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March/April 2015

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Breach?**

**Legal Matters:
Independent
Contractor
Misclassification**

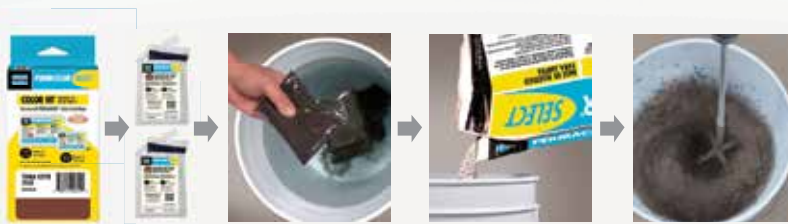
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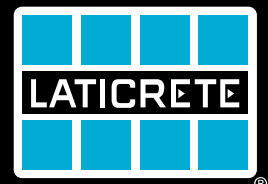
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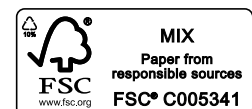
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21 Days to Create a Good Habit

By Scott Humphrey, CEO, World Floor Covering Association



To break a bad habit and not replace it with something positive leaves a void that will be filled. Either you choose to fill it, or you will likely fall back into the rut you were seeking to get out of.

If you are like me and many others, you have already failed to stay true to at least one of your New Year's resolutions. It's no wonder. The worst time to make any resolution is on New Year's. Why? Most people's resolutions are simply not followed through and fail due to a lack of effort. We have failed to keep our New Year's resolutions for so many years that failing is now the norm. So what will make this year any different? I'm glad you asked.

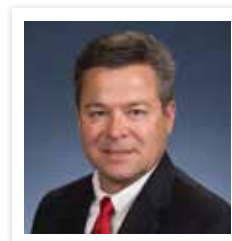
Psychologists say it takes 21 days to break a bad habit and conversely, 21 days to create a new one. Both of these are important. To break a bad habit and not replace it with something positive leaves a void that will be filled. Either you choose to fill it, or you will likely fall back into the rut you were seeking to get out of. A rut is defined as, "a habit or pattern of behavior that has become dull and unproductive but is hard to change". A rut is the valley we create by continually following the same path day in and day out. The same psychologists will tell you that the only difference between a rut and a grave is that a rut is a grave with both ends kicked out. People still die there, but they do it so slowly and gradually that they don't realize they are dying. Why not make this the year to break out of your rut? Do something different.

I have been blessed to meet many people in my life who were serious about change. I have met very few that have embraced it! To get something you've never had, you must do something you've never done.

If you are serious about 2015 being a better year for you personally and professionally, do something different. Take time to evaluate your habits and ask a few questions. Questions like: Why did I start doing this? Why do I continue? What could I do differently? How would that change impact my life? Who else is being impacted by my current state?

You have heard me continually tout how *Premier Flooring Retailer* is different. Yes, it is a vehicle to better communicate with our WFCAs members. But it is much more than that. Read regularly and apply the stories/columns in *PFR* to yourself. They are the catalyst to a better you...both personally and professionally.

We continue to receive great feedback from you, our readers. We never get tired of your comments. We enjoy hearing how you have applied the wisdom and information in our pages to enhance your learning, life, and legacy. I am confident you will find this issue to be as informative as the others, but it can't change your 2015 or your destiny, unless you apply it! Please let us hear from you! ■



Scott Humphrey
Scott Humphrey
 CEO of WFCAs

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NOVALIS
INNOVATIVE FLOORING

It's Still a People Business

By Tom Jennings, VP of Member Services, World Floor Covering Association

Participating in yet another round of conventions and trade shows served to reaffirm my belief the flooring business is like most others in that, at its core, it remains a people business. While the stated reason that these shows exist is to exhibit updated products and displays, one does not have to look hard to see friendships being made and renewed at every turn. If people are at the core of a vendor's ultimate success, does it not stand to reason that this concept would be valid for the independent retailer as well?

Few would dispute that the face of retailing has changed drastically in the last decade. We live in a world where the box stores continue to get larger, where many product categories are the nearly exclusive domain of national chains, and where websites have become more popular and user-friendly. For shoppers, it seems as though this scenario may, in many ways, be playing out as a classic example of *be careful what you wish for... you may get it!* While for some customers more is never enough, I'm beginning to see a real opportunity for the savvy local retailer today to revive a species many thought was well on its way to extinction...the loyal customer.

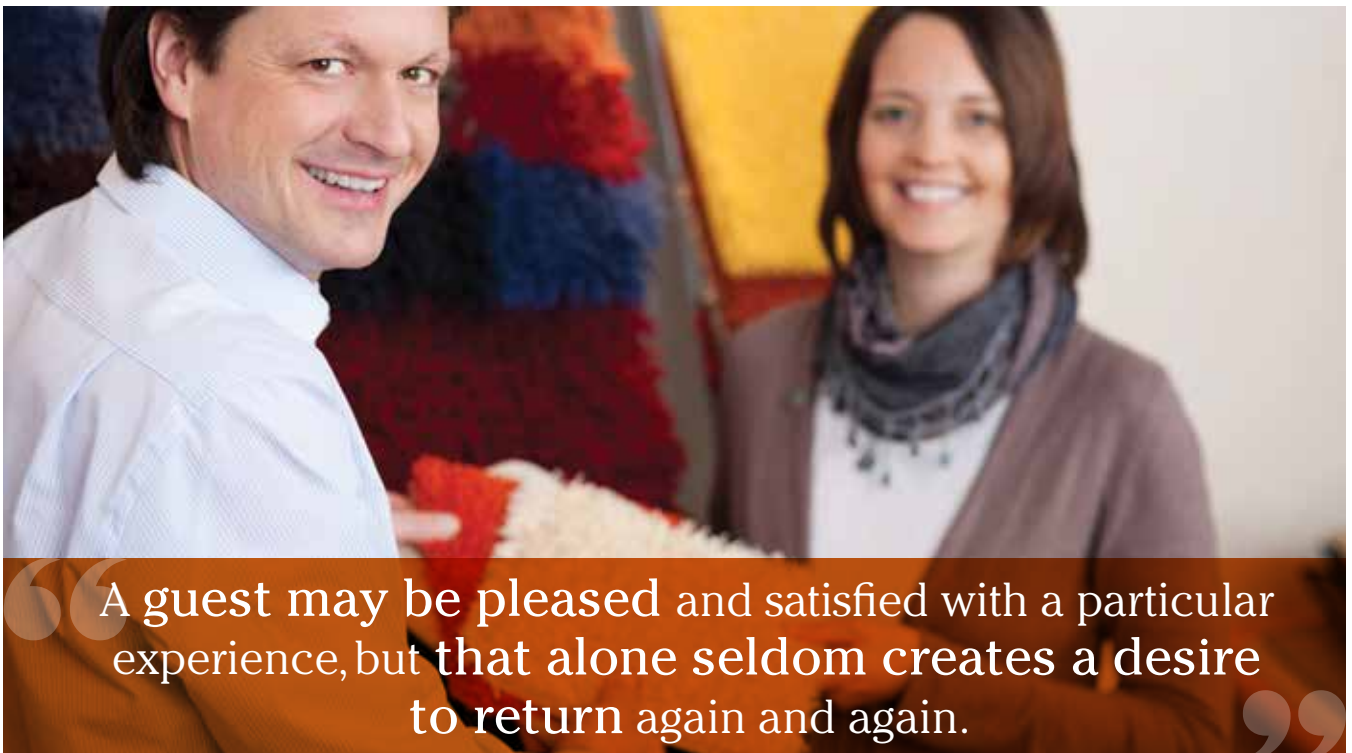
Many chain stores are doing their best to create a warm feeling toward their operations by employing greeters at the entrance and referring to their customers as guests, etc. To me this almost always comes off as forced. The chain stores

are today what they always were - big, impersonal corporate outlets.

Therefore, I would emphasize the local flooring dealer will be best served by not treating customers as guests, but rather as friends. It's not that treating a customer as a guest is a bad idea, it's just shortsighted. A guest may be pleased and satisfied with a particular experience, but that alone seldom creates a desire to return again and again. You will need to extend the customer's feelings beyond satisfied to comfortable. You know, like the feeling you have when visiting with a good friend.

Friendships are not to be treated lightly. You will go out of your way to visit with friends. You care about your friend's health, needs and feelings. You enjoy a friend's company. Guests are usually welcome on our terms. A friend will be welcomed on their terms. Do your business hours reflect this logic?

It's a fact: baby boomers have been the nation's largest customer group for several years now and will continue to be for the next decade or so. Most of us with some gray at the temples remember doing business with local merchants who knew us by name, knew our families and cared about our concerns. With many of these merchants, a customer's trust was so strong that the sale was often assumed since you knew



Premier Flooring

RETAILER

Columnists

Dr. Stan Beecham, Annette Callari, Stacy Eickhoff, Randy Gravitt, Leah Gross, Jeffrey King, Josh McGinnis, David Romano, John Simonson, Michael Vickers

Publication Staff

Jeff Golden, Editor/Co-Publisher
Dan Lipman, Sales Manager/Co-Publisher
Arpi Nalbandian, Associate Editor
Tony King, Art Director

Editorial and Advertising Offices

JG Media Group LLC
4607 Lakeview Canyon Rd. Ste. 560
Westlake Village, CA 91361, (877) 742-6467
jeff@pfrmagazine.com; dan@pfrmagazine.com
www.pfrmagazine.com

WFCA

Scott Humphrey, Chief Executive Officer
Tom Jennings, Vice President, member services
Jenny Ostad, Education/Membership Mgr.
Freida Staten, Vice President, recruitment and affiliate relations
Kay Wiley, executive assistant to the CEO
Gena Basenback, membership operations manager
Renee Gutierrez, administrative assistant

Offices

2211 E. Howell Ave., Anaheim, CA 92806
(800) 624-6880 (714) 978-6440 Fax: (714) 978-6066
E-mail: wfca@wfca.org
855 Abutment Road, Suite 1, Dalton, GA 30721 (855) 330-1183

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that you would be treated well, just as your parents had been. I believe many of this baby boomer generation are ready to return to being well served, and have the resources to do so. If everything from cars to toasters can be successfully marketed with a retro look and feel – why can't full service retail?

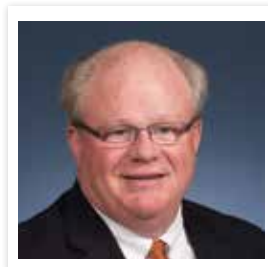
To accomplish this, you'll need two things. The first is a never-wandering desire to do the right thing in your customer's eyes. She will be willing to pay for good service only when she senses she is receiving it. The second thing you'll need is patience. Just as it takes two to create a friendship, it will take more than one visit to gain a customer's loyalty and trust. This is why regular follow up is so critical to future successes. Emphasizing sundry items and the WFCA-endorsed My Flooring Warranty are also great tools to stay in contact with past customers. Also, remember that good comments on social media have become today's version of word-of-mouth advertising. Do you regularly monitor what your customers have to say about your services?

As new friendships develop, great things begin to happen. Increased customer loyalty brings repeat visits and referrals (more new friends). It allows you to target your marketing campaigns to a more specific customer base rather than having to constantly compete for new customers in the mainstream media. This is the big stores domain and you'll find it difficult to be relevant. Your efforts will be far more fruitful when you can invite your customers to your store rather than having to rely on enticing strangers into your showroom. Friends will visit more frequently and spend more money because they know that you and your staff are friends who care about their wants and needs.

For some dealers, this will present a larger paradigm shift than for others. Unless you fully commit to walking the walk and talking the talk, it will not succeed. But for those who really put the emphasis on the people rather than the product, building friendships will be the most effective branding strategy their business could ever use. ■

ABOUT THE AUTHOR

Tom Jennings is a lifelong member of the flooring business. Since selling his family's retail business in 2006, he has served the industry as an educator and speaker. He is a past-board chairman of the WFCA and is currently the board chairman of WFCA Services, Inc. and WFCA vice president of member services. He may be reached at tjennings@wfca.org.



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Design Snapshot: Updates on Hardwood Floor Trends

By Annette M. Callari, Chairholder, Color Marketing Group International, Allied ASID

What do you think of when someone mentions hardwood flooring? Is it quality, luxury, natural beauty, durability, investment? Most likely, it's all of these. And for good reason—hardwood floors continue to be the standard-bearer for luxury floor coverings.

In 2014, I wrote an article for *PFR* outlining the trends coming into focus for hardwood floors. Those trends proved to have staying power. They still accurately define the direction of style and design for this very important segment of the flooring market. Trending forward to 2015-2016, here are the key influences:

- Wider planks continue to command attention. Both 7" and 9" boards are well suited for large square-footage areas.
- Satin finishes continue to attract consumers. Lower gloss finishes hide dust and any imperfections. Also, they give an aura of informal luxury.
- Consumers are on the search for exotic woods. They are willing to invest in a unique floor with a signature look.
- Vintage woods, especially those with provenance (the source and ownership history of where the wood came from) are in high demand. Reclaimed woods come from many sources: New England covered bridges, old monasteries or churches, European castles, abandoned barns, mills, factories, etc.
- Dark color stains are a hot item. Both ebony (nearly black) and Jacobean (a warm, deep brown) are topping the list. They have a timeless quality and harmonize with any design style and color scheme.
- Sometimes counter-trends surge in popularity, and that is the case with the natural, raw-wood-look finishes coming into play. This originated in Europe and gives a natural, almost unfinished look to the floor.
- As was the case in 2014, expect 2015 to witness every color range sharing a percentage of overall sales. Weathered gray woods, limed woods, grayed woods with metallic highlights are all moving into the spotlight.
- There seems to be a shift away from red- and orange-based woods. Instead, brown- and gold-based warm tones are taking their place. These tend to be more neutral and easier to decorate with.

With that said, let's explore some of the trend-savvy hardwoods manufacturers (in alphabetical order) are currently bringing to market.

Vintage woods, especially those with provenance, are in high demand.

Armstrong/Bruce Hardwoods

Interpreting the high demand for gray, Bruce Hardwoods brought to market solid oak flooring with several weathered look variations. Oceanside Gray is a standout! The variegated graining adds character and makes this style something different. These 5"-wide board are finished in a subtle, low sheen. (www.armstrong.com)

Harris Wood

Looking for 1/2" or 3/8" engineered wood floors or a 3/4" solid hardwood? Harris Wood has a comprehensive line in each of those categories, and offer cork floors to the product mix as well. A stand-out in the engineered wood segment is Aspen. Reminiscent of old white-washed oiled floors, Aspen brings a nostalgic appearance to interiors. Five inch-wide boards in random lengths add to the charm. (www.harriswoodfloors.com)



IndusParquet

This family-owned business has been a key manufacturer of premium, exotic hardwood flooring for more than 40 years. Their gallery of products includes a standout called Patagonian Amendoim. The graining details in each plank are beyond description. Each plank is an artistic masterpiece,

Continued



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The Alehouse series puts emphasis on the details to create a totally unique flooring experience. A multi-layer, hand-staining process has been used to create an inner glow effect that darkens towards the timeworn plank edges. Due to the natural glow, the Alehouse series has high color variation. Meaning, the color hues will span a range from low to high for added brilliance. Vintage, long-length planks measure up to seven-feet long for a more coalescent floor. Our exclusive vintage surface treatment finish adds even more character for the look of a reclaimed, custom hardwood floor.

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Hardwood Trends, Continued

combining tones of creamy beige, warm caramel tones, and mid-toned brown planks. The graining of each plank has stand-alone beauty, and combines to create a true work of art. Among their prestigious installations: Ferrari showrooms in Italy, Louis Vuitton stores, and (absolute truth), the Vatican. (www.indusparquest-usa.com)

Johnson Hardwood

Headquartered in the City of Industry, CA, Johnson Hardwood brings an extensive product line to market. Seventy engineered and 31 solid products make up their 12 prestigious collections. They are noted for their 17-step finishing process and crystal clear top finish. Add to that a 50-year limited lifetime residential warranty and they are a powerhouse resource. Check out the Alehouse engineered product - 12 colors, 7½"-wide boards and long-length planks up to 7' with vintage surface treatments. (www.johnsonhardwood.com)



Johnson Hardwood -
Alehouse

Kährs

This Swedish-born company recently added the Harmony Collection to their extensive line. Their marketing team says it was created to inspire a sense of calm and well-being. When you view the collection, you will better understand that statement. These beautiful oak hardwoods feature mellow tones in 12 neutral shades. The graining is intentionally understated and designed to create the harmonious environment it was designed for. (www.kahrs.com)

Kentucky Wood

Not only does this Kentucky-based company specialize in wide board hardwoods, it is their only product. The depth of their line is impressive because of the range of species they have access to locally. Ash, American Black Cherry, Hickory, Wormy Maple, Red Oak, White Oak, Poplar, Walnut and Quartersawn Oak are among the choices available. Their floor

boards are classified in two grades, select and natural. Both grades are characterized by wide widths and long lengths. (www.kentuckyflooringcompany.com)

Lauzon Hardwood

The Urban Loft Series from Lauzon exactly addresses the Natural Look counter-trend noted above. Natural, urban chic hardwood floors at their best. Playing into that trend, the white oak boards are lightly wire-brushed, feature longer planks, and come with a low-sheen finish. Lauzon was striving for an urban look with an edgy character, and they accomplished that. The color palette is smoky and very sophisticated - from creamy off-white to rich, earthy brown. The polymerized titanium finish protects these floors and your customer's investment. (www.lauzonflooring.com)

LM Flooring

Estate-worthy flooring best describes the craftsmanship that goes into LM Flooring's hardwoods. I was particularly captivated by their European Oak collection, which comes in 10 color-rich finishes. Their floors start with hand-rubbed staining along the perimeter edges of each plank. What sets their planks apart is not only the hands-on finishing, but the character stress marks, subtle indentations and extra-wide width (7¼"-wide). (www.lmflooring.com)

Mannington

A beautiful floor that depicts time-worn color and natural variation, Rock Creek's 6½" plank width is the perfect platform to show off the subtle, understated hand scrape for a rustic yet refined look in any home. Available in four colors. (www.mannington.com)



Mannington -
Rock Creek

“Dark color stains are a hot item. Both **ebony** (nearly black) and **Jacobean** (a warm, deep brown) are **topping the list**. They have a **timeless quality** and **harmonize with any design** style and color scheme.”

Mirage/Boa Franc

This Canadian-based manufacturer is noted for their attention to craftsmanship. The scope of their line is staggering. The selection of wood species and color finishes within their eight collections is extensive. There is something to satisfy just about every consumer on the lookout for a signature floor. Of particular note, the Exotic collection offers species from around the globe. (miragefloors.com)

Mohawk

Mohawk’s engineered hardwood floors make a statement and come with the assurance of a proven track record. Installation is stress-free thanks to their UniClic technology, a glueless locking system backed by a lifetime warranty. Strand bamboo woods are also a popular choice within the Mohawk line. (mohawkflooring.com)

Mullican

Perfect! Consumers asked for it and Mullican delivered with their raw-look, unfinished hardwoods. Boards are available in 3”, 4” and 5” widths. They use a grading system for each species so consumers have a choice of good, better or best. For this collection of natural unfinished hardwoods, the species offered are Ash, Walnut, Birch Yellow, and Birch Red. Also be on the lookout for Mullican’s stunning collections in solid, engineered, and hand-sculpted hardwoods. (mullicanflooring.com)

Shaw

The gold-based wood finishes are leading the trend pack. A notable interpretation of that trend goes to Shaw’s Rosewood Hickory with honorable mention to Rosedown Hickory as well - both from the Epic Legends Collection. The 5” wide boards have random plank lengths. The distressed and hand-rubbed surface has a distinctive sculptural quality that makes a bold statement. Pronounced variations in color and grain reflect the tree’s natural beauty. High variation from one plank to another creates a unique floor, so no two floors will ever look the same. (shawfloors.com)



Triangulo

Exotic hardwoods are the specialty of this long-standing Brazilian-based manufacturer specializing in exotic wood species obtained from sustainable forests. All looks are FSC-certified and include solid and engineered variations. Features FSC-certified solid and engineered hardwood flooring products. Check out the new Brazilian Teak (Cumaru) and Brazilian Pecan Graphite introductions. (www.triangulo.us)

Wellmade Performance Flooring

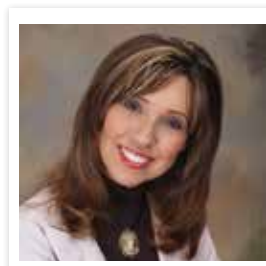
Traditional Bamboo, Strand Bamboo, Engineered Strand and their Old Growth Series make-up this company's menu of bamboo collections. All of their floors feature their commercially rated Hard-Max finish, and are available in a standard tongue-and-groove fit or the patented UniClic installation system. (www.wellmadefloors.com)



I’ve only grazed the tip of the iceberg with the information contained here. So many fine manufacturers are continuing to interpret the evolving trends with their own signature twist. It will be an exciting journey for consumers searching for the perfect hardwood floor. Make sure you have the products that will entice them to seek out your store first. ■

ABOUT THE AUTHOR

Annette Callari is an interior design expert with over 20 years of residential and commercial design experience. An allied member of the American Society of Interior Designers and a Chair Holder of the Color Marketing Group International, she is the Southern California commercial sales specialist for Karndean Design Flooring.



Independent Contractor Misclassification: A Practical Solution to a Potentially Costly Problem

By Jeffrey King, General Counsel for the WFCFA

You open the day's mail. There is a notice from your state's Unemployment Commission advising you it received an application for unemployment insurance from one of your independent installers who listed your store as his or her employer. Or maybe the notice is from the state Wage and Hour Division seeking overtime pay for some installers who now claim they should have been classified as employees, not independent contractors. Another possibility is your insurance broker calls with a workers' compensation claim from an installer you did not list as a covered employee because you considered him or her an independent contractor. There is also always the threat that some terminated independent contractors will file a lawsuit claiming they were in fact employees and are due back overtime pay, notwithstanding a contract that explicitly states that they were independent contractors.

Any one of these scenarios, or a host of similar circumstances, can begin a long and expensive inquiry into whether or not you have properly classified certain workers as independent contractors. If you properly classified the worker, you may still face a long and expensive audit or extended litigation unless you have built a good record to support the classification. If it is determined that you misclassified employees as independent contractors, you face a far more expensive outcome, paying back wages, overtime pay, unpaid federal, state and local income tax withholding, Social Security, Medicare and unemployment contributions, fines and penalties, and interest.

Increasing Enforcement

The Independent Contractor issue is not going away. To the contrary, there is an increased focus on whether a worker is an employee or an independent contractor. The Department of Labor (DOL) estimates over 30% of independent contractors are misclassified and should be considered employees. In 2013 alone, DOL's Wage and Hour Division recovered over \$83 million in back wages for employees it claimed were misclassified as independent contractors. This focus will continue.



The DOL listed the misclassification of independent contractors as one of its "Key Enforcement Initiatives" for 2015-2016, and identified construction as a priority industry for investigation. As a result, flooring dealers are more likely to be the subject of a Wage and Hour Division investigation if they use independent contractors to do installations. Congress is also looking at the issue. A bill was introduced in the U.S. Senate last year entitled *Payroll Fraud Prevention Act* aimed at independent contractors in certain industries, including the construction industry.

The federal government is not the only one focusing on misclassification of independent contractors. Many state governments are looking to capture lost taxes and unemployment contributions by revamping independent contractor classifications. In the last couple of years, 18 states have proposed legislation aimed at misclassification in the construction industry, and 11 states have increased penalties of misclassification. Other states have adopted more stringent standards and taken other action designed to identify and penalize misclassification of independent contractors. For example, New Jersey just adopted a more stringent test to determine who is an independent contractor, and Rhode Island recently set up a tip line to report misclassifications.

Moreover, the federal government is helping the states in these efforts. The DOL, in coordination with the Internal Revenue Service (IRS), has entered into memoranda of understanding with states. Under this memorandum, the states will report to DOL and IRS any potential misclassification and vice versa. So far 20 states have agreed to share the information and signed the memorandum. The DOL has also awarded over \$10 million to state unemployment offices to ferret out misclassified independent contractors. The issue of misclassifying independent contractors in the flooring industry will only grow as governments look for increased revenues.

The Independent Contractor Issue Can be Costly

The misclassification of an employee as an independent contractor can expose the flooring dealer to a host of potential costs. The workers' pay may be recalculated to see if back wages and overtime are due under federal or a state's Fair Labor Standards Act. The dealer could also be liable for vacation and sick pay, and health insurance premiums and pension contributions it pays for its other employees. It may also find itself liable for workers' compensation coverage for these contractors who now claim to be employees. In addition, the dealer will be liable for the unpaid federal,

Continued

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Contractor Classification, Continued

state and local income tax withholdings, Social Security and Medicare contributions, and unemployment insurance payments. Add on penalties and interest that begins to run from the time the worker was misclassified, and the damages can be significant. Such liability can often spell disaster for many flooring dealers.

To illustrate, Fed Ex paid \$5.7 million to settle a claim just for drivers in Maine. Microsoft recently paid \$97 million to settle a claim for back wages and benefits. It is not just national firms that are caught. A local dance club paid \$2.3 million to settle claims by dancers, and a small landscape company had to pay \$478,000 in back wages and liquidated damages to settle a matter, plus an additional \$22,000 in civil money penalties. Similarly, a small contractor was liable for \$380,000 in back overtime pay for drywall installers.

The Standard to Determine Classification

The problem is that there is not a single test to determine who is and who is not an independent contractor. The IRS, OSHA, and the states each have their own tests. The DOL actually has different tests for different departments. The test for Equal Employment Opportunity Commission (EEOC) is different than the one used by the National Labor Relations Board (NLRB). The DOL's Wage and Hour Division just announced a new test. Add in the various state standards and the problem may seem impossible.

While the focus on certain factors can vary, there are basically three tests used by the federal and state agencies to determine whether a worker is an employee or an independent contractor. While the tests will have a number of the same factors, there are both notable differences in the factors and differences in which factors are emphasized.

1. Right-to-Control Test

This test is used by IRS, EEOC, Employee Retirement Income Security Act (ERISA) and some states. The test focuses on the employer and its relationship with the contractor. The test can be broken down into three basic factors. The first is whether the dealer controls the worker's performance. With installation of flooring, the dealer obviously must tell the contractor where and when the floors are to be installed. If, however, the dealer tells the installer how to do the job or actively supervises the installation, then the dealer will likely be found to exert control. Second, the financial relationship is considered. If the dealer provide the contractor with supplies, tools, training or benefits,

the contractor is likely to be considered an employee. Third, the relationship is reviewed. The agencies and courts will look to see if there is a contract and whether the contractor can work for others. In addition, consideration will be given to whether the work done by the contractor is a key aspect to dealer's business. Generally, if the dealer has employees that do the same work as the contractor, then the work is a key aspect of the dealer's business and the contractor is likely to be held to be an employee. No single factor is determinative under this test. Rather, classification determinations under the right-to-control test require a balancing of all the factors and therefore are inherently fact-specific.

2. Entrepreneurial Opportunity or Economic Realities Test

This is the test recently adopted by the DOL's Wage and Hour Division, and used by OSHA and various states. This test focuses on the contractor and its business, rather than on the employer. The first consideration is whether the contractor has an opportunity to earn a profit and risks a loss. This often involves evaluating the amount paid and whether it is over minimum wage, including overtime pay. Second, the agencies will evaluate whether the contractor invested in its business. This will often include whether the contractor incorporated, bought equipment, has an office, a business telephone and similar expenses. The third factor is whether the contractor's work requires special skills. Installers, for example, would be considered to have special skills. Whether the contractor controls the work is the fourth factor. This is similar to the control test, but focuses more on the contractor and is often less important under this test. The fifth and final factor is a review of the contractor and dealer's relationship. The prime factors are whether there is a contract, whether the contractors can work for other dealers, and whether the contractor's work is an integral part of dealer's business.

3. ABC Test

The ABC test is used by almost two-thirds of the states. This is the strictest and most employee friendly of the tests. It essentially combines the factors in the right-to-control and the entrepreneurial opportunity test. Under the ABC test, a worker is presumed to be an employee unless the employer can establish all three of the following factors.

The issue of misclassifying independent contractors in the flooring industry will only grow as governments look for increased revenues.

1. The business does not control or direct the worker's performance; AND
2. The work is outside the employer's usual course of business and off premises; AND
3. The contractor is an independent business.

There is no weighing of the factors like in the other tests. If any one of the three criteria is not met, then the contractor is an employee.

A Practical Solution

There is no single factor that can be focused on to ensure a worker is properly classified as an employee or independent contractor, nor is there a single factor that will automatically classify an independent contractor as an employee. In spite of all the confusion and inconsistent rules, there are some basic steps the flooring dealer should undertake to minimize its risk of misclassifying an independent contractor.

There are 10 basic questions each flooring dealer should ask regarding its contractors. The more yeses, the more likely a contractor will be considered independent and not an employee.

1. Is there a contract?

While a contract is not a guarantee, it is an important first step. A well-drafted contract can go a long way in validating the classification of a set of workers as independent contractors. It is recommended that the contract not be perpetual and it be reviewed at least annually. In addition, a new work order should be prepared and signed for each new job that clearly describes the work to be done.

2. Is the independent contractor established as a separate business?

A contractor that is acting as a stand-alone business is more likely to be considered independent. The contractor should be incorporated with tax ID number and have all necessary licenses. The contractor should be responsible for all federal and state taxes, including paying all payroll taxes and unemployment contributions. The contractor should be responsible for all necessary insurance, including, but not limited to, General Liability, Workers' Compensation and Short-Term Disability insurance. In addition, the more the independent contractor has the traditional aspects of a stand-alone business, such as its own offices,

employees, Yellow Page listing, advertising and similar aspects of a business, the more likely the workers are to be classified as independent contractors.

3. Do contractors supervise themselves?

While it is common for a flooring dealer to supervise the work of an employee, it should not do similar supervision of an independent contractor. Rather, an independent contractor's work will usually be inspected after completion, but not regularly supervised by the dealer. Accordingly, it is not a problem if a flooring dealer hires an installer as an employee to inspect the independent contractor's work; but if the employer hires an installer to supervise the contractor, it is likely the contractor will be considered an employee.

4. Do contractors control the means and manner of performance?

A key factor is the amount of instruction given about when, where and how the work is to be performed. Independent contractors do the job their own way with few, if any, instructions as to the details or methods of the work. The more detailed the instruction, the more likely the worker will be classified as an employee. Accordingly, the flooring dealer should give the name, location and date of the work, but anything more may begin to look as if the dealer is managing how the job is to be done. Moreover, an independent contractor should be able to assign another worker to do the job and need not personally perform services.

5. Can contractors refuse to wear company clothing/uniform or use the company's signage?

Every dealer wants its installers to look professional. There is nothing wrong with establishing a basic appearance code for contractors that come in contact with the public, like installers, estimators, inspectors, or cleaners. The code should be general and should not mandate that the contractor wear clothing with the dealer's name or logo on it, or post signs that states "installation by" with the dealer's name on it. If contractors look like employees of the dealer or if their trucks look like the dealer's vehicle, then chances are the contractors will be reclassified as employees.

6. Do contractors supply their own equipment and training?

Workers are more likely to be an independent contractor if they purchase and use their own

Continued

Contractor Classification, Continued

equipment. For example, if the flooring dealer furnishes installers with delivery trucks, power stretchers and similar equipment, the installer is likely to be considered an employee.

7. Can the contractor work for others and refuse work?

The courts and enforcing agencies consider whether the independent contractor works exclusively or near exclusively for the dealer, and whether the dealer uses multiple contractors. An employee ordinarily works for one employer at a time. An independent contractor often works for more than one client or firm at the same time and is not subject to a non-competition provision. The extent to which contractors make their services available to other dealers in the relevant market is a significant factor in determining whether the workers are employees or independent contractors.

8. Is fair payment monitored (e.g., average hours)?

Paying on an hourly, weekly, or monthly basis is a factor indicating status as an employee. Payment based on a per-assignment or per-task basis is consistent with status as an independent contractor, but is never sufficient on its own. Simply paying on a piecework basis, for example, will not automatically turn an employee into an independent contractor. Since employees can also be paid on a piecework basis, it is key to have other indicators that the workers are independent contractors.

The dealer should insist that the independent contractor provide invoices for all its work and the dealer should maintain a billing file for each independent contractor. The dealer should have the contractor provide on each invoice the approximate total man-hours worked on each project. In fact, some state laws, such as Illinois, require the dealer to keep records of the days and hours that their independent contractors worked. The dealer should not insist on that contractors record their time, or provide a breakdown by worker. Rather, all that is needed is the total of man-hours spent on each job.

These records should be used to validate that the independent contractor is being paid fairly for the work. This is important if the DOL or state wage and hour board audits a dealer. It can also work as a defense if a worker sues the dealer claiming they

are due overtime as an employee because the dealer misclassified him or her as an independent contractor. These records will show the worker was paid a fair wage.

9. Can a contractor make a profit or incur a loss?

An employee is economically dependent on the employer and is usually paid whether or not the employer made money on any particular sale. An independent contractor on the other hand controls whether there is a profit or loss from his or her work. It is important that independent contractors can realize greater profits if they work efficiently and use only the supplies necessary, and risks a loss if they are inefficient or waste supplies. Again, knowing the basic man-hours to complete the work will go a long way to show a profit and loss opportunity.

10. Is work independent of company's business (or integral to company's business)?

As a general rule, installers are considered independent and not an integral part of a floor dealer's business. Flooring can be self-installed and customers can always use their own installers. An issue commonly raised in determining whether a worker is properly classified as an independent contractor is whether the flooring dealer has employees that do the same job. Courts and enforcing agencies often find that, if a dealer has an employee doing the same work as an independent contractor, then the work is likely integral to the dealer's business. In addition, the permanency of the relationship will be considered. If the contractor works exclusively for the flooring dealer over a long period of time, then he or she is more likely to be considered an employee.

Test Cases

Over the next several issues of *Premier Flooring Retailer*, we will be presenting additional cases. The actual decision or settlement will then be revealed to see if you properly predicted the outcome based on answering the 10-question test.

Here is the first case:


Case One: *Brown v. CDS Transport (Ohio)*. This case involved a truck driver that was hired by a transportation company to deliver goods. The use of independent drivers was common in the shipping business. The driver was in an accident and



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Given the risks involved and the variation in standards, it is recommended that competent legal counsel should always be consulted.

Contractor Classification, Continued

sought coverage under the shipping company's workers' compensation policy.

The driver owned his truck, but was not incorporated. The driver signed a contract and was responsible for taxes and maintenance of the truck. There was no restriction on working for other shippers. The driver could refuse to accept work, but believed that refusal would result in the shipping company offering less work. The driver was paid 70% of the gross revenues of each load he delivered. The driver was given a deadline by which the delivery had to be completed, but was otherwise free to determine for himself the hours it was necessary to drive in order to meet the deadline. The driver was also given a card with suggested routes, but was free to choose the specific route he would follow to reach a load's destination. The company gave the driver a hat and jacket to wear and place a company card logo on truck to be used when on a delivery for the company. The company also provided a prepaid fuel cards, but deducted the cost of the card from the driver's pay. The company also required the driver to view

a safety video, was provided with a Driver's Handbook and Safety Manual to follow, and was drug tested by the company.

To See How You Did, Find the Answers and Ruling for the Test Case on Page 38.

Conclusion

Asking the 10 questions will help to identify whether you have a potential problem with the classification of your independent contractors. Given the variation in the laws governing independent contractor classification, answering every question with a yes will not guarantee that the contractor is properly classified as independent. Accordingly, it is recommended that competent legal counsel always be consulted to ensure you meet all the obligations regarding employee and independent contractor classification.

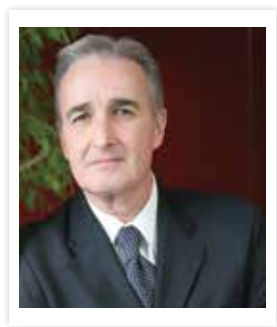
In addition, be sure to get a copy of the World Floor Covering Association's book, *The Independent Contractor: Understanding The Rules And A Model Contract*. The book provides a model independent contractor contract and explains the various issues regarding independent contractors. Association members can order this book at: www.wfca-pro.org.

Be sure to review the next issue of *Premier Flooring Retailer* for the next case to see if you can predict the outcome.

The information contained is abridged from legislation, court decisions, and administrative rulings and should not be construed as legal advice or opinion, and is not a substitute for the advice of counsel. ■

ABOUT THE AUTHOR

Jeffrey King has more than 35 years' experience in complex litigation with a focus on contracts, employment, construction, antitrust, intellectual property and health care. He serves as general counsel for WFCFA and other trade associations, and is a LEED Accredited Professional. For more information, contact him at (561) 278-0035 or jeffw@jkingesq.com.



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LOW VOC LOW EMISSIONS

Long-Lasting Luxury, Lifestyles at Heart of Today's Carpet Designs

By Arpi Nalbandian, Associate Editor

An ever-increasing back-to-basics philosophy is leading homeowners towards the path of refreshing and renewing the look of their living areas. Be it a new coat of paint, updated flooring, or dramatic lighting, the need for a soothing environment trumps even the most prudent of budgets.

Happily, along with a desire for something fresh, carpet is enjoying its place in this process. With a surge in remodeling projects, homeowners are looking for something long-lasting and most importantly, personally tailored to their taste, character and lifestyle. A deeper awareness of Aging in Place and Universal Design is also helping to accelerate carpet's broader appeal as a slip-resistant, comfortable floor covering material.



Your World from Shaw's Caress Collection shown in the Pebble Hill shade.

Further, interior designers, bloggers, and design-oriented consumer publications have also taken notice and embraced carpet for its near limitless decorative possibilities, vast range of color palettes, global pattern influences, and on occasion, its statement-making hand-carved designs.

To gain a better understanding of how carpet manufacturers are continuously helping their retailers to educate their customers on the benefits carpet, we spoke with a cross-section of carpet manufacturers and yarn producers to find out: how new carpet styles and designs are developed; why retailer sales tools and incentives are crucial; why the education of the purchasing public is an on-going and evolving matter; and the essential role designers and global trends play in the launching of new SKUs.

Q. In regards to new carpet styles and manufacturing innovations/technology, what has your company recently introduced? What were the reasons for these introductions ?

Mark Gauthier, Director of Marketing, Foss Manufacturing:

Smart Transformations, our new line of commercial carpet tiles, took center stage during Surfaces. Manufactured in the USA, this new floor covering product features Naturion technology, which uses a unique blend of silver and copper ions to provide natural, continuous, safe, and effective protection from mold, mildew, and odor.

Tammy Horn, Director of Marketing, Lexmark Carpet:

We recently added new equipment that allows us to make far more intricate patterns for the residential market. Carpet has become limited to select rooms in the home and consumers really want to make a statement with their flooring. Our new Tailored Collection fills a void - it lets retailers offer consumers something different, ranging from a clean and crisp linen look to a worn and weathered wood look.

Ginny Jones, Senior Designer, Milliken Floor Covering Division:

We brought Milliken's Constantine Collection home to the residential market with Hardanger and Crystal Stitch. Each collection has great textural depth and a range of patterns and colors to complement any residential interior. Hardanger and Crystal Stitch are made with Milliken's Multiple Yarn Infusion tufting technology. The technology gives a beautifully refined, luxurious quality to flooring textiles and really enhances the patterns for a high-end, yet comfortable aesthetic. Hardanger, a nod to the Nordic form of embroidery, features seven large-scale broadloom patterns, playful textures and soft colors, while Crystal Stitch invites designers to create luxurious spaces using floor covering as jewelry for the home by combining various yarns, textures and colors to create sophisticated carpets with subtle hints of sparkle.

T.M. Nuckols, Senior Director, Product Strategy, Invista:

We introduced StainMaster PetProtect carpet and cushion system to address a key need for consumers, offering a solution for pet owners who want to manage their living spaces better. It resists tough pet stains, releases pet hair easily when vacuuming, and helps reduce pet odors. Further, we're introducing nearly 50 new styles of StainMaster PetProtect carpet; have two new mill partners, Godfrey Hirst USA and Stanton, who are also introducing new StainMaster PetProtect products; a refreshed offering in our TruSoft and Active Family categories will soon be available; we've refreshed our spring promotion, Sit, Stay & Save event, with new POP elements; and StainMaster PetProtect is now the official carpet sponsor of the American Society for the Prevention of Cruelty to Animals (ASPCA). They will assist us in connecting pet shelters with our StainMaster Flooring Center that hold adoption events as part of the Sit, Stay & Save promotion.

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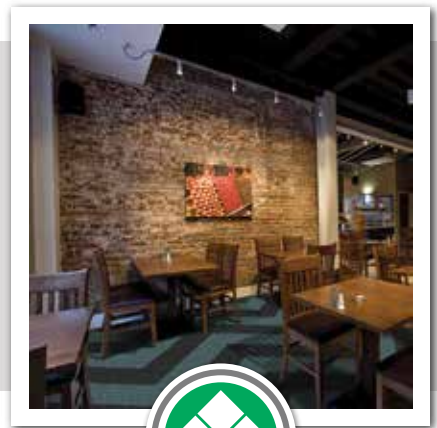
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*Carpet Designs, Continued***Sarah Tuck, Manager of Public Relations, Mohawk Group:**

SmartStrand already benefits as a carpet with permanent, built-in stain and soil protection that never wears or washes off. Now with SmartStrand Forever Clean, Mohawk is building upon the success of SmartStrand by combining it with Nanoloc technology, an added layer of protection that locks out spills and makes the carpet even easier to clean.

Kathy Young, Vice President of Marketing Services, Shaw Floors:

For the new market season, Shaw introduced many products within all flooring categories from carpet to hardwood to luxury vinyl that matched our retailer needs and design aesthetics. However, three key initiatives really drove our products this season in carpet. The first was a major design trend. We can say with confidence to our retailers in 2015, that gray really is here to stay. In fact, Shaw's 2015 Color of the Year is "Lady in Grey," and we chose it because our retailers were asking for more products in the gray color palette for their showrooms. The second influence on our carpet styles this year came through patterned carpet products seen in our newest Caress Patterns collection. The third influence centered on performance in carpet. Mid-January, Shaw released a revolutionary carpet collection and backing system with heightened protection against stains and spills called Life Happens. With its highly water resistant backing, LifeGuard gives consumers an added layer of protection from spills that could enter the carpet pad.

Q. In terms of design, how do trends come into play? Do evolving trends matter?

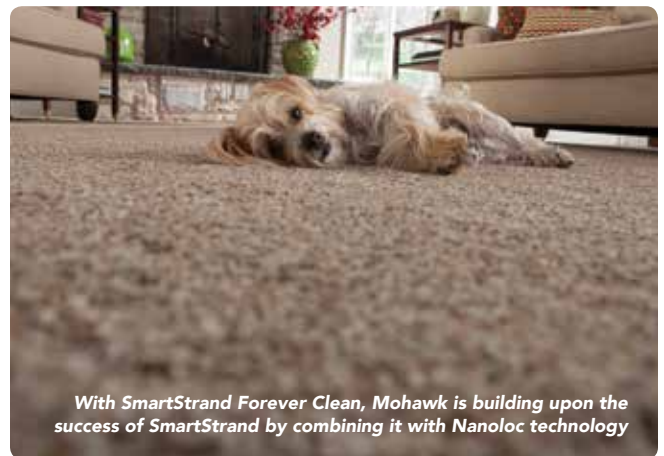
Milliken's Crystal Stitch in Fragment

Gauthier: Our eco-friendly Smart Transformations carpet tiles feature recycled material (post-consumer recycled bottles). In addition to necessity, consumers can also mix-and-match the 24"x24" carpet tiles to their own décor, environment or trend.

Horn: Evolving trends have a large impact. Typically trends start out on elements within the home that are easy to change, like furniture, lamps, window treatments, and other accent

pieces. Over time, things that have a less frequent change cycle, like flooring, change to coordinate. What you see in the Tailored collection are styles like Brilliant that represent the distressed industrial look, and Novara with its sophisticated Moroccan trellis that really goes with today's styles.

Jones: Interior design is about self-expression and current fashion, which is always evolving as colors, patterns and textures go in and out of style.



With SmartStrand Forever Clean, Mohawk is building upon the success of SmartStrand by combining it with Nanoloc technology

Bridgette Kelly, Interior Textiles Director, Campaign for Wool:

Evolving trends matter immensely in textiles. We see a strong trend for a consumer that has defined their values and have imprinted that on their product choices. This consumer is more focused and considers the detail of the product as a whole as well as the aesthetic design. Generally, consumers today are more educated on "Green" issues and want more natural and sustainable products – wool is part of that conscientious consumer's lifestyle that has been emerging for the last few years.

Tuck: Mohawk's new yarn system will be implemented within SmartStrand Ultra Forever Clean's Essentials collection, which includes 10 fashion-forward styles: two solid textures, two fleck textures, two tonal textures, one precision cut/uncut, and three small scale patterns. The SmartStrand Ultra Forever Clean color palette features a comprehensive selection of updated fashion shades that include neutral, brown and gray tones. New flecks and tonal colorations target today's consumer preferences for multicolor and tone-on-tone visuals. Multicolor options are among the best-selling styles in Mohawk's popular SmartStrand Silk product line. For 2015, Mohawk will expand its SmartStrand Silk multicolor offering using a unique two-color, solution-dyed yarn system and a sophisticated tonal texture, which provides an upscale, differentiated visual.

Continued

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Carpet Designs, Continued

Young: Evolving trends certainly matter and that's a great question. Since Christian Dior's influence of gray around 2007 in the fashion world, we have seen a major trend with a sophisticated neutral in carpet with gray. We respond to what our retailers need, and our retailers respond to what their consumer sees trending in the larger world of fashion and design.

Q. Who has influence on new color or pattern introductions (designers, flooring retailers, public etc.)? How are they involved?

Horn: Flooring retailers and consumers really drive the trends, while there is some designer influence at the premium price level, most homeowners fancy themselves as designers and look to create looks that match their personality. That said, we spent a lot of time looking at how the home is evolving to make sure the new Tailored collection gave the retailer a complete set of styles that consumers could work into their themes.

Jones: New floor covering introductions are the result of a team effort on behalf of the consumer – between the designer, manufacturer, and retailer. We're always working to provide beautiful products that make a house a home, and a beautiful space to live in and feel comfortable.



Foss Mfg.'s Smart Transformations commercial carpet tile

Kelly: Color and design trends are influenced by so many different things – designers are highly attuned to themes that will emerge across whole platforms of our day-to-day experience and take inspiration from fashion, films, international events...etc. Personally, I think the magazine culture, print and online, are major parts of the influencing process of both designers and consumers. People today love browsing! Flooring retailers facilitate the trend in store but need to be savvy enough to respond to it at the right time.

For the trend to work, it has to have a buy-in all the way along that line from designer to the consumer.

Nuckols: Designers typically have influence on new color or pattern introductions. Carpet color is an aesthetic decision followed by function that can be determined by both ounce and weight of carpet construction. Carpet color trends are in line with interior trends that can last as long as five to seven years, which is when we can expect new colors to begin emerging. It can sometimes be as long as 10 years until those emerging colors become mainstream. Historically, carpet color trends have varied by region with East Coast color trends ranging within a traditional, conservative palette and West Coast color trends offering warmer, edgier earthtone



Invista's StainMaster PetProtect Phenix Beale Street in Flax Seed

hues. Emerging colors typically can be seen coming out of more cosmopolitan centers like New York City, Chicago and San Francisco.

Young: We have a team of researchers, designers, marketers, sales associates and flooring retailers that influence new trends in color, pattern, design and product attributes. Our team involves key influencers across all channels of development at Shaw and we work together to provide new colors, patterns, performance attributes and marketing strategies that will help the product live a vibrant life in the marketplace.

Q. With the recently concluded Surfaces show, what comments have you heard from the dealers, distributors and retailers who visited your booth? What were they excited about?

Gauthier: Foss Mfg. received a great response during Surfaces to our introduction of Smart Transformations. They loved that this product is specially engineered to handle both home and office; it can be installed over any clean and dry

Continued



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Carpet Designs, Continued

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Horn: We couldn't be any happier about how Surfaces turned out. The response to Tailored and our other new Lexmark styles was overwhelming. We continue to hear from customers and other manufacturers alike that the offering really leads the way in giving the consumer design flexibility.

Jones: Surfaces 2015 was very exciting for Milliken. Our visitors were thrilled to hear about Constantine coming back to the residential market with Hardanger and Crystal Stitch. Similarly, our new pattern additions to the Imagine collection were also well received. We've heard wonderful feedback on everything on display at Surfaces.

Kelly: At Surfaces, there was a lot of interest in product from our Campaign for Wool Green Sheep partners. Our aim is to inspire and show the diversity of wool in a promotional showcase, so there was a lot of development and innovation in our booth. There is a growing interest in real wool, and as a result, retailers want to offer more information and product choices to consumers. Fabulous designs from Rodeo by Stark with heavily carved styles in pale grey with stunning crystal and metallic threads in background detail really appealed to designers. We found designers and dealers drawn to designs that use wool's natural texture to offer dense and luxurious handle from custom offerings by Savnik, Delos and Carter International to the broadlooms of Hibernia Woolen Mills. Godfrey Hirst's new printed wool ranges in pale shades have a contemporary style that could sit in any space and look very chic. The wow factor of the dynamic, rich designs of Tai Ping were outstandingly successful because they are so visual



Waffle in Earl Grey, from Godfrey Hirst, is a multi-level loop carpet woven with pure New Zealand wool.

and tactile, while traditional timeless plaids in varying shades showed the woven expertise of Ulster.

Nuckols: The retailers were excited about the number of introductions we have (over 130), our broad offering of StainMaster PetProtect carpet, and our promotions and advertising activity, including our new StainMaster TruSoft styles. They were also excited about our expanded StainMaster presence with our new mill partners, Godfrey Hirst USA and Stanton. Karastan also added some new StainMaster styles to their line. Retailers had very positive reactions to the custom StainMaster PetProtect retailer racks and our Showcase retail selling system with innovative products, consumer relevant branding, private labeling and other value-added customer benefits and incentives.



Lexmark Carpet's Novara Collection features a sophisticated Moroccan trellis pattern.

Young: The Surfaces show echoed many thoughts, products and design movements that we worked very hard to deliver this year. What was even more significant, however, was the affect Shaw had on retailers from our own recently concluded, bi-annual Shaw Flooring Network conference in January 2015. We had more than 3,500 retailers at this event. We showed our newest products from the revolutionary Life Happens collection to our newest flooring application for iPhone and Android called Floorvana.

Q. How does your company help retailers in getting the word out to their customers about your new products? How do you help them sell?

Horn: The display is really the first point of contact. We made major improvement to our Lexmark Living display by segmenting the product into textures, patterns, and soft, plus updated the imagery to help the consumer visualize the product in their home. With Tailored, we went an entire new direction creating a display that allows the carpet sample to be placed flat on the floor so the consumer can see it in perspective. It's also gives a much higher end and sophisticated feel. Both of these, combined with our updated website, really showcase what you can do with the product.

Jones: We use a variety of methods to help retailers bring our products to their customers. One in particular is our Imagine Figurative display. The display creatively highlights the collection's expansive range of floor covering patterns without requiring a large space.

Kelly: The Campaign is a promotional platform and our aim is always to work in a co-operative way with our industry partners. This year we launched www.ONEWOOL.com, an online gallery of wool interior products that provides an individual window for each product within a central online destination for all our partners to promote their latest wool ranges. We also offer POS with the Green Sheep, product tools for the store, such as our new Wool iBook, which offers very simple explanations of the benefits of wool in carpet and rugs.

Nuckols: We provide retailers with consumer promotions, including in-store merchandising materials, TV commercials, radio scripts and digital assets that can be used in the development of print advertising as well as social media campaigns. They also benefit from our national advertising; a website store locator (www.StainMaster.com); live and web-based training on product knowledge and sales techniques; and for eligible retail associates, we have an interactive rewards program.

Young: Our marketing team strives to tell its story to the retailer across all platforms from digital to in-store tools. Since we know that 80% of consumers shop online before entering a showroom, we begin with Shaw Web Studio, a digital solution for retailers that offers them the resources they need to make the best, first digital impressions. Also, to augment that digital impression, we offer retailers beautifully designed P.O.P. material, elegant displays, as well as promotions and campaigns to help the retailer engage the consumer. ■

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Is Your Business at Risk for a Data Breach?

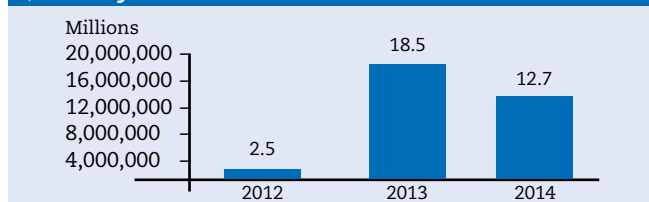
By Stacy Eickhoff, Senior Vice President, Willis Insurance Services of California

It seems every time you pick up the paper or listen to the news, another company has had a data breach. In the past year, Adobe, Anthem, Sony, Target, Home Depot, P.F. Chang's and Neiman Marcus have been the target of criminals who have stolen employee and customer data. Not only have these companies had to bear the cost of notification to the individuals affected, they also faced regulatory fines, reputational damages, and the cost of class action lawsuits from the injured parties.

While these companies were the target of computer hacking, a data breach can happen to your business in a variety of ways. For example, you could leave your laptop at the airport; an employee may send an email containing private data to the wrong addressee; or your business could be the target of a burglary where the computers are stolen. These situations may seem far-fetched but they happen on a regular basis.

According to California Attorney General Kamela Harris, 12.7 million records were breached in 2014. The two types of breaches that accounted for the majority were malware and hacking at 60%, physical theft or loss at 19%, followed closely by human error at 16%. The industry sector that had the highest incident rate was retail at 26%. This incident rate has remained consistent for 2012, 2013 and 2014.

January 2015 California Data Breach Statistics



According to the 2014 Secret Service/Verizon Data Breach report, 31% of all incidents were due to point of sale intrusion. Regardless of size, cyber risks are faced not just by e-commerce companies and those undertaking transactions over the internet or phone lines but, also by companies that store personal data, are reliant on computer or telephone networks, hold digital information, process point of sale transactions, or use the internet. In 2010, according to the Secret Service/Verizon Data Breach research, 63% of the data breaches affected companies with 100 or fewer employees.

In order to protect customers, privacy regulations have been enacted by Federal and State lawmakers. According to the National Conference of State Legislators (NCSL), "At least 23 states introduced or considered security breach notification legislation in 2014. Most of the bills provided for amendments to existing security breach laws. At least

11 states enacted some type of breach legislation for businesses, educational institutions or government in 2014. In 2014, Kentucky became the 47th state to have a breach law. Only three states, Alabama, New Mexico and South Dakota do not currently have a law requiring consumer notification of security breaches involving personal information." In addition to security breach notification laws, there are laws regarding the protection of personal identifiable information collected by businesses. The NCSL states that "at least 32 states and Puerto Rico have enacted laws that require entities to destroy, dispose or otherwise make personal information unreadable or undecipherable."

How does this affect you? What do you do to protect your business and your livelihood?

Should your business suffer a data breach, there are financial ramifications. First and foremost, you need to determine where the breach occurred, who was affected and how to prevent future breaches. This can be done by a forensic examination.

Dependent on the type of data that was breached and the state or federal laws that apply, you may be required to notify the third parties affected and potentially file a report with the state or federal government. Most states laws are similar; however, many differ on the process of notification. The cost for notifying third parties varies anywhere from \$1 to \$10 per record. In addition to notification, credit/identity monitoring is typically provided to those affected while not always mandated by law.

A business may also suffer reputational damage and lost business as a result. Further loss to the business may arise in the form of legal defense costs as a result of legal action by the injured parties and regulatory fines and penalties.

In 2014, the Ponemon Institute, an independent research firm in the field of privacy, data protection, and security practices, conducted a study sponsored by IBM. The results of the study indicated that the average cost per record breached by malicious attack is \$246 per record. The average cost per record for system glitches and employee negligence are lower coming in at \$171 and \$160, respectively. The costs decreased dependent on whether or not the company had a strong stance against security or a formal incident response plan in place before an incident occurred.

There are several ways a business can protect itself. An effective risk management strategy is the first line of defense

Continued

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\$\$			<ul style="list-style-type: none"> • Radiant heat approved • Tenacious bonding strength • Easy to clean up, won't harm finish surface 	<ul style="list-style-type: none"> • All flooring including solids up to 8" wide
\$\$			<ul style="list-style-type: none"> • Superior adhesion • Superior moisture control system • 100% GREENGUARD System 	<ul style="list-style-type: none"> • All flooring including solids up to 8" wide and up to 95% RH or 18 lbs
-	-		<ul style="list-style-type: none"> • 60 linear feet per tube at 1/4" • Ideal for all glue assist installations 	<ul style="list-style-type: none"> • All flooring including wide planks, stair treads and risers



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A **business** may also **suffer reputational damage** and **lost business** as a result. Further **loss to the business** may arise in the form of **legal defense costs** as a result of **legal action** by the injured parties and **regulatory fines** and penalties.

Data Breach, Continued

and should include use of firewall technology on all networks, intrusion and detection systems (anti-virus software), encryption of data, a formal incident/breach response plan, a formal business continuity plan, a clear personal usage policy and clearly identified responsibilities for all components of the plan. Your risk management policy should include a vendor policy component.

Many businesses outsource work to vendors including merchant service processing, IT services, human resources and accounting. According to the Ponemon Institute study, *Securing Outsourced Consumer Data*, 65% of companies who outsourced work to a vendor have had a data breach involving consumer data, and only 38% of businesses asked their vendors to fix it. Just because you outsource operations does not mean you have transferred the liability. You should make sure your vendors have the appropriate security and controls in place to prevent potential breaches, background checks for all third parties that have access to confidential information, all payment card processing services provide proof of PCI DSS (Payment Card Industry Data Security Standard) compliance and contracts with vendors that include indemnification provisions or repayment by the vendor of expenses sustained by your business as a result of a data breach caused by that vendor.

The major credit card companies will begin transferring liability as early as October 2015 to those who accept transactions without a chip enabled card or EMV card. These cards are equipped with a computer chip that creates a unique transaction code every time it is used for payment. That code cannot be used again. Traditional magnetic stripe cards contain unchanging data which can be accessed by others and used to make fraudulent purchases. The transition to the new cards will require merchants and financial institutions to

add new in-store technology and internal processing systems. Beginning in October 2015, Visa will hold financially liable any party who processes a transaction that is not chip enabled and a fraud loss results. MasterCard will waive any liability if at least 95% of MasterCard transactions originate from an EMV compliant point of sale terminal. American Express and Discover have similar policies but are less stringent and vary based on the type of the transaction.

Another key component of risk management is cyber insurance. Most standard insurance policies do not include adequate protection for privacy and security risks as there is not a clear determination on whether or not computer data and/or personal data is tangible property. Insurance coverage can provide coverage for First-Party losses which are property type losses for destruction and loss of data; forensic investigation; business interruption/lost income and related costs; cyber threat or extortion; and computer data loss and restoration.

Third-Party coverage which falls under liability type coverage can be designed to include notification costs to the affected parties; regulatory costs including legal costs, fines and penalties; crisis management and public relations to prevent reputational damage; and credit monitoring for those affected in the event.

There are several websites that can assist you in determining the risk of your company experiencing a breach in the next 12 months, what you can expect as an average cost per record, and the average cost per breach. The calculators are very simple to navigate and will ask you questions based on your number of employees, operations and computer network information. One such website is the Symantec/Ponemon Institute (www.databreachcalculator.com). In addition, speak with your insurance agent or broker as some retailer policies are designed to include coverage for data breach. Being forewarned is being forearmed. ■

EMV Key Dates Chart-Card Network - Oct. 2015			
Visa	MasterCard	American Express	Discover
The party that is the cause of a contact chip transaction not occurring will be financially liable for any resulting card present counterfeit fraud losses. Does not include automated fuel dispensers (AFD).	MasterCard ADC relief takes effect (100%). On this date, if at least 95% of MasterCard transactions originate from EMV-compliant POS terminals, the merchant is relieved of 100% of account data compromise penalties. MasterCard liability hierarchy takes effect (excluding fuel).	American Express will institute a Fraud Liability Shift (FLS) policy that will transfer liability for certain types of fraudulent transactions away from the party that has the most secure form of EMV technology.	Discover will institute a Fraud Liability Shift (in U.S., Canada and Mexico). This Fraud Liability Shift policy will be a risk-based payments hierarchy that benefits the entity that leverages the highest level of available payments security.

ABOUT THE AUTHOR

Stacy Eickhoff is senior vice president for Willis Insurance Services of California Inc. She has worked in the insurance industry over 15 years with a focus on property and casualty within the floor covering and construction industries. Willis Insurance is the endorsed provider for the World Floor Covering Association.



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Are You and Your Business Prepared for a Permanent Vacation?

By David Romano, Founder and Owner, Benchmarkinc

One of the greatest advantages of owning a flooring company today is that the need for determining an exit strategy for the owner/s or creating a transition plan to hand over the keys to the next regime is minimal. Profits are in the teens, property values are at all-time highs, the doors are swinging off the hinges, it is really difficult to keep up with the demand from the builders and commercial contractors, cash flow is awesome, offers to buy the business are streaming in, and the next generation of family can't wait to take over! Right? You and I both wish! This may have been true up to 2008, but as we all know that bubble has burst and many flooring companies are still getting used to the new norm and have emerged from the ashes with the reality that selling the business or simply handing the keys to the kids is about as easy as winning a horse race with a constipated mule with three broken legs.

Be honest with yourself when analyzing the strengths and weaknesses of various family members when considering successors.

Eighty-eight percent of current business owners believe the same family or families will control their business in five years, but succession statistics undermine this belief. Only about 30% of family businesses survive into the second generation; 12% are still viable into the third generation; and only about 3% of all family businesses operate into the fourth and later generations. The statistics reveal a disconnect between the optimistic belief of today's family business owners and the failure of family companies to survive through future generations. According to the Family Business Institute, family business failures can essentially be traced to one factor: an unfortunate lack of family business succession planning.

An increasing trend in the industry is that the next generation has no interest in continuing the family legacy because they witnessed the level of commitment from their parents and they value having a balanced life more than owning a business. Now let's say there is the interest from the next generation and they are indeed equipped to assume the reins, then these new entrepreneurs face a more complicated world than their parents did when they founded and built their businesses.

In contrast to publicly owned firms, in which the average CEO tenure is six years, many family businesses have the same leaders for 20-25 years, and these extended tenures can increase the difficulties of coping with shifts in technology,

business models, and consumer behavior. Couple these issues with the fact that the founder may still be actively involved, and the job of running a family business becomes monumental for the successor, according to a *Harvard Business Review* article, *SUCCESSION PLANNING, Avoid the Traps That Can Destroy Family Businesses*, by George Stalk/Henry Foley, January 2012.

This information is not intended to shock or depress; it is meant to wake up or fire up flooring owners to come to the realization that now, more than ever, having a Succession Plan of when and how to sail off into the sunset is critical. Taking the proper steps will minimize the risk of transition failure and increase the likelihood that outside investors will take a sniff.

Keep in mind that Succession Planning is a process, not an event. When the formal Succession Plan is in place, it must be a living, breathing and evolving document which is reviewed and updated from time-to-time to reflect changes in the marketplace, competitive conditions and the health or capabilities of the current leadership. Building this plan should occur when the owners still have enough gas in the tank to properly prepare those who will run the business or do their best to instill sustainable systems to make the business attractive to potential buyers.

Waiting until you cannot take it anymore and rushing this process is most likely going to lead to the selling owners to reenter the business at a later date to provide resuscitation or draw less investor interest and/or a lower purchase price.

By no means is this article meant as a DIY manual. Make sure to seek the advice of tax planners, accountants, attorneys, and business valuation and transition planning professionals. Outlined below is the framework for planning out your eventual exit for your discussions with your selected professionals:

- **Determine your income requirements**

Figure out what is required to provide the standard of living you have become accustomed. Build an extremely detailed personal budget because once a deal is struck - most likely you are stuck. Do you need a lump sum payout? Are you going to continue to earn dividends and/or a salary? Are you going to get rental income?

- **Choose your future role**

From a leadership perspective, as the business founder/owner you must be prepared to relinquish the helm without reluctance or regret. A strong message

Keep in mind that **Succession Planning is a process**, not an event.

When the formal Succession Plan is in place, it must be a **living, breathing, and evolving document** which is reviewed and updated from time-to-time...

must be sent to the next generation, the employees and the customers that this is a decision you have made without duress or shame. Make sure to consider whether a continuing role in the management of the business in an advisory capacity fits your situation. Sometimes it is better to make a clean break and refocus on either a relaxing retirement or some commitment to community or charitable activities to stay active and vibrant.

- **Pick the date**

The successful transition plan usually involves a fixed departure date (and really sticking to it), having a strong system in place to support the new generation of leadership, resisting the temptation to meddle or interfere, having an alternative exit strategy if, after a reasonable period of time, the new leadership fails, and having activities to pursue after the departure which are rewarding and challenging.

- **Get a professional valuation**

Estate and succession planning decisions involve complex questions of law, tax and business planning, including the types of property to own, the form of ownership, and, for small business owners, the organization and operation of the business and steps for passing that business to the next generation or potential buyers. The only way to find the plan that's best for you is to work closely with your lawyer and other specialists who can advise you properly.

- **Identify the next generation or potential buyer**

Be honest with yourself when analyzing the strengths and weaknesses of various family members when considering successors. Try to separate issues of love and fairness from issues of business acumen and strategic management. Many entrepreneurs with family-owned or closely held businesses say the most difficult challenges involve deciding who will succeed the current generation and how to preserve and build the company's value by providing for a smooth transition of ownership and management. If your family members just don't cut the muster, look at long-term productive employees or competitors wanting to increase market share or expanding into your market.

- **Build a detailed transition plan**

There are many firms that focus on the family owned sector that can provide assistance with this task. When building this plan, milestones must be determined,

timeframes established, and required resources outlined. This plan should not be the best kept secret in the company as there may be multiple internal contributors to the success of this plan. Keep in mind that if it is documented it must be done!

- **Prepare the successor**

Invest the time and money to train and educate the next generation of leadership - whether the successor is your spouse, children or other family members. If your succession plan calls for a full or partial sale of your business to some or all of your staff, do the same for the employees who will take over. If you are selling to an outside investor it may be necessary to wear golden handcuffs until the new regime is fully prepared.

- **Create a self-reliant business**

The book value of a flooring business lies in tangible assets, customer base and loyalty, intellectual property and expertise, market share, revenue and expenses, and the potential for future earnings. However, there is no sustainable worth if the only way for the business to retain that wealth is through the daily management by the founder/owner. Companies are much more attractive, and more sustainable through a transition when built on extraordinary systems that can be run by ordinary people versus ordinary systems run by extraordinary people.

This might all seem like common sense and may even appear to be quite simplistic, but rest assured there will be many twists and turns before an effective outcome is determined. You owe it to yourself, your family, your employees, your customers, and your legacy to get this right. With all of the blood, sweat, tears, missed kids' events, and skipped vacations, it would be a shame for all of that sacrifice to be for naught. ■

ABOUT THE AUTHOR

David Romano is founder and owner of Benchmarkinc and its predecessor, Romano Consulting Group. David's professional career spans nearly 20 years of management experience in the retail, restaurant and consulting industries. His companies have been providing consulting, benchmarking, and recruiting services for nearly a decade exclusively for the flooring and restoration industries.



Don't Close the Business... Confirm the Business!

By Michael Vickers, Executive Director, Summit Learning Systems

Don't try and close the business with your customer. Instead...confirm it. During your interactions with your customer there will come a time where you have asked all the relevant questions, demonstrated the quality of your products and then need to move into the confirmation part of the process.

It is now essential we review the pre-requisite checklist. This can be written down at first but should be committed to memory as soon as possible. If you ignore or skip any of these pre-requisites, your chances of losing the sale increase greatly. Let's take a closer look at each one of these pre-requisites.

1. A Recognized Need

If your prospect or customer doesn't recognize that there is a need for your solution, then it will be virtually impossible to sell them anything. Sometimes your customer isn't always aware there is a need. That is why we spend so much time asking direct questions that cover a wide range of areas. People buy for their reasons not yours.

2. A Make-Sense Solution

Once a need is recognized by the customer, then it is your job as a flooring professional to provide a course of action that will make sense to the buyer. If the solution doesn't make sense to them, they won't invest in your flooring solution. Your proposed solution should always be directly related to the identified need.

3. Value/Cost Relationship

Before the customer makes the decision to purchase your product, they mentally evaluate the value they will be receiving against the total cost of ownership. Your responsibility is to build as much value as possible in the mind of the customer in such a way that the actual cost of solution is minimized.

4. Urgency

In order to get your customer to take action, there must be some condition or impending event that creates a sense of urgency. From a psychological perspective, customers love to own and hate to buy. They often come to the edge of the purchasing cliff and simply want the sales professional to give them an incentive to help them justify and rationalize their purchase. It's imperative that the incentive or

condition be authentic, and most importantly, that the customer understands that this investment in your flooring products is in their best interest.

5. Authority to Move Ahead

Don't make the mistake often made by sales professionals: spending a significant amount of time with a customer asking really good questions, making a world-class product presentation and then trying to close the sale when the customer doesn't have the authority to move ahead. The salesperson will often have a customer sold on a particular product and then begin to offer discounts to persuade the customer to make the purchase. A simple question early in the sales process can help you identify this potential obstacle before any pricing offer is built. "Mrs. Jones, would I be correct in assuming that Mr. Jones would like to be part of this process?" Or perhaps, "Besides yourself, who would be responsible for selecting your flooring solution?"

If you receive an answer such as "my husband" or "my partner," etc., then there's a very good chance they will not make a decision to purchase at that moment no matter what the offer. If customers don't have the authority to purchase on their own, then it's too early to enter into any form of negotiation. Any incentive at this point can be easily misconstrued as pushy and could create a negative response in the mind of the prospect. You also run the risk of customers returning to the store with their partners now expecting a major price discount on a flooring solution they might have paid a higher margin for.

There are certain circumstances where it is appropriate to offer an incentive before all parties are present, such as a special sale or time sensitive event. The dialogue could go something like this: "Mrs. Jones, besides yourself, is there anyone else we need to consult with in order for you to make the decision to purchase your flooring products? The reason I ask is that we have a special factory promotion on right now that expires tomorrow at 9 p.m. The savings are significant and it would be great if you were able to take advantage of it."

If all of the pre-requisites to confirming the business have been addressed, then it's time to move ahead in the sales process. Always keep in mind that your goal is to tailor a perfect solution for each individual customer. This is, of

“Before the customer makes the decision to purchase your product, they mentally evaluate the value they will be receiving against the total cost of ownership.”

course, the primary reason we ask the customer so many questions during the managed sales process.

The 3-Option Solution

Most customers don't like to be pigeon-holed. Today's purchasing psychology teaches us consumers like to have several solutions to choose from. They don't believe in just one course of action – especially if they feel a commissioned salesperson may be more interested in selling them what is best for the salesperson rather than the customer. The best way to overcome this is to offer a range of solutions that offer differing levels of perceived value. In this way, the customer is given a choice. The decision is up to them and they have a stronger sense of control during this critical phase of the sales process. If you've prepared your 3-Option Solution in the correct manner, your customers will actually help guide you to the close that will make you look great and keep them happy about the whole process and fully engaged.

It is vital for you to formulate three solutions that will make sense to your customer. Each option should be appropriately based upon the customers' answers to the questions posed to them. They should include a lower cost solution, a mid-range solution and a higher-end solution. People are very familiar and comfortable with this model. In fact, the advertising industry spends millions of dollars each year teaching customers to purchase in just this fashion. For example, when you purchase an automobile, you have a choice between a base model with limited or no options, a middle-of-the-road model with a number of more desirable options, and a high-end model loaded with everything a customer could possibly envision and more. The marketplace is full of similar scenarios. McDonald's sells small, medium and large fries for a reason; the customer wants and values choice.

Always use a price sheet to build your three options and take time to itemize the features of the flooring products in question to visually demonstrate the significant value the customer will be getting for their money. Once you have done this, be sure to include the suggested retail price of the product. Choice number one should be the budget option.

The second option should be geared toward a mid-range budget. It could be the same flooring product with the addition of a few upgrades. Again, the option should be directly related to the specific answers you've garnered to your questions.

The third solution should be a top-of-the-line option that includes all of the features of option #1 and option #2 but

includes a few higher-end options or upgrades. Your job will be to determine what the three possibilities might be.

The secret here is to present all three options to the customer at the same time. They should be looking at three flooring solutions in front of them either on paper or in the showroom. There should also be a significant price difference between all three options. Remember, it's up to your customers to decide which pricing level they are most comfortable with; it's not up to you to decide at this point.

When you present the three selections to your customer, the dialogue could look like this...

“Mrs. Jones, based on all of your responses to the questions I've asked you and some of the features you mentioned that were important to you, I've come up with several options that may make sense to you. Option or Solution #1 is the budget option. While it's a base style offering, it does still meet all of your minimum requirements.”

At this point, you would go through the features and all pertinent details item-by-item while providing a thorough description of each, and finally ending with a price point.

“Option or Solution #2 has a few more of the features that you mentioned you would find beneficial and is more of a mid-range solution. It has a few more bells and whistles than option #1.” Now, you would again go through all the added features and details before ending with your price point.

“Option or Solution #3 has all the extras. It has all of the fundamentals that we've agreed need to be included in your flooring solution and it includes all the extra great options we've discussed. It's the full-meal deal.” Again, all the added features and details are laid out before ending with the price point.

“All three flooring solutions will work for you. All three solutions make sense to me from our point of view.” Now comes your closing question...“Which option makes most sense to you?”

At this point in the sales process, it's important to let the customer respond. You will find by properly positioning the options in this manner, approximately 50% of the customers will select the middle option. Twenty-five percent will select the lower cost options, and the other 25% will select the premium solution.

Continued

Confirm the Business, Continued

In actual practice, a significant proportion of the final solutions you arrive at with your customers will be a hybrid of two of the options presented. You're likely to hear responses from the customer such as, "We like option #1, but we really like this feature on #2", or "We like option #2, but we would also like this option from #3." You will also hear responses such as, "We really like option #3, but we can only afford the price of option #2."

It's here where you'll enter the negotiating phase of the close, but it's your customers that have directed you there. They still feel they have control. You now know, however, what price range you should be starting from and where their general mindset is with regard to final pricing. They're either a budget customer, a mid-range customer or a higher-end customer. This is invaluable information to have as you begin your negotiations. This insight will assist you greatly in determining how many concessions you will ultimately have to make to earn the business.

Deciding on a mutually acceptable final price for the flooring your customers are intent on buying can sometimes be an arduous task. Although it is serious business, there is a natural ebb and flow to the procedure. Both sides are usually prepared to be somewhat flexible if a mutually agreeable outcome is to result. Customers want to feel satisfied in knowing they've

negotiated a fair price and haven't left too much money on the table. Ensure your customers achieve this satisfaction without compromising a reasonable profit margin.

The three-option close is a powerful strategy that will help you sell more. It does take a little more time to prepare the options, but the results are worth it. The strategy behind this tactic is to differentiate your sales process from the competition. Your flooring solutions are different and so is your sales and service experience.

Lastly, most customers want the confidence of making the right purchasing decision. By preparing three solutions or courses of action that make sense to both yourself as a flooring professional and your customer, you can then start confirming the business. ■

ABOUT THE AUTHOR

*Michael Vickers is executive director of Summit Learning Systems, a provider of customized in-house training and e-learning programs; and author of the best-selling book, *Becoming Preferred – How to Outsell Your Competition*. Contact Michael at: www.michaelvickers.com.*



Independent Contractor Case Study Answers (From page 20)

- | | |
|--|---|
| <ol style="list-style-type: none"> 1. Is there a contract?—Yes 2. Is the independent contractor established as a separate business?—Yes and No
Not incorporated, but Pays taxes, etc 3. Do contractors supervise themselves?—Yes 4. Do contractors control the means and manner of performance?—Yes,
Company sets deadlines and suggested routes, but driver free to chose own route 5. Can contractor refuse to wear company clothing, etc.?—No 6. Do contractors supply their own equipment and training?—Yes and No
Driver supplies truck, commercial license, insurance, etc., but company supplies safety training and manual 7. Can contractor work for others and refuse work?—Yes, but concern if refuse work | <ol style="list-style-type: none"> 8. Is fair payment monitored (e.g., average hours)?—No 9. Can contractor make a profit or incur a loss?—Yes (70% of gross) 10. Is work independent of company's business (or integral to company's business)?—Yes <p>There were six yes's, two half yes's, two no's and two half no's, for a score of seven yes's and three no's. Based on the questions, the driver is likely an independent contractor.</p> <p>The court agreed. It granted summary judgment for the shipping company, finding the driver was not an employee and was properly classified as an independent contractor, noting there was a contract, the driver owned his truck, the drive had sufficient control over the manner of performance, the driver could work for others and refuse loads, and the limited training requirements and clothing were not significant to overcome the other indicia of independence.</p> |
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More Standards, Certifications, Declarations Coming to Flooring Industry

By Jeff Golden, Editor

First it started with ISO (International Organization for Standardization) standards for manufacturers – the **ISO 9001** standard of quality management principles and **ISO 14001** (environmental management systems). These were the forerunners to the GreenGuard certification and declarations (EPD and HPD) now reaching the flooring industry.

The **Environmental Product Declaration** is based upon third-party life cycle assessments telling the product's environmental impact. The EPD provides a detailed breakdown of material content, health and safety information of producing and using the products, and disposal. The EPD is an internationally harmonized report documenting the ways a product affects the environment throughout its lifecycle. The EPD program operator is UL Environment (Underwriter Laboratories).

According to UL Environment, an EPD tells the complete story of a product in a single, written report. EPDs do not rank products and an EPD for a product does not indicate that environmental performance criteria have been met. EPDs are a disclosure tool to help consumers better understand a product's sustainable qualities and environmental repercussions. <http://services.ul.com/service/environmental-product-declaration/>

According to John Wu, president and CEO of Novalis, "EPD certification requires complete transparency regarding raw



materials, production, packaging, distribution, end-use and disposal. It also looks at our commitment to sustainability and determination to strive for the highest quality standards in everything we do. That's why the EPD certification is so meaningful to our company and our customers," observed Wu.

Flooring manufacturers receiving EPD (as of press time) include: American Olean, Beaulieu Commercial, Bentley Mills, Inc., Crossville Inc., Daltile, Florida Tile, Forbo Flooring Systems, Interface, Marazzi, Milliken, Mohawk, Mohawk Hard Surfaces, Novalis Innovative Flooring, Patcraft, Ragno, Shaw Contract Group, Tandus Centiva, and Tarkett.

A **Health Product Declaration** (HPD) is a standard format for reporting product content and associated health information for building products and materials. The ongoing development, maintenance and evolution of the HPD is overseen by the non-profit Health Product Collaborative™. <http://hpdcollaborative.org/>

Health Product Declarations are mentioned in the LEED v4 green building rating system, providing companies without life cycle assessments a path for their products to contribute to LEED v4 projects.

The **Declare** label from the International Living Future Institute™ is also showing up on products from flooring manufacturers. The label includes the product name, manufacturer, city, state and country of final manufacture, life expectancy, end of life options, raw material ingredients, and living building challenge criteria. Currently, the following manufacturers are using the label: Bentley Mills, Coldspring, Forbo Flooring Systems, Interface, Milliken & Co., Mohawk Group, Novalis Innovative Flooring, Patcraft, Shaw Contract Group, and Smith & Fong Company.

The **ISO 9001** is being updated with a draft version currently under review. The final updated version is expected by the end of 2015. Started in 2008, the standard has been implemented by more than one million companies and organizations in over 170 countries. The standard is based on a number of quality management principles, including a strong customer focus, the motivation and implication of top management, the process approach and continual improvement.

The **ISO 14001** (Environmental Management Systems) is also under review with an updated version expected at the end of 2015. ■

Four Proven Practices to Grow Your Business

By Scott Humphrey, CEO, World Floor Covering Association

We are well into 2015. We are all working very hard these days but are you truly reaping the rewards of your efforts? Have you made what you believe to be positive changes in the way you do business or are you continuing the practices of the past? Are you longing for more success? If so, I urge you to spend 10 minutes reading the information I have prepared below. What you do with it may help improve your business and exceed your expectations for 2015.

You have heard it said, "Your preparation will determine your destination." With that in mind, what are you planning for in 2015? You must know that we rarely exceed our expectations for any given goal in life. Let me help bring this home by asking you a few questions:

- **What is your plan for your business this year?**
- **What will you do differently based on that plan?**
- **Have you communicated your plan to your employees?**
- **Are your employees aware of their role in your planned success?**
- **What is the payoff for your staff once your goal is reached?**
- **Will your plans affect your customers?**

Like all of the content you find in *PFR*, the purpose of this article is to prepare you to reach and exceed your goals in 2015. Our goal is to help you ensure your success and profitability. With that in mind, here are four practices used by top performing retailers to grow their businesses.

1. Create an environment your customers will look forward to visiting.

Let's assume you have invited someone special to your home. This is someone you look forward to entertaining and spending time with. You know their impression of you will be impacted by their impression of your home. What would you do? You would spend time cleaning and prepping your home for their visit. You would research to find out what your guest likes and prep your house accordingly. Why should welcoming a consumer into your store be any different?

Think about it this way. Have you ever been to someone's home and the environment made you uncomfortable? Whether you wanted it to or not, this

likely changed your impression of that individual. By reversing this scenario and applying it to your business, you understand that you can alter a customer's perception of your business by changing your in-store environment. A clean, open environment creates an impression of organization and professionalism and often provides differentiation from your competition, especially the Big Box stores.

To help you make beneficial changes, try the following: survey your customer and their impression of your store; bring in a design expert; and shop other retail establishments, including your competition and the Big Boxes.. Make note of what makes consumers comfortable shopping in each establishment you visit. Then experiment. You will find revitalizing your in-store environment will not only improve the shopping experience for your customer, but will also improve the attitude and morale of your employees.

2. Make sure you are adequately staffed.

We all know people buy from people. Consumers will shop your store for a variety of reasons, but nothing has a greater impact on whether they purchase from you than the professionals they interact with during their time there. Your staff should be easily approachable and extremely informed, especially with the level of online knowledge most consumers acquire before entering your store.

If you are hiring new staff, don't be afraid to seek people from outside the industry with a strong customer service background. Also consider the demographic you are attempting to reach when you hire. Does your team have sufficient female representation? Do you have someone comfortable with utilizing technology? Product knowledge can be acquired by any new hire, but relational ability is different. You can't train someone to like people and instill a desire to meet their needs.

3. Train for success.

Understand the importance of training your employees. Even though training is the first thing to be eliminated from a budget when a business is tight on money or time, training must be seen as an investment in the future of your organization. Investing in training sends a message to your employees that they are valued by your company.

Nothing turns a consumer off faster than attempting to buy from a salesperson perceived to know less than them.

Today's consumer is more informed than ever. Your staff must be trained, prepared and knowledgeable to deal with any opportunity that presents itself. Nothing turns a consumer off faster than attempting to buy from a salesperson perceived to know less than them.

Our industry has a vast amount of training available at little to no cost to you. Groups, manufacturers, and associations like the WFCA, have resources to educate you and your staff. Don't say you don't have the time for training. You don't have the time not to train.

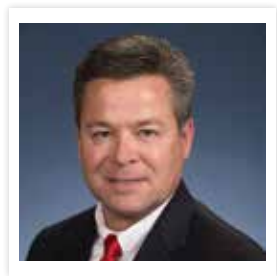
4. Make it easy for your consumer.

Your potential consumer has choices. In the end, one of the things most important to them is the ease of the process. Anything you can do to simplify the shopping experience, to eliminate the guess work, and to give them confidence in the buying decision, will go a long way in locking in the sale and moving them from a shopper to a buyer.

If you want to create positive word of mouth advertising, help your consumer feel confident in their decision and make doing business with you easy! Make these four common sense points common practice in your business. Apply these simple steps to give you greater differentiation in your marketplace. I look forward to hearing how you have exceeded your expectations in 2015! ■

ABOUT THE AUTHOR

After 43 years in the flooring industry, WFCA CEO Scott Humphrey has seen it all. His knowledge is extensive from his position as Leadership Development and Training Services for the Shaw Learning Academy to helping Shaw Flooring Network members turn difficult situations into success stories.



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Five Questions to Answer in Finding SEO Success

By Josh McGinnis, Owner, Unlock Your Biz

As a child, when we visited my grandparents, I remember watching my grandmother use the phone book as a booster seat for my little brother. Do you remember how large phone books used to be? Have you seen how small they are today? Do you know why phone books are smaller? It isn't because there are fewer people or fewer businesses. It's because businesses are not advertising like they used to.

One of the best ways to reallocate those phone book dollars is SEO (search engine optimization). The web has been and continues to be the phone book of today. What exactly is SEO? It is using techniques to optimize a website so it is found more frequently and easily when consumers are searching on the web. Optimized placement of your website in search results increases how many people visit your website and ultimately your store.

In 2010, two out of 10 people had a Smartphone and that number has grown to six out of 10. Next time you are away from home, take a long look around and notice how many Smartphones you see. These same people don't look at a phone book for your business. They simply type in a phrase

like carpet store (your city) and see what their search engine pulls up. The key to a phrase is the location. When someone just wants to learn about carpet or do research on carpet, they leave out their location in the search box. Location is a sure sign the person searching is a buyer and not a researcher. This means you want to make sure your store is listed on the top of every major search engine for every major search term used in your area.

SEO can easily sound like a dream come true. And in many ways it is. One of my flooring clients has mastered his SEO and gets multiple calls each day and in-store traffic. But the flip side is SEO can be a real monster. Because you can't really see it, companies can easily take advantage of you. In fact, it is far more common to be taken advantage of by a dishonest or simply untalented company than to find a good one. Also, prices don't seem to reflect the likelihood of hiring a good or bad SEO company. So what is a dealer to do? Ask the following questions when interviewing a SEO company to protect your dollars and your website.

1. Can you guarantee Google placement?

This is actually a trick question. The question is asking if the company can promise to have you ranking high in Google searches. The reason this is a trick question is because even Google says to stay away from any SEO firm offering this guarantee.

2. How does your company website rank on Google?

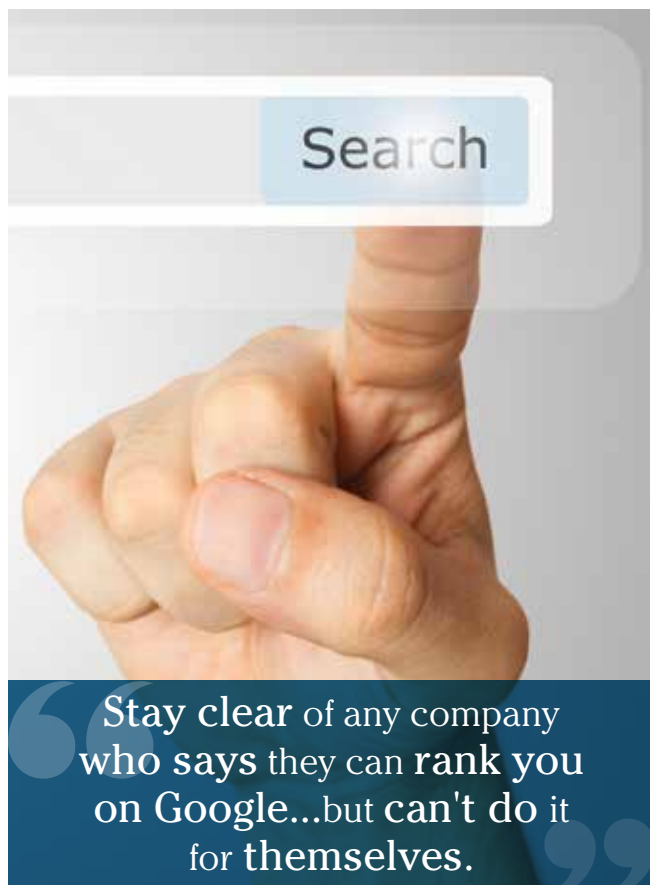
Stay clear of any company who says they can help you rank on Google, or other search engines, but can't do it for themselves. They may say something about not having time or a joke about how the cobbler's children have no shoes, but don't accept it and move on.

3. Can you share some case studies or past successes/failures?

A good company should be able to share both and with SEO not being an exact science, there are sure to be cases that didn't go great. You are looking for someone who is honest (very important when you can't see what they actually do) and a good track record of producing results. There are literally thousands of people who claim to do SEO but many of them are untalented and can actually damage your website.

4. What reports will you give me and in what frequency?

Monthly reports are a minimum, but a few will do weekly reports or combine weekly results into a monthly report. Don't expect crazy results in that



One thing to remember is **SEO only drives people to your website. What they do once they are there is based on your actual site.**

first month, but you should see a trend of increasing rankings and page views.

If you have more questions about SEO, contact me at josh@unlockyourbiz.com or (800) 528-5055. ■

5. Can you provide a guarantee of only white hat techniques?

In the web world, you have activity that is considered good, legal, and what search engines like to see. These are white hat techniques. The opposite of this is black hat techniques and those can get you in trouble. Not the kind of trouble with the law, but the kind of trouble that shuts down your website and causes you to get no online leads. Just ask for them to put in your agreement that they guarantee not to use any black hat techniques.

One thing to remember is SEO only drives people to your website. What they do once they are there is based on your actual site. If you get visitors, but not an increase in phone calls or store visits, you should probably examine your website. Lastly, please make sure your website is mobile-friendly.

ABOUT THE AUTHOR

Josh McGinnis is in the top 5% of business coaches worldwide. He specializes in fixing marketing, sales, and people problems so his clients can maximize their growth potential. His clients routinely outperform the national average for their individual industries. This is part of the reason he has doubled his own business by word of mouth and referrals each year for the last four years.



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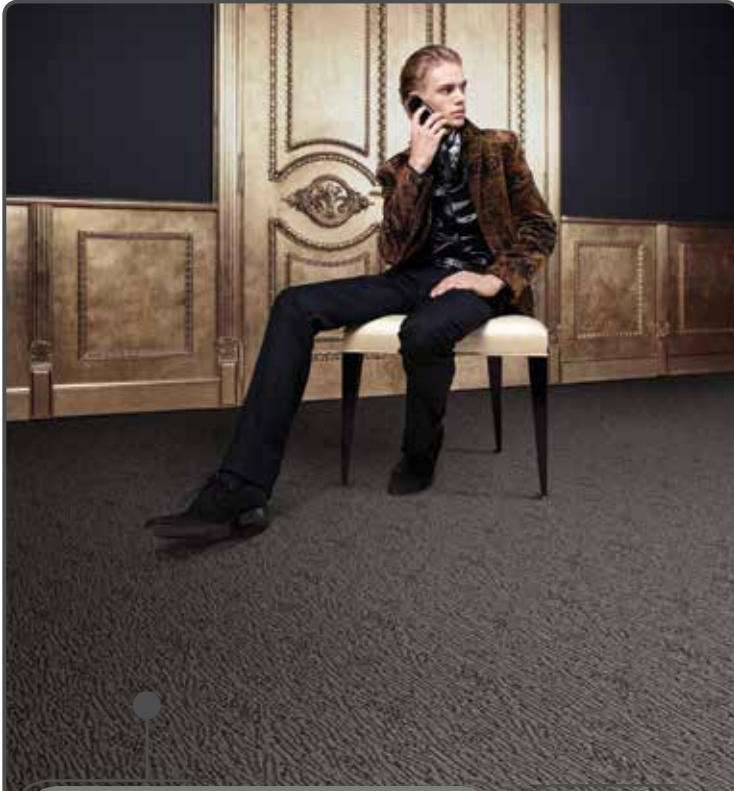
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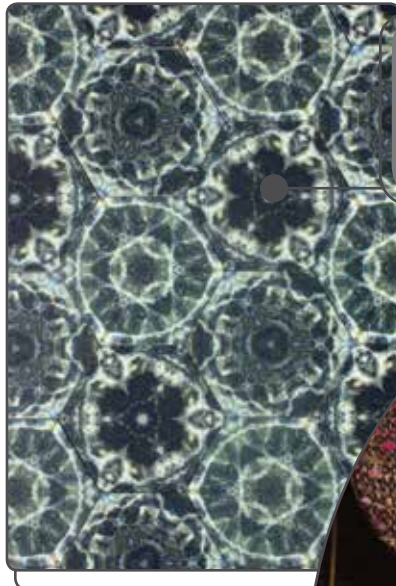
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Social Media: 10 Must-Do Things in 2015

By John Simonson, President, Flooring Web Solutions/Webstream Dynamics

Location, Location, Location. I think most of us have heard those words when it comes to where to physically locate your brick and mortar business. But what most flooring retailers fail to recognize is how important location is in the Google search results when local shoppers are searching for flooring stores or other type businesses.

There are **no magic bullets** or **simple SEO tricks anymore** that will **improve your search engine rankings** and generate more leads.

Local search is heating up ever since Google changed their local search ranking algorithm back on July 24, 2014. In local search, a user submits a geographically limited request for a particular type of retailer in a town or neighborhood and specialized internet search engine runs a search through a database of local business listings. Google's major algorithm update, named Pigeon, changed and really shook up the SEO world as many local businesses saw their search engine placements plummet. In a nutshell, the Pigeon algorithm connected web and map search in a more cohesive way and incorporated many of the standard ranking signals with local search rankings.

Google said this improved distance and location ranking parameters and made neighborhoods more important rather than always a specific physical location. Think mobile and you are looking for a store near your location, stores near your mobile location regardless of the neighborhood boundaries (city or suburb boundaries) may now appear in your mobile search results. That is a huge step forward.

Since then we have seen everyone in the SEO world scrambling to readjust their client's search engine rankings. If you have not noticed, online business directories such as Yelp have seen dramatic improvements in their search engine rankings. Make sure to include Yelp.com and other online business directories in your efforts.

Here are 10 things to do in 2015 to generate more online local sales leads:

1. Make all your content unique and interesting to your customers – no cookie cutter!
2. Optimize all pages using local signals (city, state, phone, neighborhood terms, etc.)
3. Create a blog and use interesting local content and be sure to link back to your website (Blog posts will show up in the search engine results)
4. Spend time optimizing your FREE Google+ Local Business page
5. Ask other local businesses to exchange links (Join the WFCA and get a link from this highly authoritative website to your website – it is worth the \$295 yearly fee!)
6. Find and update your name, address, phone, web address and product categories on all online local business directories (ie: Yelp.com, Yp.Com, CitySearch, Bing local, InsiderPages, etc.)
7. Update your title tags, meta description tags and headline tags on all your web pages with some local terms and products/services you offer
8. If the bottoms of your web pages are stuffed with a bunch of keywords, get your web developer to remove them immediately as this is considered spamming the search engine and is a lazy SEO tactic.
9. Work on getting positive reviews on your Google+ Local Business page, as well as other major review websites, such as Yelp.com, Angie's List, etc.
10. Make a social media marketing plan. Social media websites are to make conversations and drive shoppers to your website to engage them with call to actions, not the other way around.

There are no magic bullets or simple SEO tricks anymore that will improve your search engine rankings and generate more leads. It takes time, real effort and money to do it right today – think \$500 per month or more. The big online players such as Home Depot, Lowes, Lumber Liquidators, Empire Today and others are eating your lunch online. It is time to roll up your sleeves and get in the game. Every flooring order they get is one less you will get and as product performance continues to improve, homeowners who buy flooring now are more likely out of the buying cycle for a longer time. Improving your online marketing reach and touch points can make a big difference to your bottom line for 2015. ■

ABOUT THE AUTHOR

John Simonson, president of Flooring Web Solutions and Webstream Dynamics, has provided web design, SEO, e-commerce and web marketing to the flooring industry for over 17 years. Email: john@flooringwebsolutions.com.



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