

COAST

COMMENTS

Volume 15, No.3

SUMMER 2002

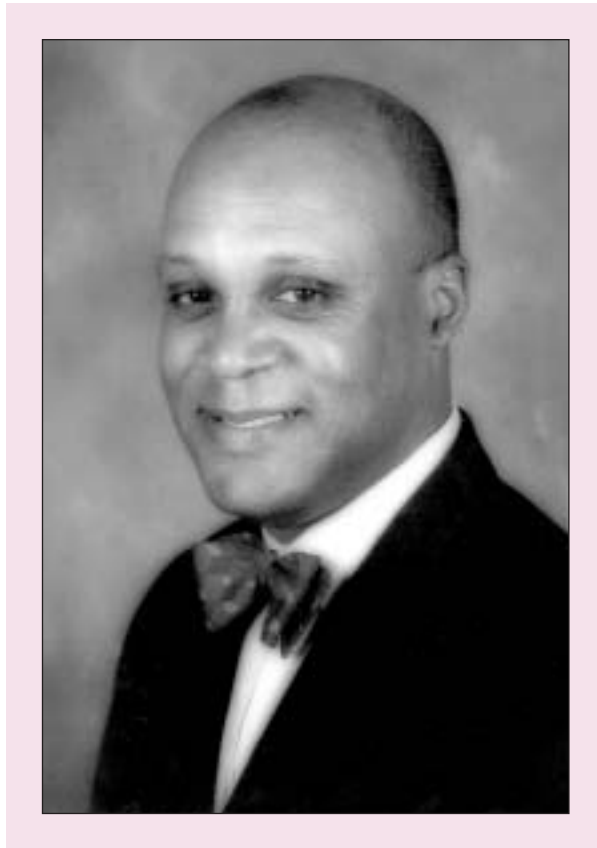
PACIFIC COAST REGIONAL SMALL BUSINESS DEVELOPMENT CORPORATION

Meet PCR's New President/CEO- Mark J. Robertson, Sr.

Pacific Coast Regional Corporation (PCR) is pleased to announce Mark J. Robertson, Sr. as its new President/CEO effective July 1, 2002. Former President/CEO R.D. Lottie, Jr. retired after 24 years to pursue his artwork and other business ventures.

Mr. Robertson has served as PCR's Vice President/Chief Credit Officer for 10 years prior to becoming President in which he insists, are the most rewarding years of his career. In this capacity, he supervised three loan officers and directed PCR's administration of the State of California Loan Guarantee Program, the Federal Economic Development Administration's Financial Restructuring Assistance Program, and the California Economic Development Lending Initiative (CEDLI) Program. Before that, he headed PCR's Bonding Program.

Born and raised in Los Angeles, Mr. Robertson has lived most of his life in the Crenshaw and Mid-City areas. After graduating from Pacific Palisades High School in 1975, he attended UCLA and earned a bachelor's degree in Economics. While a student at UCLA, he worked part-time for a local savings and loan association, which was the beginning of his financial services career that has lasted 26 years. Twelve of those years were spent in commercial banking in the Los Angeles area where he underwrote or supervised the



underwriting and funding of business and real estate loans as large as \$100 million. His first involvement with PCR was serving as a member of the loan committee.

In his new position as President/CEO, Mr. Robertson will continue to be responsible for all credit policies and procedures as well as lead the entrepreneurial training and consulting programs at PCR. He considers it an honor to be a part of PCR's 25-year legacy of providing economic development assistance to the local small business community.

Mr. Robertson is a Board Member and Chairman of the Finance Committee for the West Angeles Community Development Corporation, a ministry of the West Angeles Church of God in Christ. He

is also Cub Master of the West Angeles Cub Scouts, where he coordinates the scouting activities of 46 boys.

He enjoys spending his free time with his wife, Donna Davis Robertson, (Regional Vice President, Alliance Bank) and their three boys, Mark Jr., Aaron, and Samuel.

Best Wishes and Congratulations are extended to Mark J. Robertson, Sr. on his new position!!

Basic Contract Principles for the Small Business Owner - Part II

By: *Steven Coté*

SIGNING CONTRACTS

Of course, a written contract must be properly signed. As a general rule, a contract does not have to be witnessed or notarized. It is sufficient that all of the parties sign their names or other identifying mark.

If there is a statute requiring witnessing or notarization, then be sure that the law is satisfied, even though in some cases, courts will enforce documents lacking all of the formalities when no injustice will result from the court's decision.

When dealing directly with individuals named in the contract, it is generally obvious who must sign. However, one person's signature cannot bind another person to do anything unless the person signing is legally authorized to do so. That often means that the authorization must have been given by means of a formally executed document in which the person not signing grants a power of attorney for the necessary purpose to the person signing. A "general power of attorney" can normally permit almost any act; a "limited or special power of attorney" specifies the particular things which can be done.

If you are dealing with a person who is signing a contract on behalf of a corporation or some other legal entity, take measures to be sure that such person has the legal authority to bind that entity. State laws may require various formalities when a corporation enters a contract. The by-laws of the corporation itself may specify which persons are authorized to execute contracts for the corporation. Normally, it is the president of the corporation or other senior officer who has signing authority.

If you are signing on behalf of a corporation, and you do not want to be personally liable in a suit for damages, then make that clear by writing your title after your name, or whatever words describe your role in the corporation. The name of the corporation should appear above your name. Otherwise, if somebody sues on the contract, and the corporation has financial problems, the plaintiff may claim that you were signing in your personal capacity and try to satisfy his claims from your personal assets.

ASSIGNMENT OF CONTRACTUAL RIGHTS

A person can usually assign his rights under a contract to another person after the contract comes into being. However, one cannot assign a mere "expectancy." The assignor must also be the present or potential owner of the right he assigns.

Unless a contract prohibits assignment, or unless the assignment would work harm on the non-assigning party, the non-assigning party has no right to interfere with the assignment, and his consent is not needed. He must perform his duties under the contract just as if he were still dealing with the original party, but substituting another in that party's place.

DELEGATION OF CONTRACTUAL DUTIES

Unless a contract is of a nature that requires personal

performance, a person obligated under the contract may delegate some or all of his contractual duties to other people. This is typically the case when a general contractor enters into a construction contract and uses subcontractors to do the work.

However, the person delegating his duties remains the person legally responsible to the other party on the contract. That is, the contractor is not relieved of any of his obligations by delegating work to subcontractors, and he can still be sued if the contract is properly performed.

ILLEGAL OR IMMORAL CONTRACTS

People can contract for almost anything, but the State will not enforce contracts which require illegal or immoral conduct. The courts generally declare illegal or immoral contracts void because they are against public policy.

TIME

A contract should always specify the time limits by which the parties wish to structure their transaction. If someone is to do something for you, you should state a definite date by which it must be done. It is always appropriate when making an offer to include in it a time limit by which it must be accepted.

The requirements contained in a contract must be violated in some reasonably substantial and material way before a judge will find that the non-violating party has a right to legal relief. Minor violations may be overlooked unless the contract specifies otherwise. If the exact timing specified in a contract is critical, then the agreement should contain words such as "Time is of the essence" and a statement that a party who does not perform on schedule will be considered to have breached the contract.

CONTINGENCIES

A contingency is a condition which is specified in the contract and must be satisfied before other things in the contract become obligatory. Generally speaking, a promise is no less contractual because it is conditional. A promise is conditional if its performance depends on the happening of anything except the passage of time.

A familiar example is the contingency written into most contracts for the sale and purchase of residences. The sale is conditioned on the buyer obtaining financing within a certain period of time. This is called a "condition precedent" because it is a condition which must be satisfied before the duty of performance becomes mandatory. If the buyer uses proper efforts to find financing and cannot, then the contract is terminated.

BREACH OF CONTRACT

If either party to a contract fails to perform its side of the bargain (without a legally valid excuse), a "breach" or "default" occurs. A breach of contract occurs if either party:

- *fails to perform as promised,*

- *makes it impossible for the other party to perform, or*
- *“repudiates” the contract*
(announces an intent not to perform).

Remedies

When the other party to a contract fails to fulfill the agreement, you have several alternatives. You can:

- *urge the other party to fully perform the contract,*
- *compromise by modifying the contract,*
- *pursue alternative dispute resolution, or*
- *go to court.*

Your enforcement options may be limited by the contract. Some contracts contain a clause stating that all disputes must be resolved by alternative dispute resolution (usually arbitration), rather than by a court. If your contract contains this clause, you will not be able to bring a lawsuit against the person or business that breached the contract. Instead, you will have to submit your case to a neutral third party arbitrator who will hear evidence and determine if the contract was breached and what damages are appropriate.

If there is no clause in the contract specifying how disputes will be resolved, you are free to resolve it through the court system. If your damages from the breach are small (usually less than \$5,000.00) you may be able to go to small claims court. This is less expensive than regular trial court, and you may not need to hire a lawyer.

DEFENSES TO BREACH OF CONTRACT

Before the court or arbitrator will award any damages, it must determine whether the contract was breached.

Defenses to breach of contract include:

- **The terms of the contract were not met.** *If one party sues you for breach of contract, you may be able to argue that the other party was the one who actually breached the contract first, thereby relieving you of your obligation to perform.*
- **No enforceable contract.** *For a contract to be enforceable, there must be an offer, an acceptance and a promise to exchange something of value that has a legally recognizable objective to be performed by competent parties. If one of these steps is not present, no contract exists.*
- **Fraud.** *A contract is not valid if it was entered into based on fraudulent information. If one party misrepresents facts and the other party relies on those misrepresentations to enter into the contract, the contract is invalid and can be rescinded.*
- **Unconscionability.** *If a contract is so one-sided and unfair that it is considered unconscionable, it may be voided. This is a very rare occurrence, especially in commercial contracts. It occurs only when one party to the contract has a much greater bargaining position than the other party.*

DAMAGES FOR BREACH OF CONTRACT

When you sue for breach of contract, you normally can recover whatever amount of money (“damages”) it takes to put you in as good a position as you would have been if the other party had performed the contract. These are called “compensatory damages,” which may include any money or property you gave as consideration under the contract, the value of any services you rendered, or any other actual damages.


In addition to compensatory damages, you also may be entitled to other types of damages to give you the full or benefit of the bargain made, including:

- **Consequential damages.** *Compensation for the harm foreseeably suffered as a consequence of the actual breach.*
- **Liquidated damages.** *A specified amount of money provided for in a contract as compensation if the contract isn’t fulfilled. Liquidated damages may be used only if the damages expected as a result of a breach of contract are uncertain or difficult to prove and the amount given as liquidated damages is reasonable.*
- **Nominal damages.** *Courts sometimes award token amounts of damages when someone proves a material breach of the contract but wasn’t able to prove he or she actually lost much money.*
- **Punitive damages.** *Special damages that are sometimes awarded, in court to punish a party responsible for serious or intentional misconduct. These are rarely awarded in contract cases and are usually limited to bad faith denials of coverage by insurable companies or bad faith breaches of fiduciary duties by trustees or other fiduciaries.*

SPECIFIC PERFORMANCE


Another remedy sometimes available for a breach of contract is “specific performance.” This is when the court orders the breaching party to perform as promised. Courts are generally reluctant to order specific performance because it is difficult for the court to enforce, but courts will order specific performance if a monetary award


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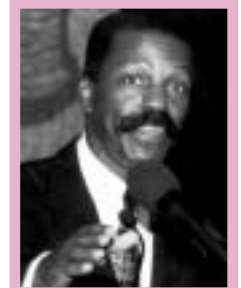
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PCR's 25th Anniversary Gala Dinner & Reception

PCR's 25th Anniversary Gala Dinner & Reception themed "A Legacy Continues," held at the elegant Ritz-Carlton Hotel in Marina del Rey, CA was a resounding success and memorable event. Over 450 guests were in attendance. Reception entertainment was provided by the Wayne Lindsey Trio featuring Lynn Fiddmont Lindsey. The evening agenda included a tribute to PCR's former President & CEO R. D. Lottie, Jr., keynote address by Victoria Lowe, President & CEO of Alert Staffing, industry awards, special recognitions and commendations from community leaders. The evening's Master of Ceremonies was Larry Carroll of KFWB Radio. Proceeds will be used to benefit business management training programs offered through PCR's Entrepreneurial Training Institute. We would like to graciously thank our event sponsors, business associates, friends and everyone who shared this special occasion with us. We hope you had a wonderful experience and will remember this night as we will, for years to come...



tion - A Momentous Occasion - May 23, 2002





Start Up Blues

You're opening a new business. You've rented the office or store; you ordered the furniture and equipment. You've received your business cards, letterhead and other forms. You hired and trained your staff. You turn on your OPEN sign, but no one comes in or calls. What hap-

pened, where's the line outside your door? Did you forget something? What about the marketing? Did you do enough or any? All the other stuff is useless without customers and you'll have no customers without marketing. You should devoted at least 20 - 25% of your start-up budget to marketing. You must tell your target customer group who you are, what you do, and why they should buy from you. And you must tell them over and over again. You need to plan well in advance of your opening so you can get some potential customers excited and waiting for your opening.

LEGAL TIPS *Continued from page 3*

is insufficient to give you the full benefit of your bargain. This remedy is normally used when the seller of real estate breaches his contract to sell. In this case, the court can order title to the property transferred to the buyer upon payment of the agreed purchase price.

LIMITATIONS ON DAMAGES

In certain circumstances there may be limits on the amount of damages you can receive:

- **Substantial performance.** *If someone substantially performs a contract, he or she may not be liable for breaching the contract.*
- **Mitigation of damages.** *You are obligated to mitigate damages if someone breaches a contract with you. This means that you must attempt to reduce the damages you suffer as a result of the breach.*

Steven J. Cote is of counsel to the Los Angeles law firm of Ivanjack & Lambirth, LLP specializing in real estate, business litigation, general corporate, commercial, and employment matters. You can contact him at (213) 624-0222 or e-mail : SCote@ivanjack.com.

Here are some ideas to help you get started:

- **Yellow pages listing or ad**
- **Direct mailings to potential customers**
- **Coupons or special offers**
- **Press releases to newspapers and magazines**
- **Press releases to radio and TV**
- **"Opening Soon" banner**
- **Pass out flyers**
- **Start telemarketing early**
- **Ads in papers or trade journals**
- **Join the Chamber of Commerce**
- **Host an OPEN HOUSE**
- **Welcome wagon service**
- **Billboards and posters**
- **Web search engines**

Set a projected opening date so your new customers will be ready when you are!

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It's quite simple, really. The Small Business Administration loan process with Comerica. Our team of SBA loan specialists really know the business of SBA. And as an SBA Preferred Lender, we're able to streamline the approval process down to just a few steps – so you'll get a much faster response. You can act sooner on important things such as financing start-ups, purchasing fixed assets or purchasing building. To set up an appointment with one of our SBA specialists, call us today at 1-800-888-3595. It's as simple as that.

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“Success is to be measured not so much by the position that one has reached in life as by the obstacles that one has overcome while trying to succeed.”

- BOOKER T. WASHINGTON

“It’s the start that stops most people.” - ANONYMOUS

“If you really want to do something, you’ll find a way; if you don’t, you’ll find an excuse.” - ANONYMOUS

“The true test of a first-rate mind is the ability to hold two contradictory ideas at the same time.”

- F. SCOTT FITZGERALD

“You cannot prevent the birds of sadness from passing over your head, but you can prevent them from nesting in your hair.” - SWEDISH PROVERB

“The best car safety advice is a rear-view mirror with a cop in it.”

- DUDLEY MOORE

“If you can’t change your fate, change your attitude.”

- AMY TAN

“Of all the things you wear, your expression is the most important.”

- UNKNOWN

“Teachers open the door, but you must enter by yourself.”

- CHINESE PROVERB

“Great minds discuss ideas, average minds discuss events, small minds discuss people.”

- ADMIRAL HYMAN RICKOVER

“When someone gets something for nothing, someone else gets nothing for something.” - ANONYMOUS

“There is no future in any job. The future lies in the person who holds the job.” - GEORGE CRANE

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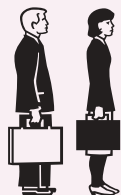
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Pacific Coast Regional (PCR)
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 Small Business Consultants Program

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All Follow-Up Sessions are Absolutely Free


Appointments are scheduled for **Wednesday mornings only**. After the first session you can come in as often as you like at no additional cost. Consultants meet with you one-on-one and answer questions on various subjects including:

- **Budgeting**
- **Business Planning**
- **Insurance**
- **Licenses**
- **Loan Packaging**
- **Taxes**

TO SCHEDULE AN APPOINTMENT CALL


Maria Marroquin or Amina Almeida at
 (213) 739-2999 ext. 221/242

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 3255 Wilshire Boulevard, Suite 1501
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COAST COMMENTS

Coast Comments is published quarterly by Pacific Coast Regional Small Business Development Corporation. The information given is not intended as legal or professional advice, and the publishers assume no liability in connection with its use.
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President Mark J. Robertson, Sr.	Editor Angela B. Winston	Layout and Printing by: Pacific Rim Printers • Mailers
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