

Kirkwood Inc.

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The following is a fictional account. The incidents described are based on actual court cases and conversations with managers.

Steve Graham opened the Kirkwood Toy Store in 1982. By 1985, he had learned enough about children's products to start a successful distribution company. Graham's business grew rapidly and he bought several toy manufacturing companies. In 1988, he established Kirkwood, Inc., a new holding company, and rented an office in downtown Boston. Kirkwood began to acquire and develop new businesses: software, media, toys, and other children's products. By 2003, Graham was a wealthy man, and Kirkwood's annual sales were approaching \$300 million (see Exhibit 1).

Graham was known as tough but fair. Employees, partners, and customers respected his discipline and foresight. He had insisted more than once that Kirkwood discard a big seller and move on to the next product. Tom Keller, Kirkwood's President, had often argued with Graham about these decisions – but even Keller was forced to admit that Graham was usually right.

Keller was everything Graham was not: outgoing, jovial, and impulsive. He had a nose for new products and opportunities. As Kirkwood depended on acquisitions and licensing deals, Keller was the company's creative force.

Seaside, LLC

Maria Garcia was a part-time writer; her husband Ramon was a painter and a graphic artist. Maria published several children's books between 1996 and 2002. The books were modest sellers, and the Garcias lived off Ramon's income. In 2002, the couple published their first book together, "Seaside Sam Saves the Day." To their surprise, it was a runaway hit. Kids loved the protagonist, a cheerful sea otter who solved maritime mysteries. Parents loved the light-hearted introduction to aquatic ecosystems. Critics praised the snappy dialogue and Ramon's creative watercolors. In 2003, the couple set up Seaside LLC and began to look for other opportunities for their popular character. A stuffed animal seemed like just the thing.

The Otter Offer

A number of toy makers approached the Garcias about manufacturing and distributing a Seaside Sam toy. The best proposal came from Booker Fluff, a moderately profitable puppet maker. Booker offered to pay Seaside a flat \$1 million royalty in exchange for the exclusive right to produce puppets and other toys featuring Seaside Sam.

As the Garcias considered the offer, they received a call from Tom Keller at Kirkwood. Kirkwood Software published a computer game called “Inspector.” Kids controlled the action over a series of chapters. Each chapter explored a particular educational topic (natural history, the American West, etc.) from the perspective of a distinctive protagonist. Kirkwood was working on a much-anticipated second edition; “Inspector 2004” would feature eight new brand-name characters.

One slot was open, and Keller wanted Seaside Sam. He told the Garcias that Kirkwood could also produce a stuffed animal. Keller eventually made Seaside the following offer:

Kirkwood would pay Seaside \$600,000 in exchange for exclusive rights to use Seaside Sam in any piece of software or online / interactive media.

Kirkwood would receive exclusive rights to any physical toy based on Sam’s likeness. It would also manufacture and sell a Seaside Sam puppet. Seaside would receive 25% of gross revenues on these products.

Keller was an animated, compelling salesman. Kirkwood was a rising media power, he said. It was expanding its television and media portfolio; who could say where a partnership would lead? Kirkwood had a talented advertising department, and its distribution network was larger than Booker’s. The market research team thought that Kirkwood could sell more than 135,000 puppets. This would bring in over \$4 million; Seaside could get over \$1 million.

The Garcias were excited about Kirkwood’s plan. After considering the offer for a week, they met with Keller and Steve Graham to negotiate the details. Maria Garcia was concerned about Kirkwood’s forecasts. She had no doubt that a big business like Kirkwood had great selling power, but Keller’s figures were *much* larger than those from Booker. The Garcias asked Kirkwood to guarantee a minimum royalty payment for the puppets, but Graham refused to negotiate such a term. Keller pointed out that Seaside and Kirkwood would both “share in the upside.” Both parties, he said, would have an incentive to work together to ensure a big seller.

The Garcias eventually agreed to the deal. They signed a contract in November 2003 (see Exhibit 2 for excerpts). As the parties shook hands, Tom Keller enthused: “Just wait until next Christmas! Our promotional guys are the best. Seaside Sam has hit the big time!”

Interactive Sam Appears, Puppet Sam Doesn’t

Kirkwood Software completed “Inspector 2004” on schedule. It was in stores by July. In August, the Garcias received a \$600,000 check, just as Graham had promised. They opened a bottle of champagne.

By the middle of September, however, the Garcias were becoming increasingly anxious. Their promotional tour was four weeks away, but they still hadn’t seen a finished puppet, and Kirkwood had not yet completed its promotional materials. Keller reassured them that everything was “right on schedule,” but it seemed to the Garcias that Kirkwood was becoming evasive.

Captain Kilogram and Haley Ribosome Put the Squeeze on Seaside Sam

In November 2003, Kirkwood introduced a television show starring a superhero named Captain Kilogram. The show was a success, and the product manager was eager to develop a line of action figures. The market research team confidently declared that sales would exceed \$10 million. Suddenly Seaside Sam looked like small potatoes.

In September of 2004, Keller came rushing into Graham’s office. He had secured a new prospect: the movie rights to “Haley Ribosome, Teenage Paleontologist.” Haley was the latest sensation from girls’

novelist Sarah Simmonds. Simmonds had the Midas Touch; the office was abuzz for days. Keller and Graham flew to Los Angeles to meet with Carol Cassidy, a Hollywood producer.

They were excited to learn that film development was well under way. Simmonds had completed a script, and Cassidy had recruited a well-known director. They had negotiated with Imperium Productions until a misdirected email disclosed the giant studio's secret plan to gut the script and replace the director. Tempers flared and the deal collapsed. "We need funding," explained Cassidy, "but most of all, we need to work with people we can trust. Those guys from Imperium cost us a bundle. They're nothing but a bunch of sleazy cheats."

The meeting between Keller and Cassidy went well. On the way to the airport, Keller could hardly contain himself. "This movie is worth \$20 million," he exclaimed. "Maybe more! When it rains, it pours!"

The New Plan

It was the first week of October 2004. On a rainy New England morning, the Garcias drove to Boston to meet with Eric Lee, Kirkwood's Marketing Director. Lee was friendly but direct. "I'll cut right to the chase," he said. "If you start the tour in October, it'll be more than two months until Christmas. We think it would make more sense to wait until Thanksgiving. It will keep the momentum going."

The Garcias weren't sure about the plan. A month didn't seem like much time; what about word-of-mouth? Was it common to do things on such short notice? Lee assured them that it was. This past March, he said, Kirkwood had done just this. It had aired commercials only two weeks before spring products had hit the shelves.

The Garcias discussed the proposal over dinner. The plan was aggressive; they would have to visit two or three cities a week. Maria was skeptical, but Ramon reminded her that Kirkwood had every incentive to make the best decision. "Remember what Keller said?" he asked. "They share in the 'upside,' too. These guys know what they're doing." The next morning, the Garcias agreed to the proposal.

The Dilemma

The following week, Lee sent Graham a memo outlining Kirkwood's marketing options for the 2004 holiday season (see Exhibit 3 for excerpts). After reading the memo, Graham called Zbigniew Miller, Kirkwood's General Counsel, to ask him to consider the situation. Miller said that he would review the contract. He also explained that he would need to look at any emails, memos, or other written documents that might discuss the Seaside situation. Later that day, Eric Lee's assistant delivered a thick binder to Miller's office.

That night, Steve Graham pondered his options. Could Kirkwood afford to allocate scarce promotional space to Seaside Sam? Graham had shaken hands with the Garcias; they had a deal. Kirkwood had genuinely intended to develop Seaside Sam to its full potential – but now there was a lot more at stake.

What to do?

This fictional case has been developed for pedagogical purposes. The case is not intended to furnish primary data, serve as an endorsement of the organization in question, or illustrate either effective or ineffective management techniques or strategies.

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Endnotes

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Exhibit 1: Kirkwood, Inc.: Major Divisions and Sources of Revenue

Division	Revenues (2003)	Products
Toys	\$62.1 million	Board games, dolls, puppets, other toys
Software	\$40.0 million	Educational software and websites
Media	\$70.2 million	TV and film production and distribution
Child	\$120.6 million	Baby clothing and care products
Total	\$292.9 million	

Exhibit 2: Excerpts from Kirkwood-Seaside Agreement, signed Nov. 15, 2003

... This agreement establishes rights and responsibilities pertaining to the commercial relationship between Kirkwood, Inc. [Kirkwood] ... and Seaside LLC [Seaside].

... Throughout this contract, “Seaside Sam” refers to the character with that name appearing in books published by Maria and Ramon Garcia. The term “Seaside Sam” is a trademark registered by Seaside LLC.

... (i) Kirkwood will receive exclusive rights to develop characters or other intellectual property featuring the Seaside Sam character, and to sell that intellectual property. This right will be limited exclusively to the following types of media:

(a) interactive software for computers or computer-based devices (e.g. computer games, games for portable or handheld devices, etc.)

(b) interactive software accessed through the Internet and/or World Wide Web ... This contract does not give Kirkwood the right to sell ‘passive’ or non-interactive media featuring Seaside Sam ... The fact that stories or movies are delivered through the web does not establish any rights ...

In exchange for these rights, Kirkwood will pay Seaside \$600,000.

... (ii) Kirkwood will develop and sell a stuffed Seaside Sam puppet. Kirkwood will make this puppet available for sale in time for the Christmas season (it will be in stores on or before Nov. 29, 2004). Kirkwood will pay Seaside 25% of gross revenues received from sales of the Seaside Sam puppets.

... Kirkwood will make reasonable efforts to aggressively promote the Seaside Sam puppet.

... Maria and Ramon Garcia, the co-authors of the Seaside Sam series, will participate in a promotional book signing tour to take place between Oct. 21, 2004 and Dec. 15, 2004. They will visit two major retail stores in each of 10 major markets. (Specific locations will be determined ... at Kirkwood’s discretion.) Reasonable tour expenses will be covered by Kirkwood ...

... This agreement constitutes the entire agreement of the parties and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. Neither party has relied on any statements or conversations made prior to the signing of this agreement. Neither party shall be bound to any commitments that are not stated herein.

Exhibit 3: Excerpts from Email sent Oct. 15, 2004

Subject: 2004 holiday priorities
From: Eric Lee (Marketing Director)
To: Steve Graham (CEO), Tom Keller (President)

... We need to decide on toy priorities ASAP. It's about tradeoffs.

... If we do KG [Captain Kilogram], we need to boost our advertising. This means the usual - circulars, ads on morning cartoons, etc. Unfortunately it's too late to get more space. We do not have room for a new product line.

... We don't need to drop the Seaside Sam puppet. We might get away with something minimal, corner space in magazines/circulars, no TV or radio spots etc. Terri [Market Research] says we will sell 40,000 SS [Seaside Sam] puppets even without a substantial promo effort - that's about \$1.2M.

... I met with Maria & Ramon last week & talked them into pushing back the tour. They are concerned about the late start and rightly so. I said it might help momentum. (I told them we did a short ad run in March. Strictly speaking this is true, but btw you and me, let's be honest, March is totally different from Christmas. Also that was just a small TV campaign.) They agreed to the modified plan. Anyway, the good news is: I bought us some more time. But again we need to make a decision ASAP.

... SS [Seaside Sam] is worth maybe \$3-4M. KG can bring in the big bucks, maybe \$10-20M. But KG needs a big push.

... I think everyone knows where I stand on this. Hot stuff has come in over the last few months, and we can't do everything. ... We're in the big leagues now, and we can't be wasting our efforts on the farm team.