NADC
NATIONAL ASSOCIATION OF DEALER COUNSEL

3rd Annual NADC Member Conference
March 11-13, 2007
The Adolphus Hotel
Dallas

Agenda

Sunday, March 11, 2007

2:00 to 4:30 pm **Board of Directors Meeting**

5:30 to 7:00 pm **Opening Reception -** ***Sponsored by Harvey and Mumford LLP and Haile, Shaw & Pfaffenberger, P.A***

Monday, March 12, 2007

7:30 to 8:30 am **Continental Breakfast -** ***Sponsored by Compli***

8:30 to 9:00 am **Opening Remarks and Annual Meeting**

• **Annual Meeting:** Membership business will be transacted, and new Board members elected

9:00 to 10:00 am **Session 1 - Prosecutor's Guide**

Peter Anderson, Schumacher, Loop & Kendrick, LLP, Charlotte, NC

• **A former prosecutor's guide to help auto dealers minimize risks and add value -** The regulatory criminal enforcement climate continues to drastically change for many businesses, and automobile dealerships are no exception. Years ago, white-collar investigations and prosecutions were limited to only the most egregious violations; now, every dealership faces higher risks, harsher consequences and more uncertainty. This presentation provides a practical overview of: recent enforcement trends; a rare glimpse inside the government's playbook; practical steps to reduce risks, demonstrate good faith compliance efforts; and pointers in responding to subpoenas and search warrants.

Monday, March 12, 2007, Cont'd.

10:00 am to 12:30 pm Session 2 - Latest Trends in Franchise Relations

Oren Tasini, Haile, Shaw & Pfaffenberger, PA North Palm Beach, FL; **Tom Butler,** Bel Air Partners, Skillman, NJ; **Joseph Aboyoun,** Aboyoun & Heller, LLC Fairfield, NJ; **Eric Chase,** Bressler, Amery & Ross, PC, Florham Park, NJ; and **Joe Roesner,** The Fontana Group, Tucson, AZ

• **Latest trends in franchise relations**: Discussion will emphasize issues related to the factory relationship, the recent areas of dispute and the legal rights available to dealers. How will these emerging legal trends impact business decisions, including sale transactions? Panelists will provide answers to problem areas with suggested solutions, approaches or strategies. A legal audit checklist for dealers will also be discussed.

• **Impact of franchise relations on the acquisition of dealerships** - The presentation will focus on the rights of the factories in the application approval process, the impact that the factories can have on franchise valuations and current trends among the Detroit Three. In addition, Mr. Butler will summarize the current state of public company framework agreements and their impact on the acquisition market, using real life examples.

• **Dissecting the Urban Science Applications Inc. witness** - In this presentation we will summarize the USAI approach. We will also provide attorneys with guidance on the inherent flaws underlying the USAI analyses and suggest approaches for cross examination and rebuttal of USAI witnesses.

A 15 minute Break during Session 2 - ***Sponsored by New Country Motor Car Group and Teal, Becker***

12:30 to 1:30 pm Lunch - ***Sponsored by Bellavia Gentile & Associates LLP***

1:30 to 2:30 pm Session 3 - Ethics

David Rosenfeld, David Ross Rosenfeld, PC, Alexandria, VA and **Suzanne R. Westerheim**, Dallas, TX

• **Multi-Jurisdictional practice and the unauthorized practice of law: trouble for the transactional and litigating attorney** - The presentation will explore the pitfalls and problems that transactional and litigating attorneys face when representing automobile and other vehicle and vessel dealers. Using a combination of lecture and questions and answers, Mr. Rosenfeld will address such real-world problems as drafting contracts involving parties and/or assets located in different jurisdictions, preparing, utilizing, or relying on formal opinions generated in another jurisdiction, interviewing or deposing a witness in another jurisdiction, communicating with adverse corporate executives and fact witnesses, managing litigation in foreign jurisdictions and *pro hac vice* admissions, to name a few.

2:30 to 4:00 pm Session 4 - On the Cutting Edge of Employment Law

Gerald Coker, Ford & Harrison, Atlanta, GA; **Mike Maslanka,** Ford & Harrison, Dallas, TX; **Mike Fetzer** and **Bill Backhaus**, Equal Employment Opportunity Commission, Dallas, TX; and **Samantha Holmes**, R&D Strategic Solutions, LLC, Memphis, TN

• **Employment practices**: Employment law is everywhere, and dealerships are in the thick of it. What are the most recent developments in harassment law? Should employees be required to submit their employment claims to arbitration instead of a jury? How does the EEOC, the federal agency that investigates and prosecutes discrimination claims, make its decisions? Why are there multi-million dollar verdicts in employment cases, and how can dealerships avoid them? Why are wage/hour cases attractive for plaintiffs' lawyers?

4:00 to 4:15 pm Break - ***Sponsored by CounselorLibrary.com***

4:15 to 5:15 pm **Session 5 - Accounting**

Wayne Fortier, Dixon Hughes, Raleigh, NC; **Richard Kotzen,** Crowe Chizek, Ft. Lauderdale, FL; and **Michael McKean,** O'Connor Drew, Quincy, MA

- **What attorneys should know when reviewing dealership financial statements:** The session will be divided into three sections:
  - **Valuation -** Business valuation issues peculiar to the retail automotive industry including; the effect of working capital and investment requirements on the benefit stream, industry specific valuation methods, using the public companies as guidelines for determining cost of capital, and the determining the appropriate inclusion of control premiums. Whether your client's need is for divorce, shareholder dispute, litigation with a manufacturer, or succession planning, Mr. McKean will share with you some key elements to look for when examining business valuation reports for automotive dealerships
  - **Due diligence** - Automotive transactions have become more complex, particularly in the case of desirable franchises, and pricing structures have increased considerably. As a result, verifying and validating historical financial results, has also become an extremely critical element to buyers and financing sources of these deals. Deals are not being consummated until the targets submit to rigorous levels of due diligence to verify the integrity of the operating and financial results. Buyers and Sellers are asking for high level consultation, from accountants, at multiple levels in the automotive sales transaction: initial negotiation, providing input into the buy/sell document drafting, tax structuring, and performing financial due diligence. This presentation will give transactional attorneys an overview of the financial due diligence process and its resulting benefits.
  - **Litigation exposure and the dealer manufacturer's financial statement** - Dealerships that successfully identify and manage their risks consistently achieve their sales and growth goals. This discussion will cover some tips and tricks of looking at the numbers to identify potential litigation exposure. Learn some helpful questions attorneys and consultants can and should ask to identify these risks so they can be properly addressed.

5:30 to 7:00 pm **Cocktail Reception -** ***Hosted by Blume & Stoddard***

Tuesday, March 13, 2006

7:30 to 8:15 am **Continental Breakfast -** ***Sponsored by CNA National Warranty Corporation***

8:15 to 8:30 am **Opening Remarks**

8:30 to 10:20 am **Session 6 - Computer Systems**

James Blume, Blume & Stoddard, Dallas, TX and **Robert Miller**, Compli, Portland, OR

- **The current revolution in dealership computer systems:** The past year saw major changes in the computer industry that serves dealerships. There were several major changes in the electronic parts catalog business and in Dealer Management Systems (DMS). There are pending group arbitrations. This revolution presents major contract issues and related business decisions to all dealers.
- **How dealers are turning compliance challenges into dealership opportunities** - The presentation will begin with a brief summary of the problems and challenges and move to a discussion of the opportunities and solutions available as a result of new automated compliance management systems geared specifically for dealers. Actual dealership results, including the ability to document and demonstrate compliance and the financial successes achieved, will round out the presentation.

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10:20 to 10:30 am **Break**

10:30 to 11:30 am **Session 7 - NADA Update and Franchisor Appeal Process**

Andy Koblenz, NADA, McLean, VA; **Oliver Mitchell,** Margolis Law Firm, LLC, Roseland, NJ

- **NADA legal and regulatory update** - This session will provide a brief overview of NADA operations, including how the organization: advances the interests of franchised car and truck dealers before all three branches of the federal government and educates NADA's 20,000 members on important legal developments. Mr. Koblenz will further explain the scope of NADA's regulatory affairs efforts and will update attendees on several rule makings, particularly the FACT Act requirements that dealers issue risk-based pricing notices, develop and implement written ID theft prevention programs and employ customer identification procedures when receiving notices of address discrepancy from consumer reporting agencies.
- **Making peace privately and quickly: the Ford Motor Company Dealer Policy Board** - the presentation describe the charter and function of this 50 year old private dispute resolution forum that addresses and resolves, on a private basis, disputes between the manufacturer and its retailers. It has express jurisdiction to investigate and resolve, through mediation or adjudication, disputes concerning add points, terminations and any controversy involving the good faith or fair treatment of the dealer, including sales or warranty audits. Decisions are binding only on the manufacturer.

11:30 am to 12:30 pm **Session 8 - Electronic Discovery**

Gene Kelley, Hal Morris, Cris Nevaja and **Paul Starkman**, Arnstein & Lehr, Chicago, IL

- **Electronic discovery rules:** This session will provide a better understanding of the pertinent pre-litigation, litigation and practical issues surrounding e-discovery. The program will discuss the various phases of e-discovery: document retention guidelines; litigation hold obligations; meet and confer responsibilities; actual discovery; and trial. Attendees will be prepared for the changes to the Federal Rules of Civil Procedure, Local and State Rules, ethical concerns and will develop critical case analysis techniques. The questions to ask and the answers will be revealed. There is no need to bring your computer.

12:30 to 12:45 pm **Concluding Remarks**

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