# Independent Sales Representatives: When Win-Win Becomes "Heads I Win, Tails You Lose"

Nov 06 2026

Posted By: Mark E. Schmidt

Practice Area: Independent Sales Representatives

Independent sales representatives—commonly referred to as "reps"—play a critical role in the success of many businesses. For manufacturers, distributors, and other companies that rely on independent sales channels, reps provide access to customers, develop relationships, generate revenue, and help businesses expand into new markets. In return, reps receive commissions on the sales they generate.

At its best, this relationship is a classic win-win arrangement. The company, or "principal," benefits from the rep's sales efforts without incurring the costs associated with employing a traditional sales force. The rep has an opportunity to build a profitable business by developing customers and increasing sales. When the principal succeeds, the rep succeeds.

At times, economic pressures, changing business priorities, and corporate transactions can transform this mutually beneficial relationship into something decidedly one-sided. Increasingly, reps can find themselves confronting a troubling proposition: the principal benefits from their efforts but tries to avoid paying the commissions those efforts have earned.

**The Economics of the Rep Relationship**

Reps typically receive commissions calculated as a percentage of the net sales revenue received by the principal. Depending on the industry, product, and circumstances, commission rates may range from less than 1% to 10% or more, with most arrangements falling in the 3% to 5% range.

Unlike salaried employees, reps generally bear their own business expenses, including office space, technology, travel, marketing, and personnel. They typically receive no salary, employee benefits, or reimbursement for overhead. Their compensation depends almost entirely on their ability to generate sales.

This structure offers significant advantages to principals. Rather than incur fixed employment costs, a principal can utilize an established sales professional whose compensation is directly tied to revenue. The rep assumes much of the financial risk associated with developing customers and markets.

For the rep, the arrangement offers the opportunity to earn commissions from relationships developed over years, sometimes decades. Those relationships frequently become valuable assets for the principal, generating repeat business long after the initial customer introduction.

The underlying bargain is straightforward: the rep invests time, money, and expertise to generate business, and the principal pays the agreed-upon commission.

**When Economic Pressures Change the Equation**

Several developments have placed increasing strain on this traditional arrangement.

First, principals face continuing pressure to improve profitability and protect margins. When companies scrutinize expenses, sales commissions can become an attractive target. A commission of 3% or 5% may appear to represent an opportunity for immediate savings, particularly when the principal believes an established customer will continue purchasing products without the rep's involvement.

Second, mergers and acquisitions, including transactions involving private equity investors, can disrupt longstanding rep relationships. Following an acquisition, new management may seek to consolidate sales territories, replace reps with employees, renegotiate commission arrangements, or eliminate reps altogether.

Third, changes in sales models, customer purchasing practices, and technology may lead principals to contend that a rep is no longer necessary to maintain an established customer relationship.

None of these developments necessarily reflects improper conduct. Businesses generally have legitimate reasons to restructure their sales operations, and principals may have contractual rights to terminate or modify rep relationships.

The problem arises when a principal attempts to retain the benefits of a rep's work while avoiding commissions that the rep has already earned or is otherwise legally entitled to receive.

**Common Commission Disputes**

Disputes between reps and principals frequently involve these recurring issues:

- T**ermination before payment:** A principal terminates a rep shortly before a substantial customer order is placed, shipped, or paid, then contends that no commission is owed.
- **Post-termination commissions:** A rep develops a customer relationship that continues generating revenue after termination, but the principal refuses to pay commissions on subsequent sales.
- **Changes to commission calculations:** A principal modifies commission rates, reclassifies customers, changes territories, or applies deductions that reduce compensation.
- **Corporate transactions:** Following an acquisition or restructuring, a successor company disputes responsibility for commissions under an existing rep agreement.
- D**isputes over who generated the sale:** A principal argues that the rep did not sufficiently participate in a particular transaction to qualify for a commission.

The resolution of these disputes frequently depends on the language of the parties' agreement, their course of dealing, and applicable state law.

**Wisconsin Law Provides Important Protections**

Wisconsin recognizes the importance of protecting reps through Wis. Stat. § 134.93, commonly referred to as the Wisconsin Sales Representatives Law.

The statute establishes protections concerning commissions owed to qualifying reps, including requirements addressing payment following termination of a rep relationship. It also provides remedies for certain violations, potentially including exemplary damages and recovery of attorney fees.

These protections can be particularly significant because the amount of an individual commission dispute may otherwise make litigation economically impractical.

Importantly, the statute has specific definitions and requirements. Not every independent contractor who receives commissions qualifies for its protections, and the statute does not necessarily govern every disputed commission. The nature of the relationship, the products being sold, the parties' agreement, and other circumstances must be evaluated.

**The Procuring Cause Doctrine**

Another important legal consideration is the *procuring cause doctrine*.

Under this doctrine, depending on the governing law and contractual terms, a rep who was the procuring cause of a sale may be entitled to a commission even if the transaction was completed after the rep's termination or without the rep's direct involvement in its final stages.

The doctrine recognizes that generating a sale often requires substantial preliminary work. A rep may spend months or years developing a customer relationship, identifying opportunities, negotiating terms, and positioning the principal to secure business.

A principal should not necessarily be able to avoid a commission simply by terminating the rep before the transaction is formally completed.

However, the doctrine is not an automatic entitlement to commissions on all future sales. Its application depends on the governing law, the parties' agreement, and the rep's role in producing the transaction.

**Protecting the Relationship—and Avoiding Costly Disputes**

Both principals and reps benefit from clearly written agreements that address when commissions are earned, how they are calculated, what happens upon termination, and whether commissions remain payable on future orders from established customers.

Reps should also maintain documentation of their sales efforts, customer communications, opportunities developed, and commissions earned. These records can become critical when a dispute arises.

For principals, efforts to eliminate a relatively modest commission obligation can produce consequences far greater than the anticipated savings. Litigation expenses, potential statutory damages, attorney fees, and disruption of customer relationships can quickly exceed the commissions at issue.

Economic conditions will change. Companies will be acquired, management teams will pursue new strategies, and sales models will evolve. But one constant remains: businesses need customers, and reps often play an indispensable role in finding and keeping them.

The most successful relationships recognize that reality and honor the bargain that made the relationship attractive in the first place.

A principal may save a few percentage points by refusing to pay a commission. But the true cost of that decision can be considerably higher.

---

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.