

WVADA News

WEST VIRGINIA AUTOMOBILE DEALERS ASSOCIATION



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BY THE NUMBERS: EMPLOYEE RETENTION TAX CREDIT: TOO GOOD TO BE TRUE



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President's Message

By Jared Wyrick

SUMMER UPDATE

Successful Convention

Following the post-pandemic world, we were finally able to get back to some normalcy this year with WVADA's 87th Annual Dealer Family Convention last month at the Greenbrier. It was evident that everyone was eager to get together as we experienced a record turnout in attendance. I want to begin by thanking our dealers and their families for attending and making our convention successful. I would also like to thank our sponsors and their families for participating and demonstrating their commitment and support to WV dealers. Our convention would not be possible without your attendance and support.

We had several special guests and informative speakers this year address our members on relevant industry topics as well as legislative issues. Congresswoman Carol Miller kicked off our Welcome Reception on Sunday night, along with Senate President Craig Blair and Speaker of the House of Delegates Roger Hanshaw. During our Block Party on Monday, we were fortunate to receive a visit from the Honorable Governor Justice.

While our convention was full of fun activities from Casino Night to our Golf and Clay Shoot Tournaments, to Wine and Design, and our final night Chairman's Dinner, we also delved into multiple business sessions where we discussed the automotive world and how dealers are pivoting and adapting to the ever changing landscape. In addition, we held our annual Board Meeting where we welcomed three new faces to the Board: JR Toothman, Toothman Ford in Grafton, as the Secretary/Treasurer, Louis Thomas, Louis

Thomas Subaru in Parkersburg, representing District 4, and Lee-Anne Cole Greene, Cole Chevrolet Buick GMC Cadillac of Bluefield, representing At-large. Those positions were previously held by Chris Miller, Paul Astorg and Matt Jenkins. On behalf of WVADA and its members, I greatly appreciate the participation of our past and current Board Members, your willingness to serve the WV dealer body is extremely important and does not go unnoticed.

Again, I truly appreciate all the support and attendance from our dealers, sponsors and their families. Our convention would not have been successful without each one of you. I look forward to welcoming everyone back next year at Nemascolin, be sure to mark your calendar June 12-15, 2022.

E-Titling

This past year has been extremely challenging to say the least, and WV dealers are continuing to overcome the difficulties that COVID-19 has caused. Over the last year, I have witnessed dealers throughout the state step up to the plate to adjust and adapt to a time where technology has become a key component in selling vehicles. As we move forward, we are currently in the process of switching over to Electronic Titling (E-titling). As with any change the initial transition may be difficult and take some getting use to. However, we are not reinventing the wheel with this concept, and we will be joining 36 other states that have already adopted e-titling methods.

To help prepare for this transition we have 10 pilot stores who are willing to test this new process. We recently had our

first conference call with the pilot stores to discuss the new process and gathered feedback to address possible issues and challenges in implementing. The pilot stores will be pivotal in crafting a system that works for dealers and their customers. We will begin training in early October with the 10 pilot stores and will schedule seminars in six different locations throughout WV in early November for all other title clerks.

Legislative/House Keeping

As we continue through 2021 and prepare for the 2022 Legislative session, our association and our dealers need to continue to build strong relationships with our legislative representatives. Next week, a small delegation of WV dealers will be meeting with Senator Joe Manchin, in Washington to discuss several issues that we are currently facing in our industry.

The DMV has also planned on updating their Dealer Licensing Rule during the fall Legislative Rule Making session. Johnnie Brown and I have met with the attorneys of the DMV and several Rule Making Review Committee members to discuss the proposed updates. The current rule is extremely convoluted and cumbersome. It is our hope to eliminate some of the current red tape that exists within the DMV rule that affects the licensing process for dealers and dealership premises.

It is a crucial time for dealers to continue to keep meeting and building positive relationships with elected members in

**Again, I truly appreciate
all the support and
attendance from our
dealers, sponsors and
their families.**

your area. WVADA will continue to fight and represent our dealer members. Contributing and supporting WV CAR and NADA PAC are two very important ways to stay involved.

WVADA has scheduled a full board meeting later this month where we will be discussing the current franchise law and the possible need for updates during the 2022 legislative session. In addition, WVADA will be tackling the burdensome municipal B&O tax again next session. I continue to encourage dealers to work with WVADA to make sure the right message is being relayed to our elected officials.

I hope everyone has an enjoyable summer! As always, please do not hesitate to contact me if I can be of any assistance. ◀

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Getting to Know Incoming Chair Roberta Olejasz

How do you pronounce your last name?

OH-lee-ash. My husband's family is Polish.

According to LinkedIn, you have a couple of degrees: a bachelor's degree from Virginia Commonwealth University and an MBA from West Virginia University. Tell us about your education. What's the most valuable lesson you learned?

I really enjoyed my time at VCU; going to school away from home allowed me the opportunity to grow outside my comfort zone. Playing basketball while going to school taught me time management. I would say that is the most valuable thing that I learned and have used throughout my entire life. After graduating from Virginia Commonwealth, I took a year off from school to work for my father, Bob Robinson, in the dealership. I took the long way around and eventually found my way to West Virginia University, where I earned my MBA.

I went to NADA Dealer Candidate Academy. This teaches you about every department in the dealership. It is specific to your dealership, and you work in every department in your store while attending the academy. This was instrumental in preparing me for my current role.

You played basketball! How have sports helped you as a dealer?

Everything is a competition, right? The dealership just provides a different way to compete. That's kind of what we do

in our stores. We find a way to compete in a friendly way at every level, the same way we do on the basketball court. It helps us improve and get better every day.

Did you always aspire to be in the auto dealer industry? What has your career path been?

Our parents encouraged my brother and me to be attorneys, we both got our graduate degrees at WVU, and we both have our MBAs. The two of us are third-generation automobile dealers. Although, I did marry an attorney (she said with a little laugh).

Before becoming automobile dealers, the Robinson family were coal miners. My grandfather, Bill Robinson, bought Robinson Motors in Ritchie County, West Virginia. In 1963, he moved his family to Wheeling, WV, where he purchased an Oldsmobile Cadillac dealership and later acquired a Subaru store. In 1978, he gave up Subaru for Toyota.

In 1975 my father bought the Chevy store in New Martinsville, WV, and later added Chrysler, Plymouth and Dodge to his franchises. We lived in Wetzel County for 13 years. My dad actually retired for a short time. Then, in 1988, it was time to head home.

We moved back to Wheeling, where my dad purchased my grandfather's Cadillac, Oldsmobile and Toyota dealership. At this time, my brother Jim was a WVU Mountaineer and had expressed interest in the business. I was a sophomore in high school and had just begun my amazing journey as a Wheeling Central Maroon Knight.

We have three stores that comprise Robinson Auto Group: Bob Robinson Chevrolet, Buick, GMC, Cadillac; Jim Robinson Ford Lincoln; and Jim Robinson Toyota.

- My dad works every day. His famous quote is, "He works half-a-day, 8 to 8."
- I am a Chevrolet Buick GMC Cadillac dealer.
- My brother Jim has the Toyota and Ford Lincoln store.

There have been some others along the way, but that's what we have currently. It's been a fun ride.

Who have your mentors been, and what did they teach you?

My dad and my brother are my primary mentors. Also, there's a dealer out of Parkersburg, Dan Wharton, Sr., who recently passed away. He was instrumental in growing me in the WVADA.

My father taught me everything I know. My father, my mother and my brother Jim have really inspired me to be the best I can be throughout my whole life. We have several statements we focus on during challenging times in our business and our lives:

1. You can do anything for six months.
2. Don't let them beat you.
3. Tell me what I CAN do.

My family and close friendships have taught me that it is very important to surround yourself with positive people. Don't let the naysayers drag you down.

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Our culture is a very strong team atmosphere, and we treat our businesses much the same way as we treat sports.

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What is the work culture like at your dealership? Which principles are most important to creating a great work environment?

Our culture is a team atmosphere, and we treat our businesses much the same way as we treat sports. We build relationships and have friendly competitions. We believe you win and lose as a team. Our team members have been with us for a very long time. We know them, we know their families and vice versa. We've watched each other's children, and now grandchildren grow up.

Great people work with us, and their excellence is absolutely the key to the success of Robinson Auto Group. I feel fortunate to work with such phenomenal people.

Do you have plans to expand?

We always look. We might expand if the right opportunity arises.

What have you done as a dealer to improve diversity?

I'm a woman in the car business, right? I am a dealer, and I hope that my example encourages other women to follow a similar path because my existence demonstrates a possible route for them.

My family and our business keeps our focus on doing the right thing.

We just hire the right person for the job. That's how we've always done it, and that's how it ought to be. It's part of who the Robinsons are. Nothing about that changed or will ever change.

What do you think other dealers could do to improve employee diversity?

Do the right thing, hire the right person for the job, and provide opportunities for all people in your communities.

What are your goals as the incoming chair?

We had our annual convention June 13-16, 2021. We discussed a host of topics we would like to get accomplished during my tenure. I believe we will narrow it down in the coming weeks and have a more finite plan.

These are challenging times. Post pandemic, there is going to be a lot of work for the association. One question is, how are we going to work with the manufacturers to get cars? The microprocessor chip shortage is a real issue because you need the chips to build new vehicles. Manufacturers stopped making the chips when COVID-19 shut down the country, including car manufacturers, and then General Motors Corp. started producing ventilators. Car manufacturers are currently getting their

microprocessor chips from China, which leaves them at China's mercy.

How will your past experiences help you?

I was the association's chair in 2015 and 2016. I left the room after that, but they let me back in again, and I think I can draw from some of those previous experiences.

I have good relationships with the other leaders in our association, and our dealer body is phenomenal. Jared Wyrick, the association president, is tremendous. Chris Miller, T.R. Hathaway, Mike and Tim Matheny, Bill Cole, Paul Astorg, Richard Stephens, J.R. Toothman, Bob Moses, and Wally Thornhill are just a few who are always ready to jump in for anything and everything. Wherever I lack, those guys always pick me up.

How did your dealership do during and after the pandemic shutdown in March 2020? What lessons did you learn, and how did the many product shortages affect your business?

We were very fortunate. We are thankful to Gov. Justice because he deemed dealerships as essential in West Virginia. We remained open throughout the entire pandemic.

As a dealer body across the state, we discovered where we had some overlaps in our stores, and we were able to streamline processes in our dealerships. The pandemic made businesses pivot very quickly, and it was a new way to work. As a dealer body, we proved up to the task. It was quite impressive, really.

The effects of the pandemic will linger for months to come. The product and personnel shortages are the main issues at this point.

How does your dealership serve the community?

Just to name a few, we support almost everybody who asks, even some who don't. Some we sponsor are:

- YMCA
- WV Elite
- Wheeling Symphony
- Youth baseball
- High School Basketball, coach and travel
- WV Economic Development Board



We will sell what we have to sell. We love to sell vehicles, and we are very excited about electric ones. Car dealers are always enthusiastic about the new, latest and greatest things that come along. Always.

- Driving for a Cure
- Raise your Game
- Drug-free programs
- Every local school program
- The Miracle League
- West Virginia University

We don't put our names on the industries we support; we do it because it is the right thing to do and not to get credit. I think more than the monetary donations, just as valuable is the donation of our time to all the activities we sponsor. We are passionate about so many things in our communities and our state. We think it is so important to invest in the Ohio Valley and give back to the great state of West Virginia.

What are the significant issues facing West Virginia dealers in the next 10-15 years?

Direct to consumer sales is a big issue. There is always a threat to franchise dealers. West Virginia has a franchise law in place that needs to be upheld. Electric vehicles are coming, and it is our job to sell them. The infrastructure will have to catch up. We will sell what we have to sell. We love to sell vehicles, and we are very excited

about electric ones. Car dealers are always enthusiastic about the new, latest and greatest things that come along. Always.

Electric vehicles are not supposed to need as much service. That is what everybody is reading, and that is what is being said. But we've had people bring in their Volts, and we've had some service work to do for them. However, service doesn't concern me yet. I'll reserve comments about service on EVs until I see how it works out.

What are your personal interests? What do you do for fun?

I love to spend time with our family; that's my joy. I like to go boating, my children like to surf behind the boat, and we spend time on the lake. Anytime I can be with my family and extended family, that is where I choose to be. I love to watch our children play basketball. My parents live just around the corner, and my mom and I are very close. We talk at least three times a day. My brother's family and my family try to have dinner at my parents' house at least once a week. We love our Mountaineers, WVU

football, and most importantly, WVU basketball games are a huge part of our lives. Our children have been going since they were in car carriers.

Tell us about your family.

My husband, Michael, is a judge in the First Circuit Court of West Virginia. We met at a WVU football game when he was in law school. We have been married for 18 years last month. We have two children: Reagan, our daughter, is 16 and a junior in high school. She is an amazing student and a great athlete. I am fortunate enough that I get to coach her at my alma mater. Max, our son, just turned 14. He is in eighth grade at St. Michaels Parish School, where he plays football, basketball and golf. I get help coach his middle school basketball team and his travel team. As you can see, sports are a big part of our lives.

Is there anything else you would like to talk about?

Our dealer body in West Virginia is a phenomenal group of individuals. I consider myself lucky to spend time with them when I do, and Jared Wyrick, the association president, does a wonderful job. They all make my job very easy. ◀



Auto Shows Thriving in a COVID World

By Juliet Guerra, NADA Director of Media Relations

Moving into the remainder of 2021 and beyond, auto show organizers are hopeful that OEMs will continue their support by participating in shows across the country.

Throughout the coronavirus pandemic, personal transportation ownership has remained incredibly important to consumers, which has resulted in increased demand for new vehicles. Paired with inventory concerns from plant closures and the current microchip shortage, pent-up demand for new cars and trucks is high.

There is no question that the coronavirus pandemic has changed the way dealers do business and sell cars, but one thing that hasn't changed is the value of auto shows to consumers. To meet consumer demand for vehicles and for an in-person experience, auto show organizers across the country are revamping their respective auto shows to operate in the COVID-19 environment.

"Bringing Auto Shows back for our industry is a big deal and consumers are absolutely ready," said Auto Shows of North America (ASNA) Chair Jenn Jackson. "Auto Shows are the quintessential opportunity to contrast and compare different makes and models in a low-pressure environment. For a consumer who is close to purchase, visiting an auto show will often solidify their decision on their next vehicle."

Consumers are not only ready for in-person events after facing social distancing and mask mandates for more than a year but

are ready to shop for their next car or truck in a low-pressure, experiential environment. According to Foresight Research President Chris Stommel, "Auto shows continue to be an incredibly powerful experiential marketing channel and have not declined in the slightest from the consumer's point of view."

"Auto shows are a unique way for us to reach consumers prior to their next vehicle purchase," said Lisa Materazzo, Group Vice President, Toyota Marketing, Toyota Motor North America. "More than 11 million people attend auto shows annually, and two out of three attendees are in market to purchase a new vehicle within a year. Our presence at these shows offers a casual environment for consumers to get questions answered to assist them with their purchase decision."

This holds true from the dealer and auto show organizer perspective. "Nothing influences a consumer like the opportunity to physically experience all aspects of a product and that's exactly what an auto show allows," added Jenn Jackson, also Executive Director of Greater Charlotte Auto Dealers Association, which produces the Charlotte Auto Show. "Consumers can count the cup holders, check the cargo space, experience the technology, move the seat, and all in such a stimulating environment. There is no superior platform for a manufacturer to highlight their brand and influence purchase decisions than an auto show."



"An auto show allows us to create a unique experience that provides a window into the capability and lifestyle of our vehicles and provides a way for us to differentiate ourselves from the competition and connect with the consumer."

While offering consumers a first-class auto show experience, attendee safety is the top priority for show organizers. Show organizers have adopted enhanced cleaning and safety protocols, including temperature checks, mandatory mask use, increased sanitization stations, and enhanced vehicle cleanings between visitors. At the upcoming Houston Auto Show, visitors are also being asked to complete a short health screening before entering the venue, and the show has implemented the use of online tickets with QR codes to limit attendee and show staff contact.

Some auto shows, including the recent Twin Cities Auto Show in May, moved to an outdoor venue to allow better social distancing and air flow. The Twin Cities Auto Show, for example, was held at the state fairgrounds and featured a variety of interactive elements for attendees; while the Denver Auto Show, taking place September 15-19, will be held at Elitch Gardens Theme Park.

These are just a sampling of the safety measures organizers are taking, some of which are outlined in the ASNA Reopening Roadmap for Auto Shows, a guide produced with input from auto show producers and event industry advisers. All shows are working closely with health and safety officials to ensure that all applicable local, state and federal sanitation guidelines are followed.

Though the timing, locations and safety procedures may have adapted, auto shows remain a vital marketing platform for automakers and a key shopping tool for consumers. In fact, at the recent Oklahoma City Auto Show, held March 5-7, paid attendance was up 13.2%; at the Tulsa Auto Show, held April 16-18, paid attendance was up 14.7%.

"As consumer shopping trends have evolved, we have seen many auto shows quickly adapt, innovate, and improve in terms of immersive display and engagement options," said Vinay Shahani, Lexus Vice President of Marketing. "Lexus remains committed to the auto show format as a strategic tool in our marketing mix to help show consumers our latest products and technologies while driving qualified traffic to our dealer network."

Subaru of America Senior Vice President of Marketing Alan Bethke shares this sentiment. "An auto show allows us to create a unique experience that provides a window into the capability and lifestyle of our vehicles and provides a way for us to differentiate ourselves from the competition and connect with the consumer."

Subaru, Toyota and Lexus are just a few of the automakers who remain committed to auto shows, including those shows taking place in a unique, altered format. While "auto shows are facing a perception issue by OEMs," according to Foresight's Chris Stommel, we simply can't ignore that "consumer-driven metrics show that auto shows are just as relevant today as they ever have been." Moving into the remainder of 2021 and beyond, auto show organizers are hopeful that OEMs will continue their support by participating in shows across the country. ◀



Managing Pricing Discretion in Credit Transactions: A Path Forward



One of the most attractive benefits to consumers in any industry is purchasing products and services at a discounted price. Discounting saves customers money, allows companies to earn their business and disciplines the prices competitors offer for the same items. In a normally functioning market, it is a win-win for both consumers and businesses.

At the same time, discounting involves pricing discretion, and pricing discretion that is not carefully exercised by a business can give rise to concerns about arbitrary pricing and, worse, pricing that discriminates against protected groups of consumers. This concern has driven the efforts of many consumer advocates and government officials over the years to eliminate dealer pricing discretion. In the context of dealer financing, this would be attempted by eliminating the participation that dealers earn for originating credit contracts and replacing it with a non-discountable, flat fee.

Many finance sources that are assigned credit contracts compensate dealers with non-discountable flat fees. The National Automobile Dealers Association takes no position on the form of compensation freely entered into by dealers and their finance sources. Nevertheless, NADA has resisted – and will continue to resist – efforts by the government to prohibit finance sources from compensating

dealers with discountable dealer participation for originating credit contracts with their customers. The pro-competitive benefits that dealer participation provides to consumers should not be eliminated by unwarranted and untested government intrusion into the marketplace.

Notwithstanding the flaws of such a mandate, concerns about “unfettered” pricing discretion expressed by the acting chair of the Federal Trade Commission (FTC) and others should not be ignored. Dealers should consider ways to address those concerns while striving to provide their customers with affordable and competitively priced products. One approach a dealer should consider (managing discretion while promoting competition) when earning dealer participation in a credit contract is to adopt the optional NADA/NAMAD/AIADA Fair Credit Compliance Policy & Program (NADA Fair Credit Compliance Program).¹

The NADA Fair Credit Compliance Program was not developed in a vacuum. Instead, it stems from – and fully adopts – an approach to fair credit compliance outlined in consent orders that the Department of Justice (DOJ) entered into with two automobile dealerships to settle pricing discrimination claims in 2007.²

In those consent orders, the dealers were required to adopt specifications known as “Guidelines for Setting Dealer

Reserve.” This was how the dealer established the standard participation rate (SDPR) that included in credit offers to consumers (i.e., the dealership would offer an APR the sum of the wholesale buy rate offered by the finance source and its SDPR) unless a “good faith, competitive reason” supporting a lower dealer participation rate was present in the transaction. The consent orders included seven such legitimate business reasons for discounting the SDPR, with the three most common being the presence of a lower cap imposed by the finance source, a consumer’s monthly budget constraint and a consumer’s access to a more competitive offer. The consent orders further required that any deviations from the SDPR be recorded on a pricing certification form, reviewed by the general manager or his or her designee and retained by the dealership.

In Nov. 2013, while speaking at a Consumer Financial Protection Bureau (CFPB) Auto Finance Forum, a senior DOJ official³ validated this approach when explaining that:

- (i) pricing discretion is not prohibited by the Equal Credit Opportunity Act;
- (ii) when exercised, pricing discretion presents a fair lending risk that needs to be managed; and one way to manage that risk is to adopt the approach outlined in the 2007 DOJ consent orders.⁴

Two months later, after extensive preparation and review, the three national trade associations representing franchised automobile dealers released the NADA Fair Credit Compliance Program.

As noted above, the NADA Fair Credit Compliance Program fully adopts the framework established in the DOJ consent orders and builds on it. A dealer who adopts the program has it approved by its board of directors and

appoints a senior dealership official to serve as the Program Coordinator (PC). The PC oversees the implementation and maintenance of the program by establishing the SDPR, conducting initial and periodic training, reviewing pricing certification forms, submitting an annual compliance report to the board and performing other related tasks. The program explains each of these steps in detail.

Since its inception, the NADA Fair Credit Compliance Program has gained widespread support from many prominent observers both inside and outside of the industry.⁵ Recent additions to the list of supporters include:

- (i) the American Bar Association, which overwhelmingly approved a resolution at its 2020 annual meeting that, in part, urges governments at all levels to offer “a safe harbor against pricing discrimination claims for dealers that faithfully implement the NADA/NAMAD/AIADA Fair Credit Compliance Policy and Program”;⁶ and
- (ii) a CFPB Taskforce on Federal Consumer Financial Law, which made a similar recommendation to the CFPB and the Federal Reserve Board in Jan. 2021.⁷

The FTC has also seen value in this approach to managing pricing discretion. It included the framework and many elements of the NADA Fair Credit Compliance Program in a May 2020 consent order it entered into with an automobile dealership to settle allegations of intentional credit discrimination.

Notwithstanding its broad support, the NADA Fair Credit Compliance Program remains optional. Its adoption does not guarantee that a dealer will be protected from liability for a fair credit violation. However, if faithfully adopted, implemented and maintained,

the NADA Fair Credit Compliance Program provides a dealer with a well-regarded path forward in a very challenging environment. This should not be overlooked when a dealer discusses how it will ensure its customers’ fair and lawful treatment with its attorney.⁸ ◀

This article is offered for informational purposes only and is not intended as legal advice.

This article was prepared by Paul D. Metrey, Vice President, Regulatory Affairs for the National Automobile Dealers Association.

¹ The program and other supporting material are available at nada.org/faircredit.

² *In re Pacifico Ford*, DOJ Civil Action No. 07-3470 (September 4, 2007) (consent order); *In re Springfield Ford*, DOJ Civil Action No. 07-3469 (September 4, 2020) (consent order), available at justice.gov.

³ Steven H. Rosenbaum, Chief, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice.

⁴ CFPB Auto Finance Forum (November 14, 2013), currently available at consumerfinance.gov/about-us/blog/live-from-the-cfpb/.

⁵ See, for example, the statement made by Rep. Joyce Beatty (D-Ohio) before the U.S. House Financial Services Committee in March 2016 referring to the NADA Fair Credit Compliance Program as a “wonderful document” while Rep. Beatty held up the publication and asked that it be included in the record; and testimonials from 12 prominent industry attorneys expressing support for the program (available at nada.org/faircredit), including from former CFPB Assistant Director Rick Hackett, who stated his belief that the program “can resolve issues raised by the CFPB related to discretionary pricing... assuming it is faithfully executed as described by NADA.”

⁶ American Bar Association, Resolution 116B (August 3, 2020), available at americanbar.org.

⁷ Taskforce on Federal Consumer Financial Law (TFCFL), CFPB, TFCFL Report Volume II, Recommendation 66 (January 2021), available at consumerfinance.gov.

⁸ *In re Bronx Honda*, FTC Docket No. Case 1:20 (May 22, 2020) (consent order), available at ftc.gov.

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87th Annual Dealer Family Convention

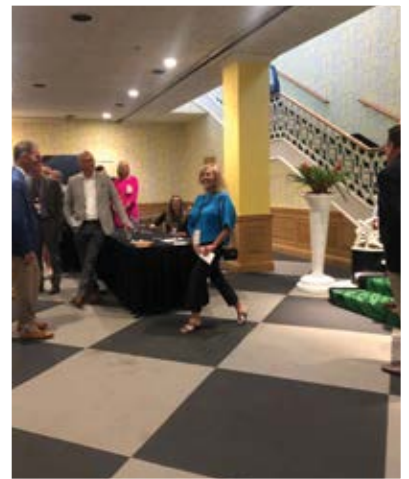
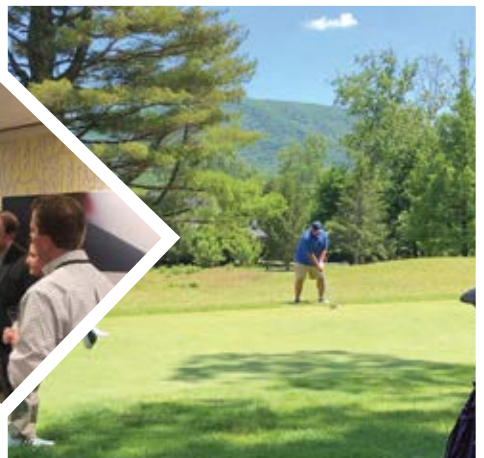
The WVADA 87th Annual Dealer Family Convention took place June 13th-16th at the Greenbrier Resort in White Sulphur Springs. Thanks to our Corporate Sponsors: Protective and United Bank. This was the first big event we have hosted since COVID-19 and we had a record turnout! To begin our convention, Congresswoman Miller kicked off our BB&T Welcome Reception by addressing our members; and we also had special guests Senate President Craig Blair and Speaker Roger Hanshaw join us. Gold Touch hosted our Casino Night (Blackjack Tournament) to continue Sunday night, which turned out to be a big hit. The weather stayed perfect for us the following day for our attendees to enjoy our Federated golf scramble on the Old White Course. The fun didn't stop there as we concluded our day with the Ally-Rita-Ville Block Party with live music, food, and a relaxed, welcoming atmosphere, where we were joined

by a very special guest, Governor Jim Justice. Tuesday, our attendees had the option to participate in the Capital Automotive and Arnett Carbis and Toothman Sporting Clay Shoot or the Good News Mountaineer Garage and CVR Wine & Design. While we have a great time at our convention, we also held industry-relevant business meetings Monday and Tuesday mornings.

Our 87th Annual Convention came to an end Tuesday night at our Chairman's Dinner, where we honored T.R. Hathaway and Chris Miller. T.R. passed the gavel to our incoming Chair, Roberta Olejasz. Our night ended with a crowd on the dance floor and attendees enjoying the interactive Komax photobooth. ◀















By Johnnie E. Brown, Esq., Pullin, Fowler, Flanagan, Brown and Poe, PLLC



Hello everyone. We just had our wonderful annual convention. It certainly uplifted my spirits to see everyone in person. Lots of great information was received, and I hope you have taken the time to contemplate how it can benefit you at your respective dealerships.

I apologize for taking us away from the positive reflection of the annual convention to some more sobering thoughts we should acknowledge and appreciate to protect our life's work.

Motor vehicle dealers face significant challenges moving forward. There is certainly an ongoing attack on the franchise model with manufacturers attempting direct sales. Not only do we face this challenge from several new electric vehicle manufacturers, but we are also confronted with actions from our long-standing traditional manufacturers. They disguise their efforts to engage in direct sales by controlling every

aspect of the retail process under the misguided narrative of bringing customers to our dealerships.

Likewise, there is a movement of changing a traditional revenue stream that dealers receive, the "holdback," to no holdback. We see an attempt to replace holdback with incentives based upon unreliable customer retail and service surveys, sales quotas and unreasonable and unnecessary facility requirements. As you are aware, your Association is working diligently to combat these types of improper practices.

Dealers withstand the unwarranted public perception that they oppose the sale of electric vehicles. The National Automobile Dealer Association ("NADA") is working diligently to combat this false narrative, but dealers can also be part of changing this incorrect impression. We all know that it is only through the dealer body that electric vehicles can genuinely reach the everyday consumer. New motor vehicle dealers are an integral part of providing the infrastructure

needed to charge and service electric vehicles. Only dealers have the skills and experience to accomplish this effort in the retail space instead of manufacturers who do not understand the local customer who has been coming to your dealership for years.

A more short-term challenge requiring our immediate attention is the possible aggressive action we will see from the new national administration. We have already learned of statements made by Biden administration officials expressing their desire to eliminate dealer margin and prohibit, or strictly limit, the sale of voluntary protection products.

I encourage all dealers to review the NADA guides on fair credit compliance and voluntary protection products. These provide practical and essential guidelines, but I do warn of the danger of simply using a form without legal guidance. These policies need to be modified to fit your individual business. Simply having a form policy in place, which likely never will be read or

followed, is worse than having no policy at all. Using these forms as a basis and then carefully making them applicable to your business is crucial and can provide guidance and protection.

The word of the day is “compliance, compliance and compliance.” There is no more useful way to prevent lawsuits and create an environment for selling and servicing motor vehicles and voluntary protection products to consumers. Of course, there are many aspects to compliance:

- Are your corporate records in place and up to date?
- Do you have appropriate employment policies and procedures established and documented?
- Do you have your vendor contracts organized and hopefully reviewed before you obligate yourself to these typical one-sided contracts? (There is the day-to-day management of Occupational Safety and Health Administration and environmental

Fortunately, you do not have to go through these things alone, and there are experts to help you through each of these challenges.

concerns, in addition to the all-important consumer laws and manufacturer mandates and programs.)

Fortunately, you do not have to go through these things alone, and there are experts to help you through each of these challenges. Your Association

stands with you and works hard to support you. You should obtain appropriate and competent legal counsel in these areas as you move forward and lay the foundation to minimize legal exposures and maximize revenue in a proper and compliant manner.

As we move forward this year, the Counselor’s Corner will focus on some specific aspects of compliance to assist you in eliminating exposures. Stay tuned and informed, and we hope that the remainder of 2021 remains positive for you. ◀



Mr. Brown serves as General Counsel for the West Virginia Automobile Dealers Association.

If you have any questions, you may reach him at (304) 344-0100 or

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Employee Retention Tax Credit: Too Good to Be True?

By Leon M. Rogers, Tetrick & Bartlett, PLLC

The Employee Retention Tax Credit (ERTC) provides a 70% tax credit on the first \$10,000 in wages per employee. For each quarter the business meets criteria in 2021, a 50% tax credit equivalent to \$10,000 in wages per employee in 2020 is granted for qualifying businesses.

The tax credit refund can still be claimed by amending payroll tax returns. The qualifying criteria being applied by our firm is the reduction in revenue test, subject to a government shutdown as a non-essential business.

A few consultants are saying every business can qualify for the ERTC, claiming specific whole industries qualify. The retail automobile industry seems to have been targeted as qualifying. I have received several communications from clients — contacted either directly or through a referral from a friend by these consultants — claiming they qualify without reviewing any of the supporting data. The fees charged by these consultants range from a low of 5% of the credit calculated to as high as 15%.

In Eligible Employers Guidance, the ERTC states, in essence: “an employer [with an essential business] may be considered to have a full or partial suspension of operations ... if the business’s suppliers are unable to make deliveries of critical goods.” An aggressive approach to the interpretation of this section is being used to qualify businesses that do not meet the revenue or direct shutdown order criteria.

Any dealer engaging a tax credit specialist should do so with the knowledge that their refund claims are subject to audit and could also be subject to interest and penalties if they are determined to be non-qualifying.

Any dealer engaging a tax credit specialist should do so with the knowledge that their refund claims are subject to audit and could also be subject to interest and penalties if they are determined to be non-qualifying.

We suggest the following inquiries be made before engaging a tax credit specialist:

1. How long has the specialist been in business?
2. How many clients have they represented before the IRS, and how many CPAs, attorneys, and other qualified personnel do they employ to represent their clients before the IRS? Curriculum Vitae (CVs) on these individuals should be provided.
3. Does the specialist reimburse defense costs, penalties, and interest?
4. Does the specialist follow the published guidance to ensure that claims will be made only in cases that adhere to the letter of the law?

5. Do they provide a clear and quantifiable substantiation of the qualification criteria before asserting the business is eligible?

We encourage all dealerships to determine if they qualify for this benefit provided by the federal government and have complete and accurate data to substantiate any claim.

Dealerships should consult with their CPA and/or attorney before signing an ERTC assistance contract to ensure there are no misunderstandings with the provider for the risks you and they are assuming in connection with any credit received. ◀

Leon M. (Lonnie) Rogers, CPA/ABV/CFP, is the managing member of Tetrick & Bartlett, PLLC, providing accounting, tax, valuation, and consulting services to automobile dealers since 1977. Tetrick & Bartlett, PLLC currently serves over 50 dealers in West Virginia, Virginia, Ohio, and Pennsylvania and is a member of the AutoCPA Group, a nationwide organization made up of 25 CPA firms specializing in services to automobile dealers. Lonnie can be reached at lrogers@tetrickbartlett.com, or 304-624-5564.

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In Memory of Joe Astorg

It is with a heavy heart that we inform every one of the passing of Joe Astorg. It was extremely special that Joe was able to attend our convention earlier this month and was present for the 2021 Dealer Photo. Joe Astorg was a true car guy and he will be greatly missed by his family and the West Virginia Dealer body.



Joe Astorg, 84, of Vienna, passed away June 28, 2021, peacefully at his home with his family by his side. He was born September 19, 1936, in Parkersburg, WV, the son of the late Smith Astorg and Margaret Astorg. Joe graduated from Parkersburg High School in

1954 and founded Astorg Buick in 1974 and Astorg Mercedes-Benz in 1977. He had a passion for the automotive industry and proudly serviced the automotive needs of the Mid-Ohio Valley for over 50 years. Joe's proudest business accomplishment was bringing a Mercedes-Benz dealership to Parkersburg in 1977. He enjoyed his daughters cooking, talking shop with his son, spending time with his wife and collecting Lionel Trains. Joe also had dear friendships spanning more than 40 years with the Strobl, Criss, Enoch and Topping families.

He is survived by his wife, Barbara Bryan Astorg; two daughters, Carolyn Cooke (Matt) of Vienna and Rebecca Rogers (Randy) of Vienna; one son, Paul Astorg (Kami) of Vienna; one brother, Robert Astorg (Geni) of Vienna; one niece,

Margaret Astorg; grandchildren, Natalie, Lon and Alan Cooke, Alisha, Garrett (Vanessa) and Mason Humphrey, McClaren and Meredith Rogers, Seve (Chanalee), Tyler (Miranda), Cale (Anna) and Cameron Astorg; and greatgrandchildren, Hunter Mace, Gemma and Violet Humphrey, Rylee, Christian, Sevana, Camille and Cassius Astorg.

There will be private graveside services at the convenience of the family. Lambert-Tatman Funeral Home, Vienna is honored to serve the Astorg family.

In lieu of flowers donations may be made to the Pink Mammogram Fund at Camden Clark Foundation P.O. Box 1834 Parkersburg, WV, 26102.

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Post-Pandemic Dealership Trends That Are Here to Stay

By Sharon Kitzman

C OVID-19 changed every aspect of our society, including the way dealerships operate and how consumers purchase vehicles. As states re-open and businesses return to normal operations, some key trends will continue even after the coronavirus is under control. Here's what you can expect to see post-pandemic and how to position your dealership for success in the long run.

Online Car Shopping and Purchasing

According to Haig Partners, 30% of new car sales last year in the U.S. were conducted online, compared to 2% pre-pandemic. Millennial shoppers, in particular, want to buy or lease through their smart phones and just come to the dealership to close the deal. To meet this demand, you can create a better car buying experience by creating a virtual sales manager role and invest in tools that streamline the online car buying process. This ensures customers efficiently go through the decision-making and feel confident that your dealership is the best one from which to buy their next car.

Telecommuting and Remote Operations

The lockdowns forced some dealerships to temporarily close their doors at a time when consumers moved away from ride sharing to car ownership. To minimize disruption, many dealers

allowed their staff to work from home and continue helping customers through their buying journey. Be more efficient in a remote environment by using your Document Management System (DMS) to:

- Setup prospective deals and quickly offer different payment options on the fly
- Schedule appointments to test drive cars and have the vehicle(s) delivered to a customer's home
- Enable customers to complete most, or all, of their contracts and payments digitally

Mobile Service Drives

More vehicle purchases mean more cars that require maintenance. Many dealers operated their service drives during COVID by offering mobile services, such as picking up the car from the customer's home and bringing it back after an oil change and tire rotation. What was once considered a concierge luxury service is becoming more popular. To do this effectively, you'll need a DMS that doesn't require VPN offsite, so your team can easily deliver exceptional service at your customer's convenience.

Digital Marketing and Promotions

Consumers are more internet savvy than ever before, and COVID made digital advertising even more essential as people avoided high-touch surfaces.

Identify websites and social channels where your customers visit and try to be present there. Leverage advanced social advertising capabilities to target specific audiences and get your dealership in front of people who may not know your brand or the special offers you're running.

Secure Virtual Payments

The days of handing cash and credit card to the cashier before picking up a vehicle are fading quickly. As consumers strive to avoid crowds, being able to pay for their car in advance – quickly and securely – has been vital during the pandemic and beyond. Make sure your DMS provides an easy way for customers to pay online and track details within the repair order for your records.

Cyberattacks

Automotive dealerships are often targeted by cybercriminals due to the high volume of sensitive data, and this has increased since the pandemic began. With the rise in remote work and more car buyers on the market, this threat will continue. According to Blum Shapiro, dealerships investing in cloud technology are well positioned due to higher security protocols. A cloud-native DMS, for example, can help protect your data through immediate security patches and updates. It can also backup your records in the cloud, so you don't lose critical information in the event of a breach.

Many of these dealership changes are long overdue, and the COVID-19 pandemic simply accelerated the digital retail process. Despite the emergence of online used car marketplaces, such as Vroom and Carvana, dealers proved our industry's ability to adapt and succeed under unprecedented circumstances. The goal now is to stay ahead of competitors for the long haul by implementing an agile workforce, robust processes and modern cloud solutions that enable you to maximize productivity, customer satisfaction and profitability. ◀



Sharon Kitman leads the launch and long-term growth of VUE DMS. Her expertise in DMS technology is key to helping VUE clients to optimize their operations with innovative solutions. Previously, Sharon managed the strategic direction and product development for Reynolds & Reynolds and Dealertrack. Her experience spans every area of dealership software development including sales, marketing, product lifecycle management, process re-engineering, OEM management, professional services and customer service.

Sharon is a recognized leader in the automotive industry and has received many accolades including Automotive News Top 100 Leading Women 2015 and 2020, Auto Remarketing Women in Retail 2021, and AutoSuccess Women at the Wheel 2021. She has a Bachelor of Business Administration from Ohio State University.

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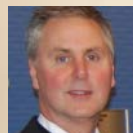
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