your popcorn can get pretty expensive—and so can your insurance.

### **Cost of the Package**

The Kennedy bill will cost much more than the estimates that Senator Kennedy offered in the Congressional Record.

IRET determined the average employer contribution in 1988 to be \$1,400 using National Income and Product Accounts (NIPA) data, which are based on tax return records. The projected average given by Senator Kennedy for the mandated minimum benefit package is \$1,186, or 15 percent less than the \$1,400 that IRET projected from the NIPA data. Also, consider that the bill requires that employers contribute for dependents as well as employees. This would represent an 8 percent increase over current contribu-

tions, which would bring the \$1,400 estimate to \$1,512.

Gary Robbins, of IRET, says, "It is difficult to explain why the per employee cost of the mandated minimum package would be less than that estimated for present health insurance unless the mandated insurance provides less in benefits or has more stringent coverage requirements." Yet, as you've seen, the Kennedy bill does not have strict eligibility requirements, nor does it allow for a cut in benefits.

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### **...employers would pay most of the \$100 billion cost until they redesigned pay packages...**

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Therefore, the Minimum Health Benefits bill will cost employers approximately 25 percent more than the original estimate. IRET estimates that the cost of employer-provided benefits would rise by \$100 billion in 1988 if this bill were passed.

Proponents of the bill claim that it is

solving the problem of the uninsured without a raise in taxes. However, employers would pay most of the \$100 billion cost until they redesigned pay packages as we discussed before. According to IRET, this would mean a reduction in the work force of about one million jobs.

Gary Robbins clarifies, "Fewer jobs mean less labor service and less output. One million fewer jobs would result in \$25 billion a year less total real output in the economy." It would also result in a federal tax *loss* due to the reduction in income and social security taxes.

Proponents of the bill also claim that it has received positive response in the Subcommittee on Health and the Environment. The Subcommittee is chaired by Rep. Henry A. Waxman, who sponsored the bill in the House of Representatives. According to a bulletin in *SPBA Update*, published by the Society of Professional Benefit Administrators (SPBA), the date of the meeting was "kept in strictest secrecy. Only supporters of the bill were invited." SPBA sent six early requests to testify to the sponsors of the bill, and their key staff, but was not allowed to testify.

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## Public Response Needed

The bill could easily be passed without public hearings or discussion. The Kennedy Bill Ad Hoc Committee, chaired by Sen. Ron Masters of California, is developing strategies to beat the bill on the Senate floor. For information on this committee, you may contact the National Association of Health Underwriters, 1000 Connecticut Ave., Suite 1111, Washington, DC 20036.

Another effective method for deterring the bill is to contact your congressmen and ask that they vote against the bill, or at least consider some alternatives.

## Alternative Proposals

One alternative proposal, offered by the Health Insurance Association of America, outlines a plan that would combine several effective ways to get insurance for uninsured workers. For example, HIAA's proposal includes low-cost prototype plans offered to employers, a nonprofit employer reinsurance organization to be set up to handle uninsurable groups, expansion of Medicaid to cover the poor, and federal legislation to encourage state risk

pools for the medically uninsurable (all insurance companies contribute to pools equally and the burden of covering these high-risk individuals is distributed equitably within the private sector).

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## The bill could easily be passed without public hearings or discussion.

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Another innovative element in HIAA's program is a 100 percent tax deduction for health insurance premiums for the self-employed, their spouses, and dependents. This will reach about four million of the 35 million working uninsured that are not included in the Kennedy bill. HIAA president Carl Schramm, in *National Underwriter* magazine, said that this plan "gives appropriate roles to both the private and public sectors in working out solutions to this critical problem."

So, there are reasonable alternatives to the Kennedy bill to get insurance coverage to the uninsured. We cannot support a bill that would dictate what

group insurance benefits we must buy, who we are to buy them from and how much we are going to pay for them.

Since the uninsured are the real issue, shouldn't our representatives in Washington be doing their best to get coverage to them without requiring employers to finance it instead of whisking an ill-considered bill into law? If you agree, please consider contacting your Senators as well as your Representatives in the House and let them know how you feel. Let's look before they legislate.

**PR**

*Regina Rock is marketing representative for Boon-Chapman, an independent health care administrator, located in Austin, Texas.*

## Got Something To Say?

Write a letter to the Editor,  
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## PRODUCT FOCUS

A three-head VCR is new from **Zenith Electronics**. Model VRE150's three tape heads allow clear freeze-frame images and five-speed slow motion. Features include: a 157-channel quartz-electronic tuner and wireless remote control; VHS HQ (high quality) circuitry for detail enhancement with white clip and luminance noise reduction; and automatic play and rewind functions. Model VRE150 is finished in a sleek black cabinet with hidden controls and is also available in a warm pecan finish (Model VRE155).

Suggested retail price: \$399. For more information, contact Norman Smith, Zenith Electronics, 1000 Milwaukee Ave., Glenview, IL 60025, (312) 391-8181.

New from **Soundesign** is a deluxe home entertainment center featuring a 19-inch color TV, dual cassette decks, semi-automatic turntable, five-band graphic equalizer and two-way tower speakers. Model 5991MP3's monitor TV features 139-channel capability, on-screen clock-timer, wireless remote control, and video input/output jacks allowing the monitor to be used with a VCR, video camera or computer.

Audio features include PLLMPX circuitry in the receiver, high-speed dubbing decks, and a two-way speaker



*Zenith Model VRE150*

system with 8-inch woofers, 3-inch tweeters, and an electronic crossover network. A custom-designed walnut veneer rack houses the unit featuring separate compartments for each component. The entire unit measures 31 $\frac{7}{8}$ " x 48" x 16."

Suggested retail price: \$699. For more information, contact Soundesign Corp., Harborside Financial Center, Jersey City, NJ 07302, (201) 434-1050.

TDK now has available SA and SA-X Type II (high bias) 90-minute audiocassettes in brick packs of 3, 4, 5, or 10 to a pack. The shrink-wrapped bricks come in pre-packed display cartons for eye-catching in-store display. Sug-

gested retail price for individual tapes: SA, \$3; SA-X, \$3.50 (for brick pack prices, multiply dollar amount by quantity in pack).

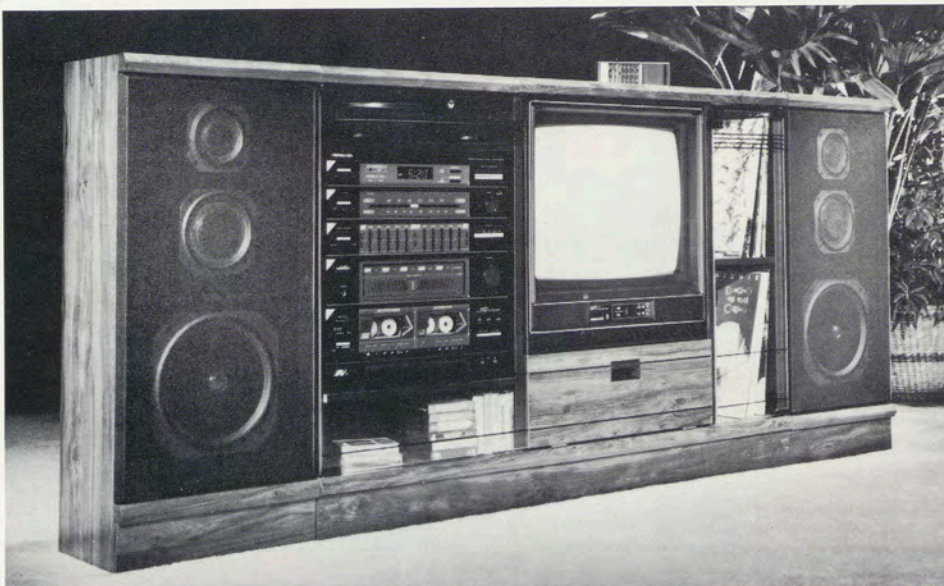
For more information, contact TDK Electronics Corp., 12 Harbor Park Drive, Port Washington, NY 11050, (516) 625-0100.

**Regina Company's** Cambridge Cleaning System is an upright vacuum cleaner line aimed at the home/floor care rental industry. Three models ranging in power from 6.3 to 7.3 amps make up the line. All units have 16" floor nozzles with a Handi-Handle for carrying convenience, furniture guards, and carpet height adjustment. All attachments are included and stored right on the unit; each unit weighs 14 lbs.

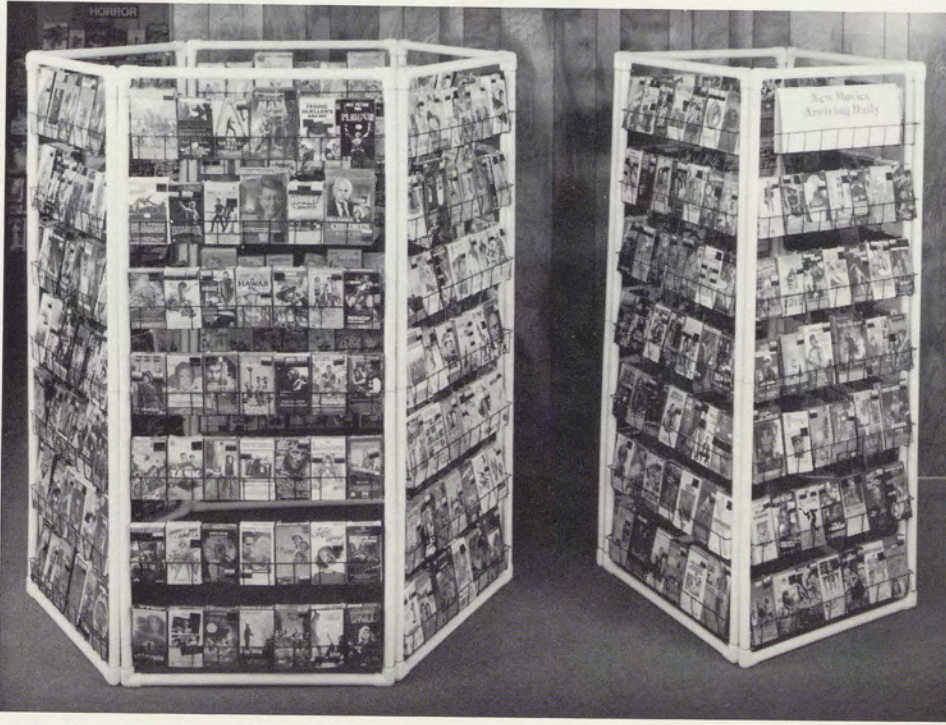
Suggested retail price: \$249-\$349. For more information, contact Lew Allen, Regina Company, 313 Regina Ave., Rahway, NJ 07065, (201) 381-1000 ext. 327.

A traditional style, golden brown oak-finish entertainment center is available from **Bush Industries**. Model AV786 accommodates a 27" TV, a VCR, and a sound system. The video compartment is hidden behind raised panel doors; two large drawers under the video compartment hold compact discs, videocassettes, and accessories. The component area features one fixed and three adjustable shelves and is protected by two full-length, framed, safety-tempered glass doors. Dimensions are 50 $\frac{5}{8}$ "h x 53" w x 20 $\frac{3}{8}$ "d.

Suggested retail price: \$359.95. For more information, contact Bush Indus-



*Soundesign Model 5991MP3*



*Video Space Products' Show & Grow*

tries, P.O. Box 460, Jamestown, NY 14702-0460, (800) 228-BUSH, or (800) 249-BUSH in New York.

A new stereo bar with laser lights is the latest addition to the **Techwood** line. Designed for a den or gameroom, Model T-10's counter is cushioned with padded vinyl and protected with stain-proof formica; the foot rail is solid brass. A stemware rack under the counter provides extra storage. The stereo features an AM/FM radio, twin cassettes, and a graphic equalizer. Speakers include two 8" woofers mounted under the right and left overhangs of the counter plus two 2" front-mounted tweeters. In the center of the bar front is a multicolored laser display that flashes with the music played on the stereo. The bar is shipped fully assembled, has a four-year limited warranty and a one-year labor warranty.

Suggested retail price: \$999. For more information, contact Jim Wood, Welton/Techwood USA, 2109 Luna Rd., Carrollton, TX 75006, (404) 992-5380.

**Sanyo/Fisher** now has counter-high refrigerators complete with full-range thermostats for the rental market. A warm oak compact-size refrigerator comes with brass-tone accents and features an ice-freezing compartment with two trays, two slide-out shelves, and door storage. Suggested retail price: \$239.95.

An ebony counter-high unit comes equipped with a glass-lidded vegetable crisper/fruit keeper, two slide-out

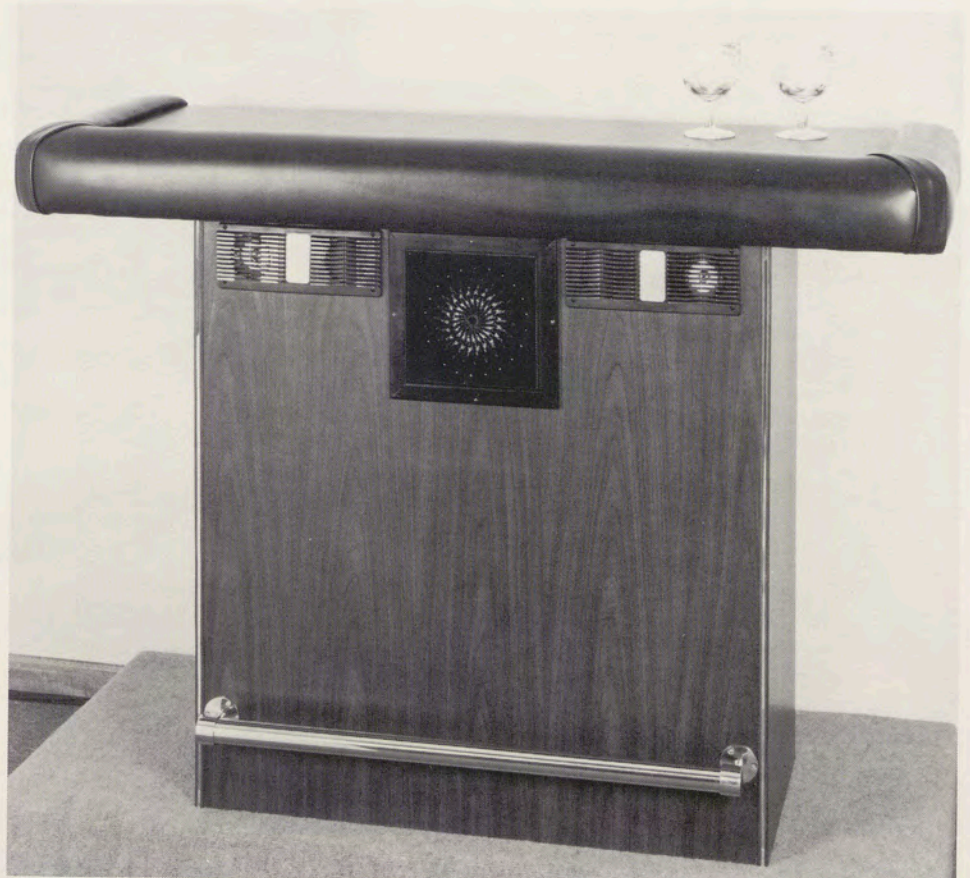
shelves, and triple-decker door storage. Suggested retail price: \$259.95. For more information, contact Sanyo/Fisher Electric, 200 Riser Rd., Little Ferry, NJ 07643, (201) 641-2333.

**Video Space Products' Show & Grow** video display system can hold 686 full-face videotapes in a 10' wall space. Show & Grow attaches to walls or can be arranged in A-frame, square, octagon, diamond, star, or triangle shapes for floor display. The units are made of heavy duty, white PVC pipe and weigh nine lbs. Each display measures 33" wide by 4' or 6'; custom sizes and colors are available.

Price starts at \$58. For more information, contact Video Space Products, P.O. Box 1581, Cambridge, OH 43725, (800) 544-1585.

**PR**

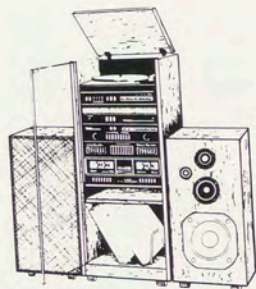
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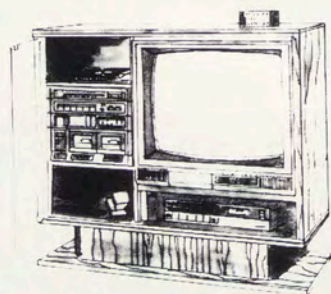
*Techwood Model T-10*

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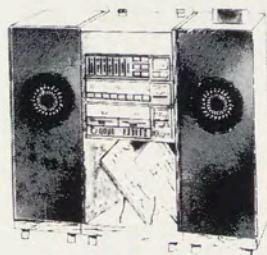
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## SELLING A BUSINESS

*continued from page 20*

So you run an ad for \$3,000,000. The buyer sees it and does a little quick figuring. If he borrows \$3,000,000 from the bank, he has to pay interest (\$300,000 per year, give or take), plus pay the principal off over five years (\$600,000 per year). What are your profits?

Well, you don't like to pay taxes, right. We all tend to, you know, er, push things around a bit so the tax man doesn't get it all, right? Profits are \$60,000. Your salary and fringes add up to \$140,000. You work like a sled dog—it will take three masochists and a psychiatrist to replace you.

How the hell are you going to get three million? You're not. You're not going to get two million either. Guess what? You're not going to get one million either. Why? Because you must demonstrate to the buyer that you have a reasonable investment for him or you aren't going to be able to sell anything.

### Determine the Real Worth

What is your business really worth? Your \$1,000,000 gross gives you \$200,000 of total economic benefit. Maybe you could be replaced by a general manager who would earn \$60,000 including payroll costs and fringe benefits. That would leave \$140,000 available to the buyer.

If you sell for \$700,000 and the buyer puts \$300,000 down, he owes you \$400,000. If he pays you \$8,300 per

month for five years (which includes interest at 10 percent), he will have paid off the \$400,000. So he pays you \$100,000 per year and gets to keep \$40,000. The \$40,000 represents a return on investment of 13.3 percent for five years. Then the buyer gets to keep the \$200,000 from then on. This works out to an internal rate of return of about 35 percent over 10 years, which is about right.

What are the components of the purchase? What is the buyer buying? Are you selling the shares in your rent-to-own corporation? Are you selling only the assets? Just the equipment? Do the cash and receivables and payables stay with you? Do you think it matters?

It matters. LOTS. The tax treatment, assumption of liabilities, lawsuits from the woodwork, audits, and whether you can continue to function in any capacity in the industry are all deal points that can affect the price, terms, and viability of the transaction. How you put it all together determines whether you win or lose, whether the buyer wins or loses, and whether the IRS and attorneys win or lose.

In the next issue, we will put together a hypothetical transaction and endeavor to show the tax impact and overall return to buyer and seller. We will also discuss a new wrinkle that we are using in several current transactions that can dramatically lower a buyer's cost and, at the same time, vastly increase the return to the seller.

**PR**

*Daniel B. Lewis is a chartered financial consultant based in California and a recognized authority on small business valuation, retirement plans, and executive compensation.*

## WASHINGTON REPORT

*continued from page 18*

is so much longer on the federal level. It is simply a matter of timing and volume of work. States are much more efficient than the federal government because they have less to do and less time in which to do it.

For example, the Georgia legislature meets for 40 legislative days each year. With very little staff support and with a limited amount of time to deal with issues, the Georgia legislature moves quickly and efficiently. However, Congress is a full-time legislative body. It has an enormous staff which must answer to many different constituent

groups on thousands of issues.

A bill such as ours, which deals with products used by consumers, will be closely scrutinized and will not become law until the legislation has been made politically acceptable.

We are optimistic about the ultimate success of this effort. However, the individual members of this industry must involve themselves at a grass roots level in the politics of Congress. Only then will we be successful in passing the much-needed federal legislation.

**PR**

*J. Samuel Choate and Laura C. Nehf are partners in a Washington D.C. law firm, Choate, Filler & Nehf, which promotes legislative action for the rental-purchase industry.*

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## APRO '88

continued from page 31

Four candidates sought and won reelection to the Board. They were: Alan M. Dobzinski, The Rental Experts, Hamden, Connecticut; David Egan, Rent-A-Center, Wichita, Kansas; Larry Tinney, Crown Leasing Inc., Fayetteville, North Carolina; and Bill W. White Sr., Action TV & Appliance Inc., Mesquite, Texas.

Four candidates elected to first terms are: Wayne Chambers, CWD Enterprises Two Ltd., Houston, Texas; N.D. "Mac" McCullar, First American Rental Center, Lithonia, Georgia; Jerry Rappert, RK Rentals Inc., Anna, Illinois; and Roger Sharp, Appalachian Rentals, Huntington, West Virginia.

Others nominated by the committee were: Joseph Filar, Seajay Investment Group, Houston, Texas; Alan Taylor, Michigan Rent-To-Own, Southfield, Michigan; and John C. Thompson, C & J Thompson Inc., Moberly, Missouri.

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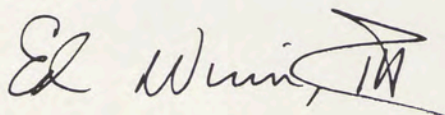
## WORDS OF PRAISE

continued from page 14

tic impulses, it is rare indeed to have a group of people come together for so long and work as hard as they have without the results putting money directly into their pockets. And that is exactly what this group has done.

I cannot tell the membership that I enjoyed every meeting or that everyone in this group saw eye to eye on how to accomplish this project. I cannot tell the membership that the job is done and that these people are ready to stand up and take a bow for their accomplishment.

What I can tell the membership is that this group of rental dealers spent a lot of their time for your benefit to try to enhance your association and your industry. Such efforts renew my faith in what I am trying to do for the industry, and I want to thank them publicly. I appreciate very much the effort, guys. I think that when all is said and done, a lot of your peers will feel the same way that I do.



Ed Winn, III  
General Counsel, APRO

Nominated from the floor were: Jimmy Almond, Network Rental, Atlanta, Georgia; Gene Heggstad, Vista Rentals, Wichita, Kansas; Mary Ramsey, American Way Rentals, Springfield, Illinois; and Terry Sullivan, Mr. Steve's, Ardmore, Oklahoma.

## Awards Luncheon

Bill Morgenstern was the honored recipient of the President's Award this year. In making the presentation, President Hennigan praised the Pennsylvania dealer and APRO Board member for his willingness to help the Association, particularly considering the risky situation his own business was in because of limitations set on interest rates in his state.

Hennigan again won the membership contest and will attend APRO's London Fling Seminar, all expenses paid, November 6-13. Second place winner was Roger Sharp. He got free registration and a suite at the Las Vegas Convention.

Rocky Bleier wowed the crowd with stories of his days on the football field and challenged members to accept opportunities for change.

## Board Meeting

Dave Egan was reelected first vice president when the new Board held its first session after the awards luncheon.

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## HARASSMENT

continued from page 40

ment of female employees. There have been a few cases in which juries have come back with awards of hundreds of thousands of dollars, including large punitive damages awards. Often, juries will award actual damages ranging from \$20,000 to \$50,000 for emotional suffering that results from sexual harassment.

The emergence of this area of the law in recent years has made it imperative for all rental dealers to pay close attention to how the female employees in the company are treated. They have the right to be treated with dignity and respect, and the right to be let alone. What is more, "they don't have to take it anymore" when they are not treated in an appropriate manner.

Dealers who allow a sexist atmosphere to exist in their stores or in their

Egan will also continue to chair the government relations committee.

Wayne Chambers is new second vice president; Terry Washburn was reelected secretary; and Ted Wilson is the new treasurer.

Several new committees were established and chairmen named to head them as follows:

Government Relations Finances: Wayne Chambers;

Public Relations: Bill Coleman;

Education: Wendell McNeal;

Member Services: Mac McCullar.

Ed Winn and Sam Choate will develop an information package to explain the new legislative program, which will be distributed to the membership.

## A Big Success

Attendance was up, exhibitors were happy, the seminars offered exceptional educational opportunities, and a lot of optimism about the future was expressed at this convention.

Rent-to-own people work hard. They also play hard. And there was opportunity for that too at the after hours events. All in all, APRO '88 was a well-balanced blend of education, information, and relaxation. And a resounding success.

**PR**

Frances Knight is APRO's director of communications and editor of PROGRESSIVE RENTALS.

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**They have the right to be treated with dignity and respect, and the right to be let alone.**

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home offices—an atmosphere in which women are treated as second-class citizens—are lawsuits waiting to happen. It is far better to do as most dealers have already done or are learning to do—move with the times, and use the many talents and abilities of their female employees to the best advantage, and treat them as equals in the workplace.

**PR**

Edward L. Winn III is general counsel for APRO and a regular contributor to PROGRESSIVE RENTALS.

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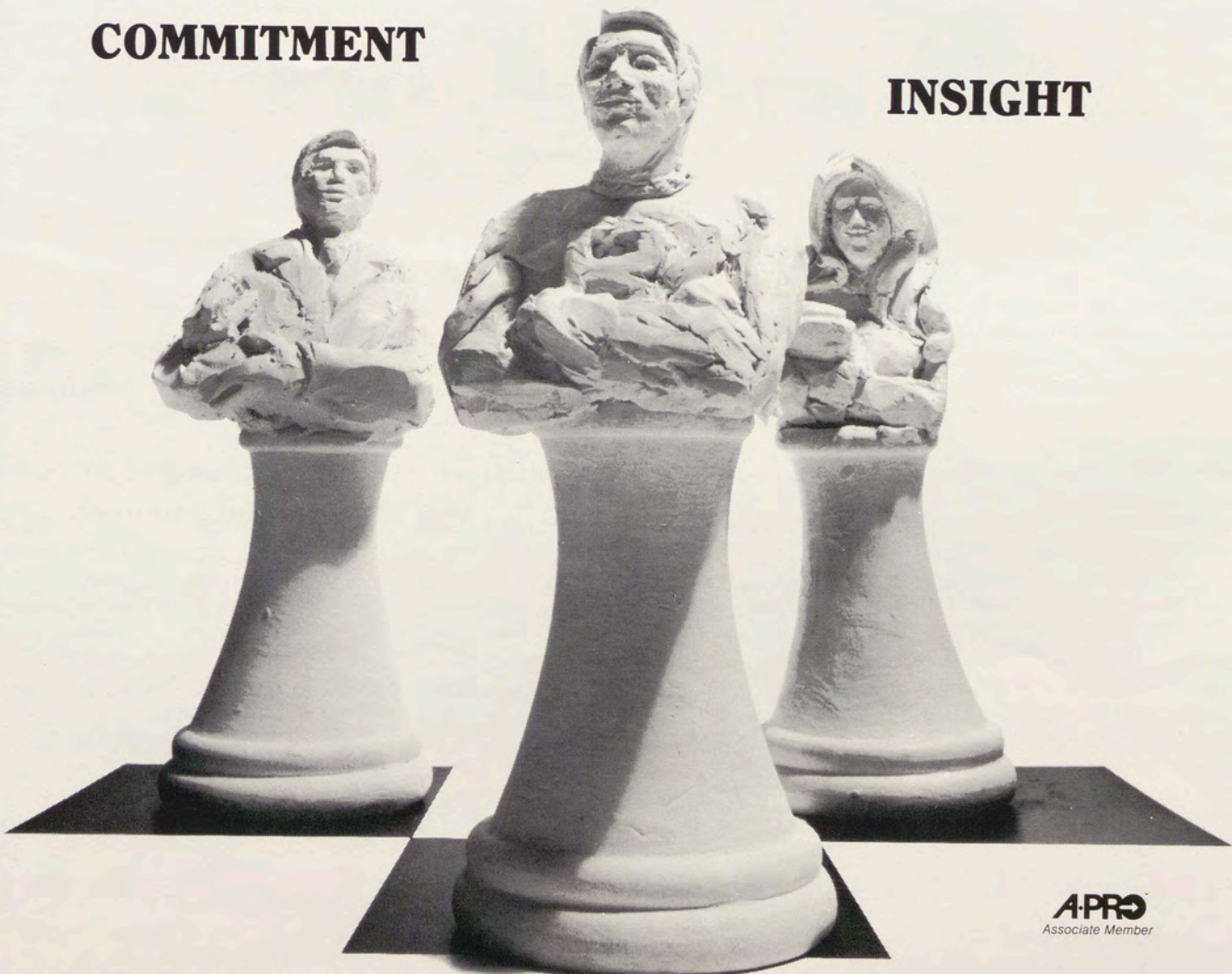
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# **MCDONNELL DOUGLAS**

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## APPLIANCES

*continued from page 12*

worked out an agreement to market a full line of Roper-brand appliances through Whirlpool's existing distribution network. In addition, Roper Corp., based in Augusta, Georgia, will market the RCA label. Roper will have nothing to do with the Roper brand itself, other than supplying product to Whirlpool on an OEM basis.

Don Linskey says that the corporate repositioning has no effect on the rent-to-own segment of GE's business. "We have our own sales force, logistics, and delivery systems, as well as our own product service and authorized services. It didn't affect our major appliance business plus or minus prior to this. It hasn't been a negative or positive effect to the rental industry at all."

### Revise the Scorecard

Maytag's relationship to Magic Chef and Admiral represents another consolidation in the appliance field. As Rip Whitfield, public relations director for Maytag explains, the April announcement that Magic Chef will market Admiral, "was not really a merger. Magic Chef had owned Admiral since 1979, then in May of 1986 merged with Maytag Corp. Maytag Corp. became a parent corporation and Magic Chef is one of the divisions. The name of our company now is Magic Chef Co., a division of Maytag Corp.

"Admiral became another division, but recently, the Admiral company was consolidated into other divisions of the Maytag corporation. The Admiral production facilities are the operating responsibility of the Maytag company now. At the time they did that, which was actually in January, the marketing functions of the Admiral brand and other private label business were assigned to the Magic Chef company.

"Some changes have already taken place," says Whitfield. "In its marketing efforts for Admiral, Magic Chef changed it from primarily a distributor-oriented organization to sales direct to dealers. We still have a few distributors, but primarily Admiral is sold now to independent appliance dealers across the United States."

### At Speed Queen

No major changes have been announced at Speed Queen, where

independent distributors handle most of the company's washer and dryer sales. Jay McDonald, manager of special accounts for Speed Queen, explains, "We also have factory branches in locations where we don't have distributors. Our distributors in those branches develop unique and separate programs for retail and rent-to-own. They treat them as two separate industries."

Speed Queen offers point-of-sale materials that can be used for rent-to-own customers as well as for retail sales, along with banners especially for rent-to-own dealers.

### Looking Ahead

In a word, appliances are reliable.

Reliable because the three major rent-to-own appliances—washer, dryer, and refrigerator—are must have items in almost every home. Particularly a refrigerator, which has long since moved into the category of a necessity. And the convenience of having a washer and dryer at home puts those

## PERRY McNEAL

*continued from page 27*

opening one store in a market like Atlanta. I've seen experienced guys ask to do that and lenders turn them down. I think that's prudent. I think that says, 'We're not trying to screw up the industry with a bunch of wackos getting into the business without knowing what they're doing'."

Burkholder and McNeal agree that rent-to-own is an industry that requires intense management. With a relative newcomer's objectivity, Burkholder says, "People have to be here all the time. If you fall asleep at the switch for two or three days in this industry, you can lose thousands of dollars without batting an eye. That's not like every business. It's a business where if you get behind, catching up is very difficult. It's an every day, every hour kind of business."

### The Future

Looking ahead, McNeal names his biggest challenge as "finding ways to profitably manage a bigger and bigger company. I don't think I could run Coca-Cola, or Rent-A-Center, so what could I run?"

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## Appliances tend to stay out on rent longer and go to term more often than other rental products.

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products at the top of any family's household needs list.

Appliances are reliable, too, because of improved quality and production, plus longer term service contracts.

Clearly, white goods have proven themselves a reliable staple in the rental-purchase market. Dealers who train their staffs properly, take the time to evaluate their successes and failures, and pay attention to building new product categories, should find appliances to be a solid profit partner.

**PR**

*Susan K. Elliott is a Texas-based freelance writer and a regular contributor to PROGRESSIVE RENTALS. Margo McBride, a Texas freelancer, assisted with research for this article.*

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To address these issues, he says "I read a lot. I guess I listen a lot. I think we can learn from people who have one rental store, and we can certainly learn from the industry fathers like Chuck Sims and Tom Devlin. Anything that those guys say that ends up in print, we learn from."

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## "It's an every day, every hour kind of business."

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"We try to learn from our employees. We have an employee suggestion program in which we pay our employees for suggestions. It may be that the guy who's been with the company for two weeks could make a suggestion that we never thought about that could save lots of money, or lots of time, or perhaps serve a customer better."

As Gina McNeal predicted, the image of rent-to-own reflects the caliber of people involved, and with Perry McNeal's high standards, it should continue to improve.

**PR**

*Susan K. Elliott is a Texas-based freelance writer and a regular contributor to PROGRESSIVE RENTALS.*

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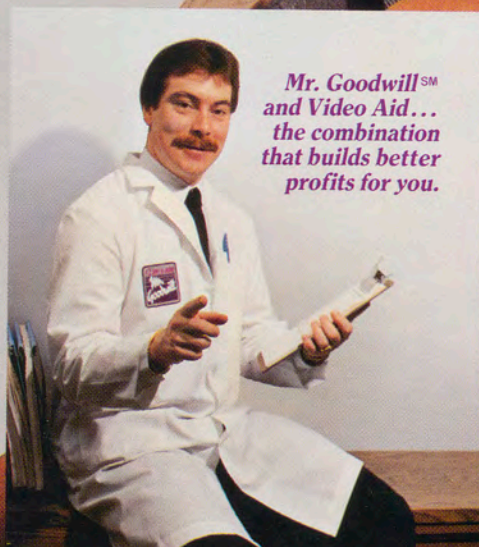
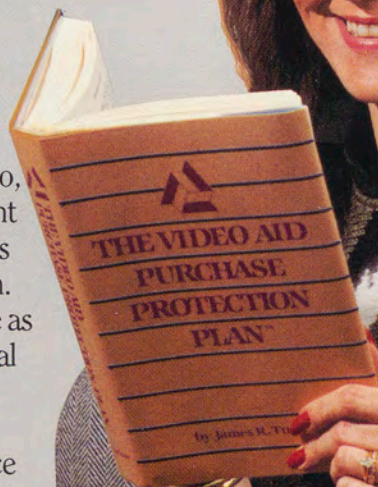
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# Two RTO Dealers Enter State Politics

Texas and Oklahoma rent-to-own dealers may have true representation in their state legislatures soon.

John T. Cook, co-owner with his wife Beverly of Mr. C's Rentals in Hugo, Oklahoma, is running for state representative in Oklahoma District 19. Cook resigned as a Choctaw County Commissioner, a job he had held for six years, to run for the state post.

Cook is running as a Democrat in the August 23 Primary Election. With five opponents, a runoff is practically guaranteed. According to Cook, that runoff will be held in September.

Oklahoma District 19 covers the southeastern part of the state where, Cook points out, Republicans don't have much of a chance. Economic development is the big issue, Cook says, but his concern is to find non-pollutant type industries so that the natural beauty of the area won't be spoiled.

## The Issue That Will Not Die—PX TV Sales

Military PXes have not given up on selling television sets in U.S. exchanges. The Joint Services Exchange Coordinating Committee will resubmit to Congress their request seeking authorization for sales of the sets in continental U.S. commissaries. The idea was rejected just last December.

Local chambers of commerce in cities where military bases are located have taken on the military PX product offerings as one of their issues. You may want to contact your local chamber to add strength to that voice.

Although the National Chamber of Commerce in Washington has declined to lobby on this issue, local chapters have adopted it as an issue and are contacting their representatives.

Avoidance of a state income tax and fiscal responsibility in government are the issues that concern Delwyn Jones of Lubbock, Texas. He won his Republican primary in the spring and faces a Democrat opponent in the November General Election.

This is not Jones's first foray into state politics. He served as a Texas state representative previously, from 1965 through 1972. The district in which he is running covers the eastern half of Lubbock and part of Lubbock County.

Jones owns two rent-to-own stores under the name Rent-Buy in Lubbock. He has other business interests in that area including a sign company he bought two years ago that's been in Lubbock for 50 years.

## Big Change at Curtis Mathes

Curtis Mathes has a new chief executive and majority owner. New president Ray Harvey is no stranger to the Texas company. Formerly a sales executive with C-M, he established Harvey Industries in 1982 when he bought a Curtis Mathes manufacturing plant in Athens, Texas. He was Curtis Mathes's primary supplier of TV sets. Harvey has now bought controlling interest in the franchise operation from the Mathes family.

## CORRECTION

Photo credit for the article "Computers Pave the Way to Personal Service" in the June/July issue of PROGRESSIVE RENTALS was inadvertently omitted. The picture on page 21 of that issue was provided by ADDS, a subsidiary of NCR Corp. and manufacturer of the Mentor 4000EP computer system used by McKenzie Development.

Jones's opponent is a criminal defense attorney who ran for judge two years ago and was defeated.

Both candidates say they would appreciate support.

## Here's Help For Small Business

AT&T, in cooperation with the Small Business Administration, has recently published a book, *The Small Business Resource Guide*. In it are contained many telephone numbers and addresses of people and organizations, at both the federal and state level, that can be of assistance to "small businesses."

If you don't know whether you are a small business, you might want to order this book to find out.

In addition to information about various federal and state administrative bodies, there are sections on business development, financial assistance, procurement assistance, minority/women opportunities, and the like. There are names and addresses of such associations as the American Entrepreneurs Association, the National Association of Entrepreneurs, and the National Association of Small Business Investment Companies.

There is a list of television shows about business. There are pages of entrepreneurial education resources with books and periodicals for business people. There is a listing of small business development centers, most often connected with universities around the country.

If you are seriously interested in learning how to be a better business person generally, you can obtain this book by contacting the Small Business Administration district office in your area, or the Office of Advocacy at (202) 634-7600.—ELW

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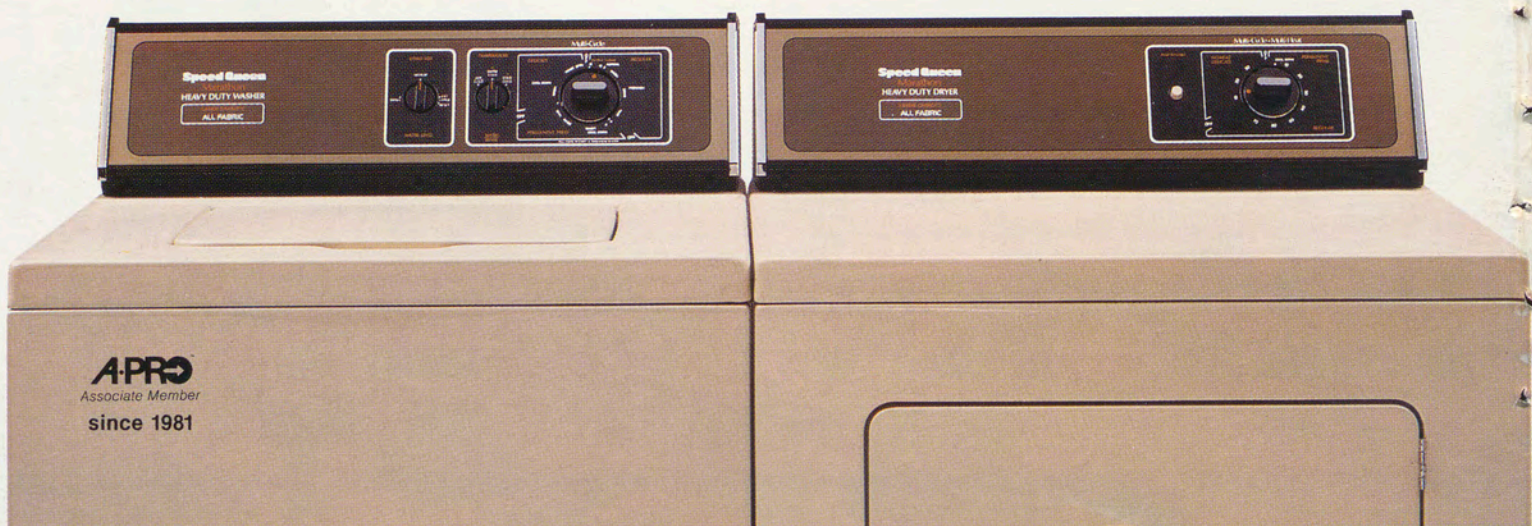
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