



6th Annual NADC Member Conference

April 11 to 13, 2010

Four Seasons Dallas at Las Colinas

Make your plans now to attend the sixth annual meeting of NADC members in Dallas. Sessions are being developed to reflect the special interests of members and the realities of today's auto industry. The meeting opens with a reception Sunday evening, April 11, and will conclude by 1:00 pm on Tuesday, April 13. Register now on the events page at www.dealercounsel.com.

The conference is open to NADC members only. Registration is \$495 per person and includes receptions, breakfasts, lunch and breaks. The receptions, lunch and breaks provide time for members to get to know each other. CLE credit will be available for the 660 minutes of educational program (11.0 credits for states that calculate 60 minutes per credit; 13.2 for states that use 50 minutes per credit).

Reserve your hotel room by March 18, 2010 for conference rates: Superior \$235; Deluxe \$260; Villa \$285. All room rates are plus tax and, subject to availability. Contact the hotel by calling 972-717-2499 and referencing NADC.

Agenda

Sunday, April 11

3:00 to 5:30 pm **Board of Directors Meeting**

6:00 to 7:30 pm **Opening Reception**

Monday, April 12

7:30 to 8:10 am **Continental Breakfast, Sponsored by The Fontana Group**

8:10 to 8:45 am **Opening Remarks and General Meeting of Members**

Rob Cohen, Auto Advisory Services, Inc., Tustin, CA and NADC president and **Jack Tracey**, NADC executive director

8:45 to 9:15 am **Session 1 - NADA Update**

Andy Koblenz, NADA, McLean, VA

NADA's General Counsel, Andy Koblenz, will discuss NADA's efforts on behalf of dealers on a variety of regulatory and legislative matters. Mr. Koblenz will also discuss NADA's credit stabilization strategies and other concerted efforts aimed at helping dealers through the recession.

7250 Parkway Dr., Suite 510 • Hanover, MD 21076
410-712-4037 • www.dealercounsel.com
jtracey@dealercounsel.com

9:15 to 10:00 am

**Session 2 - Dealer Arbitrations and 2010's
Other Hot Dealer Topics**

Michael Charapp, Charapp & Weiss, LLP, McLean, VA and **Eric Chase**, Bressler, Amery & Ross, P.C, Florham Park, NJ

- Update on the GM/Chrysler arbitrations: overview, status and strategies
- The future of the domestic auto industry: impact of Toyota's problems and other considerations
- Are there any more bankruptcies on the horizon?
- What should dealers be doing to protect themselves in the event of future business problems of their franchisors?
- Issues affecting the franchisor/franchisee relationship from new facility demands to product liability protections
- Legislative strategies that may help
- Dealing with floorplan
- Some "quick hit" issues: warranty reimbursement; minority dealers; audits

Eric Chase will provide his list of, and article on, hot topics for 2010 and his legal checklist for dealers.

10:00 to 10:15 am

Break

10:15 am to 12:15 pm

**Session 2 (Continued) - Dealer Arbitrations and 2010's
Other Hot Dealer Topics**

Mr. Charapp and Mr. Chase will lead a roundtable session. Attendees who are interested in the arbitration process involving GM and Chrysler will discuss experiences, strategies and ideas.

12:15 to 1:15 pm

Lunch

1:15 to 2:15 pm

Session 3 - NHTSA Compliance/Recalls

Douglas Greenhaus, NADA, McLean, VA and **J. Timothy Sparks**, Sonic Automotive Inc., Charlotte, NC

2:15 to 2:30 pm

Break

2:30 to 4:00 pm

**Session 4 - Buyer's Orders and Retail Installment
Sale Contracts: Can They Play Nice Together?**

Rob Cohen and **Michael Dommermuth**, McGloin, Davenport, Severson and Snow, Denver, CO

This session will focus on the two most essential documents in a deal jacket, the buyer's order and the retail installment sale contract. Oftentimes these two documents contain contradictory language and do not properly protect dealers. More importantly, dealer personnel often complete these forms incorrectly.

With respect to buyer's orders, essential contract terms required by the Uniform Commercial Code and federal law will be discussed along with issues associated with warranty disclaimers, trade-ins, spot delivery, arbitration, class waivers, jury trial waivers, manufacturer changes, limitations on damages, remedies for default, tax, integration and assignment, and attorney fees.

Then, we will transition into a discussion regarding retail installment sale contracts and how this document should relate to the buyer's order.

Lastly, and time permitting, we will discuss common errors made by dealer personnel while completing retail installment sale contracts and buyer's orders.

4:00 to 5:00 pm

Session 5 - What Every Attorney Should Know About a Dealership's Financial Statement

Andrew Weill, Benjamin, Weill & Mazer, San Francisco, CA; **Ron Sompels** and **Jodi Kippe**, Crowe Horwath, Fort Lauderdale, FL

Dealership financial statements contain an abundance of information that when adequately understood can provide a wealth of information for attorneys when advising their clients. Ron Sompels and Jodi Kippe, partners with Crowe Horwath LLP, will bring clarity to the dealership's financial statement and provide the following insight in this session:

- How to read between-the-lines of a dealership's statement;
- Recent developments in financial reporting relating to dealerships;
- The parts of the dealer statements an attorney should focus on and other information not included;
- The key benchmarks an attorney should be aware of in working with the statements;
- The key questions to ask your dealers about their financial statements;
- What really happens in the 13th month and;
- The most common CPA entries to adjust the dealer financial statement to the GAAP basis of accounting

5:00 to 7:00 pm

Reception

Tuesday, April 13

7:30 to 8:10 am

Continental Breakfast, *Sponsored by CounselorLibrary.com/Hudson Cook, LLP*

8:10 to 8:15 am

Opening Remarks - Rob Cohen and Jack Tracey

8:15 to 9:30 am

Session 6 - Regulatory Update

Patricia Covington and **Meghan Musselman**, Hudson Cook, LLP, Hanover, MD; and **Christina Floyd**, Vandeventer Black, LLP, Norfolk, VA

In this session we will discuss federal regulatory developments as related to consumer credit and telemarketing. We will examine the new Risk Based Pricing Rule, which requires dealers to provide a consumer with a notice when, based on the consumer's credit report, the creditor provides credit to the consumer on less favorable terms than it provides to other consumers. We will also provide a detailed review of the new Gramm-Leach Bliley model privacy notice, and guidance regarding how to complete it. Finally, we will discuss what's new with respect to the FTC's Telemarketing Sales Rule.

9:30 to 10:30 am

Session 7 - Why Dealers Remain Their Employees' Favorite Target

Christopher Hoffman, Fisher & Phillips LLP, La Jolla, CA

Amidst the staggering business losses of the last two years, even plaintiffs' attorneys reduced their focus on dealerships. Those times are over, and the government is back in the game too. This session will focus on legislative hurdles coming our way, as well as the top employment litigation risks facing dealerships in 2010.

10:30 to 10:45 am

Break

10:45 to 11:45 am Session 8 - Credit Card Compliance: Merchant Agreements and PCI Requirements

Randy Henrick, DealerTrack, Inc., Lake Success, NY; **Aaron Davies-Morris**, CISSP, McAfee/Foundstone Professional Services

This panel will focus on credit card merchant agreements and data security compliance as they relate to dealer operations. The panel will first discuss the nature of credit cards and merchant agreements, focusing on chargeback proceedings and technical requirements for specific types of transactions. Next, the discussion will turn to the credit card “interchange” and how that system imposes various costs upon dealers. Lastly, the panel will discuss Payment Card Industry (PCI) standards.

PCI is a set of standards, and in some areas the law, that is driving companies to put in place much stronger, more comprehensive, and costly security controls. All of this is designed to stop the growing number of security breaches that results in criminals gaining access to credit card data. This presentation will discuss what PCI is, specific compliance requirements, when you need to comply, some near-term steps you can take to reduce your cost to comply, and your cost to maintain compliance.

11:45 am to 12:45 pm Session 9 - Insurance Coverage Gaps and Differences Every Dealer Attorney Should Know

Roger Beery, Austin Consulting Group, Inc., Greenwood Village, CO

While most insurers offer dealer policies with similar coverage titles, there can be big differences in the policy language. Dealers can be exposed to uninsured and underinsured claims that slip through the policy language cracks of some policies that might be covered by another. In this presentation we will discuss property, liability and employment practices policies, how they differ and what potential coverage gaps may exist.

12:45 pm Closing Remarks - Jack Tracey



Speaker Biographies

- **Roger Beery** - Austin Consulting Group, Inc., Greenwood Village, CO
- **Michael Charapp** - Partner in the firm of Charapp & Weiss, LLP, has spent his life in and around the automobile business. He is a graduate of the University of Pittsburgh (B.A. 1971), and of the Georgetown University Law Center (J.D. Degree 1974). Mr. Charapp is a member of the Bars of the Commonwealth of Virginia and the District of Columbia.

Mr. Charapp worked in his family's Dodge dealership in the Pittsburgh, PA area until he graduated from College. After his graduation from law school, he was an associate and later a partner in the firm of Stein, Mitchell & Mezines, Washington, DC, from 1974 to 1984 where he specialized in litigation and commercial transactions, including representation of car dealers and car dealer trade associations. From 1984 to 1996 he was Executive Vice President and General Counsel of the Rosenthal Automobile Organization headquartered in Arlington, VA, at the time one of the 10 largest auto dealer organizations in the country. In 1996 he formed the firm of Charapp & Weiss.

Today, Mr. Charapp represents and advises numerous business clients, including well over 200 automobile dealers and several automobile dealer trade associations, including the Maryland Automobile Dealers Association, the Virginia Automobile Dealers Association, and the Washington Area New Automobile Dealers Association.

- **Eric L. Chase** - One of America's leading automotive franchise attorneys. Over many years he has represented hundreds of dealers in their disputes with automobile factories, distributors and importers, as well as in investigations by and disputes with state and federal agencies. As a litigation partner in the New Jersey office of Bressler, Amery & Ross, P.C., his automotive practice is national in scope. He has served as lead counsel in a variety of landmark cases that are important and enduring legal precedents for dealers.

Upon graduation from Princeton University in 1968, Mr. Chase entered the Marine Corps, and served as an infantry officer in Vietnam. After three years of active duty, he attended the University of Minnesota Law School, from which he received his J.D. degree, cum laude, in 1974. Prior to entering private practice, he served as an Assistant United States Attorney in Newark, N.J.

Mr. Chase has written dozens of articles on automotive subjects which have appeared in, among other publications, Automotive News, Dealer Business (Auto Age), Automotive Executive, and Automotive Dealers Digest. He is a frequent speaker at seminars for dealers throughout the United States and his advice regarding new state franchise legislation is often sought by state associations. One of the original members of the New Jersey State Bar Association's Franchise Law Committee, he served as its co-chairman during 1999-2000. He is currently a member of the NADC's Board of Directors. For several years, he has been selected as a New Jersey Super Lawyer.

Since its initial publication in 1994, Mr. Chase's book, *Automobile Dealers and The Law*, has become a primary legal handbook for dealers.

Mr. Chase retired in 1998 from the Marine Corps Reserve as a colonel, and is an acknowledged authority on national security and the law of war. His writings on those subjects include articles in the New York Times, Newsweek, The Washington Post, and Strategic Review. He has appeared as a military expert on Good Morning America, Larry King Live, CBS Sunday Morning and the Charlie Rose Show. His biography appears in several publications, including Who's Who in America and Who's Who in American Law.

- **Rob Cohen, Esq.** - President, Auto Advisory Services, Inc. Rob Cohen started with Auto Advisory Services in 1994 and he became President in 2006. Prior to devoting his full time effort to Auto Advisory Services, Rob represented dealers in litigation for four years. Rob specialized in the defense of consumer claims and represented licensees before DMV administrative hearings. He developed a strong background inside dealerships by working as a car salesman and doing F&I during law school. Rob received his B.A. and M.B.A. from the University of California, Irvine and then went on to earn his J.D. from Whittier College, School of Law.

Rob currently serves as Vice President of the National Association of Dealer Counsel (NADC), is editor of Transmission (Auto Advisory Services' monthly newsletter) and The Defender (the NADC newsletter), and has been published in Ward's Dealer Business, Orange County Business Journal and F&I Management and Technology. He is a frequent speaker and trainer on a wide range of subjects pertaining to dealership sales and finance compliance. Rob co-authored the top-selling Automotive Dealership Information Safeguards Manual, the Automotive Dealership Identity Theft Guide, as well as the recently published Red Flags Rule Guidebook.

Key Seminars: Red Flags Rule, Identity Theft Prevention Program Workshops, California, Colorado (multiple sessions), August–September, 2008. Compliance Exposure That Can Crush Your Dealership, NADA Conference, San Francisco, CA, February, 2008. Common But Potentially Dangerous F&I Practices, NADC F&I Workshop, Baltimore, MD, November, 2006; Changes for 2007, Reynolds and Reynolds University Online, November, 2006; F&I Matters, NADC Member Conference, Chicago, IL, April, 2006; Car Buyer's Bill of Rights Training, California (multiple sessions), May-June, 2005; Negative Equity Disclosure, NADC Member Conference, Atlanta, GA, April, 2005.

- **Patricia E.M. Covington** - Located in the Maryland office of Hudson Cook, LLP. She joined Hudson Cook as a partner in June, 2005. Ms. Covington has practiced in consumer financial services since 1997. Prior to 1997, she practiced in the area of bankruptcy and commercial law. Her practice focuses on consumer finance, privacy, security and information management, electronic commerce, and marketing. She regularly advises on matters in these practice areas, with a particular concentration on information privacy and security, as well as, matters relating to federal compliance for consumer finance.

Prior to joining Hudson Cook, Ms. Covington served as Assistant Vice President and Deputy General Counsel for CarMax, Inc., a retailer of used and new motor vehicles with a division that finances installment purchases for its dealerships.

Ms. Covington is a member of the Consumer Financial Services Committee of the American Bar Association and serves as Vice-Chair for the Privacy Subcommittee. She is a member of the American Financial Services Association's State Government Relations Committee and the National Home Equity Mortgage Association's Business Technology Committee. She is a board member of, and Treasurer to, the National Association of Dealer Counsel. She frequently speaks on matters relating to consumer finance.

- **Aaron Davies-Morris**, CISSP - McAfee/Foundstone Professional Services
- **Michael J. Dommermuth** - McGloin, Davenport, Severson and Snow, Denver, CO
- **M. Christina Floyd** - Vandeventer Black, LLP, Norfolk, VA
- **Douglas I. Greenhaus** - Director of Environment, Health & Safety in NADA's Legal and Regulatory Affairs Group. Representing dealer interests, Greenhaus actively practices before such federal agencies as the Environmental Protection Agency, the Department of Transportation and the Department of Labor. In addition, he advises and counsels association members and staff on federal regulatory matters, has authored numerous trade publication articles and association educational guides, and speaks frequently at industry engagements. Before joining NADA, Greenhaus worked as an associate counsel for the Massachusetts Energy Facilities Siting Counsel and later as a staff attorney for the EPA in Washington, D.C.

He holds a B.A. in political science and environmental studies from the University of Vermont and a J.D. from the National Law Center, George Washington University and is a member of the Massachusetts, District of Columbia and Virginia Bars.

- **Christopher C. Hoffman** - Fisher & Phillips LLP, La Jolla, CA
- **Randy Henrick** is an experienced banking and consumer credit attorney whose practice currently emphasizes regulatory compliance and issues relating to privacy, data security, and consumer protection. He is Associate General Counsel for DealerTrack, Inc., a leading provider of Web-enabled software and data solutions for the U.S. retail automotive industry. In addition to being DealerTrack's lead compliance, legislative and regulatory counsel, Randy provides compliance guidance to automotive dealer and financial institution clients of DealerTrack as well as representing DealerTrack before federal agencies and in industry forums.

Prior to DealerTrack, Randy spent 15 years in the cards and payment systems industries at Citibank, MasterCard International, and FleetBoston Financial. Randy has also served as bank regulatory counsel to Citibank's retail financial services businesses in North and South America and counsel for a number of consumer and commercial financing businesses at GE Capital in Stamford, Connecticut. Randy began his career as a litigator at two large New York City firms, Rogers & Wells and Carter, Ledyard & Milburn.

Randy has published articles for the National Association of Dealer Counsel and authors a monthly "Compliance Corner" column which appears on DealerTrack's web site.

Randy is a 1975 graduate of Fordham College where he was class valedictorian and a 1978 summa cum laude graduate of Fordham Law School where he interned for then Dean, now Senior U.S. District Court Judge Joseph M. McLaughlin.

Randy lives in Long Island with his wife Joanne and his two sons, Stephen, a freshman at Boston University who aspires to be an attorney, and Bryan, who is a sophomore in high school.

- **Jodi Kippe** is a Partner with Crowe Horwath LLP, a top ten public accounting, and consulting firm. Ms. Kippe is a CPA with over 25 years experience working exclusively with Crowe's Retail Dealer group that specializes in assurance, tax, financial advisory, risk management, and performance consulting to dealerships. She has lectured at NADA and AICPA conferences, as well as other automotive and state associations. She is a published writer, with articles featured in trade magazines, periodicals, and business journals.

Professional Activities and Certifications: American Institute of Certified Public Accountants; Florida Institute of CPAs; Crowe Horwath's CFO Roundtable, Moderator; SunTrust's Commercial Dealer Services Advisory Board; Women's Automotive Association International, Member; frequent speaker at various industry groups and trade associations; contributor to articles published in various trade magazines, periodicals and business journals, including NADA's *AutoExec* magazine.

Education: B.S.B.A. in Accounting, Central Michigan University

- **Andy Koblenz** is the National Automobile Dealers Association's vice president and general counsel. He directs the association's Legal and Regulatory Group, which represents NADA and dealer interests before federal agencies. Koblenz supervises a staff of six attorneys specializing in franchise and state law, corporate law and federal regulatory affairs. As NADA's assistant secretary, he prepares and maintains corporate records and the minutes of the board of directors meetings and supervises elections of NADA officers and directors.

Prior to his current position, Koblenz was vice president, industry affairs from June 2001 to February 2006, directing the activities of NADA's Industry Relations and Industry Analysis departments, as well as the association's American Truck Dealers Division.

Previously, he served as NADA's executive director and special counsel for industry affairs for two years, representing the interests of franchised automobile dealers in policy, operational and other discussions with vehicle manufacturers. In that role, he helped oversee the operations of the Industry Affairs Group and was a liaison to the association's communications, legal, regulatory and legislative departments.

Before joining NADA, Mr. Koblenz served for five years as a senior attorney with the American Automobile Manufacturers Association (AMAA). There, he advised the association on a variety of issue areas including sales, credit, leasing, and finance law, product safety and liability, intellectual property and benefits and taxation.

From 1990 through 1994, Mr. Koblenz was a partner at the Washington, D.C. law firm of Richardson, Berlin & Morvillo where he specialized in corporate and securities matters.

Mr. Koblenz attended Union College in Schenectady, N.Y. and received his B.A. in political science, summa cum laude, in 1978. In 1981, he received his J.D., cum laude, from Harvard Law School. Mr. Koblenz is a member of Phi Beta Kappa and the American Law Institute.

The National Automobile Dealers Association, founded in 1917 and based in McLean, Va., represents more than 20,000 new car and truck dealers, holding over 43,000 separate franchises, both domestic and import.

- **Meghan Musselman**, Hudson Cook, LLP, Hanover, MD
- **Ronald Sompels** is a partner at Crowe Horwath LLP, a top 10 public accounting and consulting firm. Mr. Sompels, a CPA and CPIM, is the Partner-in-Charge of Crowe's Retail Dealer industry horizontal and has more than 30 years experience in providing assurance, tax, risk management, financial advisory, and performance consulting services to more than 600 retail dealerships. He has conducted courses on many subjects, including inventory control, and is a published writer, with articles featured in trade magazines, periodicals, and business journals.

Professional Activities and Certifications: American Institute of Certified Public Accountants; CPA Societies of Florida, Indiana and Michigan; Certified Public Accountant: Florida, Michigan, North Carolina and Ohio; Certified in Production and Inventory Management (CPIM); frequent speaker at various industry groups and trade associations; and contributor to articles published in various trade magazines, industry service bulletins and in *The Journal of Accountancy*.

Education: B.B.A. in Accounting, Western Michigan University

- **J. Timothy Sparks** - Sonic Automotive Inc., Charlotte, NC
- **Andrew J. Weill** - Principal, Benjamin, Weill & Mazer, a leading complex litigation firm in San Francisco. Mr. Weill's practice includes complex business, tax and estate disputes across the nation. He graduated from Yale University in 1973 and obtained his J.D. from University of California, Berkeley (Boalt Hall) in 1976. He is a Certified Specialist in Taxation Law. He is a frequent speaker and writer on tax and litigation issues.