

# the VIRGINIA

FALL 2019 INDEPENDENT NEWS

Are You Properly  
Vetting Your  
Service Providers?

TEAM: Together  
Everyone Achieves  
More

NIADA Debuts  
'Custom-Tailored'  
Compliance System

A Proper Perspective

**PLUS**

5 Google Trends for  
the Second Half of 2019

CHECK OUT THE  
**CONVENTION  
& EXPO  
PREVIEWS**  
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# TIME FLIES



BRAD WHITE  
MIKE WITT MOTOR SALES  
PRESIDENT, VIADA

**"THE BAD NEWS IS TIME FLIES. THE GOOD NEWS IS YOU'RE THE PILOT"**  
-MICHAEL ALTSHULER

This is so true, and I can't help but feel I could be a better pilot! This past year as president has flown by. There were many things I had hoped to accomplish, but didn't find time to get done. That being said, there have been some proud accomplishments along the way.

After the NIADA convention, the Board of Directors received notice that Executive Director Jamie Davis would be leaving the association. Members of the Board acted quickly to find a replacement, spending countless hours through emails, telephone calls, and conference calls to reach a decision that would best serve our association. The hard work and dedication of our Board paid off quickly, as Past President Alvin Melendez was hired to take over as new Executive Director.

I want to thank all the members of the Board for their swift actions and involvement to keep our association moving along. I want to thank Jamie Davis for the time he served as executive director and for his assistance in passing the torch to Alvin. Finally, I want to thank Alvin for his willingness to serve as our new executive director. Alvin is off to a great start, and I look forward to seeing the growth of our association under his leadership.

Since this will be my last article as president, I must take the time to thank everyone in the association for their support this past year. I deeply value the relationships I have with members. The mission of the association is to inform, educate, and represent independent dealers, and I think we do that very well. The largest benefit of our association, however, may very well be the relationships made by being involved! ■

## 2018-2019 BOARD OF DIRECTORS

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#### Vice President

Matt McMurray, Campus Automotive, Inc.

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Paul Lynn Martin, L & B Auto, Inc.  
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### Membership Development

Sajal Narayan, Best Bet Auto Sales

### Government Relations

Don Sullivan, Sr., Sullivan Auto Trading

## Volunteers Needed!

Want to take on a leadership role? Do you want to help the association fight against unnecessary and burdensome regulations? And help educate dealers about activities impacting their ability to operate a dealership? Contact Alvin Melendez, Executive Director, (757) 464-3460 or [alvin@viada.org](mailto:alvin@viada.org)

# 5 Google Trends for the Second Half of 2019

By Jim Flint, Founder & CEO, Local Search Group

Before we speak to 20/20 vision, let's discuss 5 Google Trends for 2019 that have implications for Advertisers, Consumers and Dealers alike.

## 1) Assisted Experiences

Immersive technologies are starting to integrate. TV's, OTT, thermostats, fridges and Fit Bits-- work in sync to deliver interesting data points for advertisers like Google. To think most of this intelligence is connected via your Phone—the certain center of the marketing universe is not only scary- it's exciting.

## 2) Machine Learning

Humans are still needed, but the iterations and intelligence machine learning provides is remarkably FAST! We are well past computers that play Chess and now into facial and voice recognition technologies. The detection of diseases is starting to play in this space as algorithms identify common patterns. The same of course



holds true for purchasing patterns. There aren't perfect predictors to speak of, but the iterations will come faster and faster than ever before.

## 3. Personal Digitization--broad demos and after the click issues

Relevance matters. If the advertisement doesn't connect after the click, then we have issues—most notably lower relevance and subsequently higher costs. The experts in advertising understand just how important the after the click experience is for prospective buyers. Building pages that pay off for the consumer will pay off for the advertising agency and their clients.

## 4) More video than ever before

YouTube continues to deliver better solutions for Video and OTT for advertisers. People are taking to telling stories via video. While Google may not lead in this space--YouTube (a Google company), SnapChat, Facebook Stories and Instagram TV continue to cater to consumers and play smartly. All of these elements are coming into play for consumers to use the ubiquity of their smartphones to share their lives at unprecedented levels. How will advertisers and businesses capitalize?

## 5) Voice Recognition

Did we mention your phone is with you all the time? Moreover, did you know your phone is listening? Google Home, Alexa and the like are, of course, also listening. These elements will work to serve us with better, more meaningful Ads at just the right time.

Ready for Voice Search Bidding anyone? ■

## NIADA Debuts 'Custom-Tailored' Compliance System

The National Independent Automobile Dealers Association has formed a strategic relationship with ComplyNet, a provider of compliance solutions in the automotive industry, to help independent vehicle dealers create a culture of compliance through a new compliance management system, the companies announced.

The new system is "custom-tailored" for independent dealerships of all sizes, executives said, providing the tools they need to achieve compliance and mitigate risk in the areas of sales, finance, environmental health and safety, and information security.

"As an industry, it is important for auto retailers to demonstrate a culture of full compliance at the dealership level," NIADA CEO Steve Jordan said. "Trial law-

yers, courts, and regulators are more interested now than ever in finding dealers who miss the mark on compliance and consumer protection.

**Developed in partnership with ComplyNet, NIADA's new CMS was designed to meet the compliance management needs of independent auto dealers.**

"We are confident that independent dealers who fully use the capabilities of the NIADA CMS across their employee base will be much better suited to understand and comply with the many legal and regulatory requirements of the used vehicle industry."

The NIADA CMS provides role-based online training, electronic policy sign-off, and other valuable resources with dynamic dashboards, allowing the dealership to continuously track compliance goals, according to the announcement.

"NIADA's commitment to providing affordable and easy to use compliance solutions for its members is a testament to its leadership team," said Adam Crowell, ComplyNet president and general counsel. "We look forward to working with independent dealers to maximize their profits by reducing their risks of losses, injuries, fines, and lawsuits through the compliance management system and other online and onsite services." ■

# TEAM: TOGETHER EVERYONE ACHIEVES MORE



ALVIN MELENDEZ  
EXECUTIVE DIRECTOR, VIADA  
ALVIN@VIADA.ORG

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**"I HAVE NOT FAILED. I'VE  
JUST FOUND 10,000 WAYS  
THAT WON'T WORK."  
- THOMAS EDISON**

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"I have not failed. I've just found 10,000 ways that won't work." (Thomas Edison) I find this to be especially true of business owners; we keep discovering new ways to be successful, and in the end, I hope we all learn to appreciate the light.

The automobile industry has moved into the digital era. There are so many time-saving resources at our fingertips. Now, we can do in minutes on our laptop what we used to do on the road and in the lanes for hours. The Internet is saving us time as well as money. It allows us the ability to be at the store directing employees, greeting customers, and running our business hands-on. Technology also saves the consumers time and money. They can find us more easily than driving from lot to lot. Location is no longer as important as your Internet Department or your online reputation.

My 30+ year career has been a long and not always successful one. I have discovered many ways that do not work. While I enjoyed running large used car departments for the franchises and my own independent dealership, my true passion is in helping others obtain their goals. So, my journey has led me here... to VIADA. I am excited and count it a blessing to be of service to each one of you. My door is always open, and my phone is always on. I want to hear what your challenges are. Please share your ideas with me. Together we can build a stronger independent association.

I am committed to the transparency and work ethic that this job entails.

My goals are simple:

1. Increase membership because together our voices are stronger
2. Support and develop a mutually beneficial relationship with MVDB and DMV
3. Maintain open communication with our current vendors and seek new partners to help provide valuable services and products

4. Develop a system to better inform new dealers on industry resources
5. Teach new dealers about best practices for auction buying
6. Help new dealers create a business plan
7. Educate all dealers on how to be bankable to banks and floorplan companies
8. Brand VIADA as a trusted name in the industry, where customers look to see if you carry the logo and maintain the standard of excellence it represents.

Through the years, as a member of the Virginia Independent Automobile Dealers Association, I learned about community and service to one another. I experienced firsthand my District 4 leaders reaching out to let me know they were there to help. I felt confident that if I needed to ask a question about anything in regard to running my dealership, I could call the association or another member and get helpful answers. I want you to have that same expectation and experience. Sadly, I later realized that only a small percentage of dealers actually belong to the association. I kept thinking, where do these dealers get the answers they need when they have a question? I have discovered that most of the dealers in trouble are dealers that are not VIADA members. I am proud to say that VIADA members maintain high ethical standards.

My promise to you is that I will do everything possible to make sure that the Virginia consumers are aware of who we are and what VIADA stands for. I want the consumer to seek out the symbol of independent industry excellence and find YOU!

I have laid out my goals for all to see. I will work diligently to be successful. I am certain I cannot do it alone, so I will be calling on MVDB, DMV, partner/associate members and dealer members to help me. VIADA is a non-profit association, with a small hard working staff who are dedicated to you, the member.

TEAM – Together Everyone Achieves More ■



# VIADA CONVENTION

## AND 2019 TRADE EXPO

October 4-6 • Hilton Virginia Beach Oceanfront

# AGENDA

*(Sessions scheduled at specific times may be moved to better accommodate speakers.)*

### FRIDAY, OCTOBER 4

- Noon Registration Opens (Cottage Row Prefunction)
- 2-3pm Past President's Meeting (Spotswood Arms)
- 3-5pm Board of Directors Meeting (Courtney Terrace)
- 3-5pm Ladies Auxiliary Meeting (Spotswood Arms)
- 6-7pm Meet and Greet Reception (Hilton Rooftop Sky Bar, weather permitting)
- 7-7:30 Awards Reception Cash Bar (Outside Peacock Ballroom)
- 7:30-9pm Association Awards Dinner & Business Meeting (Peacock Ballroom)
- 9-11pm Hospitality Room; **Sponsor: ACV Auctions**  
**Sponsor: Diamond Warranty Corp.**

### SATURDAY, OCTOBER 5

- 7am Registration Opens (Cottage Row Prefunction)
- 7:30-9am EXPO - Breakfast Buffet with Exhibitors (Peacock Ballroom)
- 9-10am Opening Speaker – Tracy Myers: Branding & Marketing for Independent Dealerships in 2020
- 10-11am **Concurrent Educational Sessions – Dealer's Choice**
- “Combating the New Age of Consumer Fraud” – Shaun Petersen (Peacock Ballroom)
  - “Welcome to YouTube -The New Frontier for Selling Cars” – Ronald Heider- (Courtney Terrace)

- “Succession Strategies: Keep for Family or Sell to 3rd Party” – Donald S. Hannahs (Spotswood Arms)
- 11-12pm **Concurrent Educational Sessions – Dealer's Choice**
- “Everything You Need to Know About Facebook in 60 Seconds” – Justin Osburn (Spotswood Arms)
  - “Save More – Earn More: Expense & Income Management” – Paul McIntosh & Donald Sullivan, Jr. (Courtney Terrace)
  - “Subprime Panel” – Luke Godwin – Moderator & Speakers: Melinda Judy, CPS (Consumer Portfolio Services, Inc.) & Kevin Blankenship, Sr. Account Manager Virginia Westlake Financial Services (Peacock Ballroom)

- 12-3pm EXPO – Lunch Buffet with Exhibitors (Peacock Ballroom)
- 12:30pm Buffet Start
- 12:45pm Special Speaker, Laura Baxter Armed Services, YMCA
- 1:00pm Second Speaker Presentation by Dale Fisher
- 1:15pm Ladies Auxiliary Auction
- 3-4pm **Concurrent Educational Sessions – Dealer's Choice**
- “Auction Technology Overview: Online Auctions are Here to Stay” – Andrew Wiley, CMD & Moderator;

- Panelists: Stu Zalud, Becky Hall, Dave MacLaury (Peacock Ballroom)
- “The Millennial Marketing Toolkit” – Cody Healy (Courtney Terrace)
  - “8 Sales Best Practices for Retail & BHPH Operations” – Justin Osburn (Spotswood Arms)
- 4-5pm **Concurrent Educational Sessions – Dealer's Choice**
- “Establishing Your Line of Credit: What does the Future Hold?” – Paul McIntosh (Courtney Terrace)
  - “How to Hire Sales People and Train them Properly” – Tracy Myers (Spotswood Arms)
  - “Building a Successful Collections Process” – Luke Godwin (Princess Anne)

- 6-7pm Grand Banquet Reception & Cash Bar (Peacock Ballroom Prefunction)
- 7-9pm Grand Banquet Dinner (Peacock Ballroom)
- Sponsor: Manheim Fredericksburg & Manheim Harrisonburg**
- 9-11pm Grand Banquet Hospitality Room (Albemarle Hall)

### SUNDAY, OCTOBER 6

- 9-10am Sunday morning worship/fellowship – By Tim Byrd (Princess Anne)
- 11am Hotel Checkout





# JOIN US!



OCEANFRONT HILTON VIRGINIA BEACH

**THE VIADA ANNUAL CONVENTION & EXPO** is the premier education and networking forum for dealers all over the state of Virginia. Showcase your services and products directly to your market segment and show the way your products/services benefit the independent dealer. Your products help the dealers be more successful.

## BE ONE OF THE ELITE AT THE 2019 CONVENTION & EXPO: EXHIBITOR & SPONSORSHIPS ARE AVAILABLE!

Convention exhibitors and sponsors are recognized with extensive marketing exposure before, during, and after the Convention & Expo.

**EXPOSURE INCLUDES** web display, magazines, annual directory, district meetings and emails. Take advantage of this event and expand your customer base with independent dealers in the Commonwealth.

Any of the sponsorships may be co-sponsored!

**FOR MORE INFORMATION OR FOR QUESTIONS,** contact Alvin Melendez at (800) 394-1960 or [alvin@viada.org](mailto:alvin@viada.org).

We look forward to seeing everyone at this year's event!

CHECK IT OUT AT [VIADA.ORG/CONVENTION-AND-EXPO](http://VIADA.ORG/CONVENTION-AND-EXPO)

### HOTEL RESERVATIONS:

**TO MAKE RESERVATIONS,** please call the Hilton at (757) 213-3000 or visit [viada.org/convention-and-expo](http://viada.org/convention-and-expo).

All guestroom rates are subject to state and local taxes, currently 14% plus \$2 occupancy tax per room per night. Check in is 4:00pm. Check out is 11:00am.

### GROUP RATES:

Single/Double (city view) – \$149 per night  
Single/Double (ocean view) – \$169 per night  
Rate is good 3 days before and after based on availability.



The Ladies Auxiliary Charity Auction would love to have

## A basket from you!

The Ladies Auxiliary is soliciting vendors to create gift baskets for the annual Charity Auction to be held on Saturday at 2:00pm.

Select a basket or container (cooler, large tote, etc.), and fill it with goodies that pertain to a theme or local flavor.

Questions? Contact [alvin@viada.org](mailto:alvin@viada.org)



# 2019 VIADA CONVENTION EDUCATION SESSIONS

## **Branding & Marketing Strategies for Independent Dealerships in 2020**

**Tracy Myers, CMD, Frank Myers Auto Group/America's Most Liked Dealer Services**

Tracy is an award-winning small business marketing and branding solutions specialist, car dealership owner, best-selling author, Emmy-winning movie producer, speaker, business coach, wrestling promoter and entrepreneur. Car buyers have more choices than ever, the Internet has leveled the playing field, and it seems that every dealer is trying to price their vehicles lower than everyone else. In this session you will learn the secrets to buying TV advertising cheaper than you ever thought possible, how to write attention-grabbing ads that car buyers can't resist, mastering the art form known as the "irresistible offer," learning the secret ingredient to successful marketing and more.

## **Combating the New Age of Consumer Fraud**

**Shaun Petersen, NIADA Senior Vice President, Legal & Government Affairs**

Dealers should leave this session with an understanding of what types of fraud can occur, how it will impact the dealership, and what the dealers must do to appropriately react.

## **Welcome to YouTube – The New Frontier for Selling Cars**

**Ronald Heider, President of Heider Marketing & Advertising**  
Dealers will walk away with a greater understanding of YouTube, how its search results work and how to get found by car buyers who are using YouTube as a search tool. Dealers will learn how to create and optimize their channel; create, title & tag their videos; add in CTAs to the videos and drive traffic to their website.

## **Succession Strategies: Keep for Family or Sell to 3rd Party**

**Donald S. Hannahs, Senior Vice President of Wealth Enhancement Group**

Do you know if your dealership has value and how to receive value at retirement? Do your family members and/or key employees desire to operate it, or is a third-party sale a better exit strategy?

## **Everything You Need to Know about Facebook in 60 Minutes (BHPH & Retail)**

**Justin M. Osburn, NIADA Certified Master Dealer Instructor and Retail 20 Group Moderator**

Facebook is the number one, two, and three best advertising media and ROI created to date in the independent auto industry. However, many dealers and key leaders don't have the time or knowledge to understand and take advantage of Facebook's tools to compete. In this fun and interactive break-out, Justin M. Osburn will unpack the foundation of the Facebook tools you need to be aware of to make strategic advertising dollars in the future and increase leads while decreasing your ad budget.

## **Save More – Earn More: Expense & Income Management**

**Paul McIntosh, Senior Vice President Dealer Services Fulton Bank, N.A.**

**Donald Sullivan, Jr. General Manager of Sullivan Auto Trading**

Dealers will learn ways to increase your revenue by decreasing your expenses and manage your dealership's bottom line.

## **Don't Let Your Customer Walk! How to get them Financed Without Delay! [Panel Discussion]**

**Luke Godwin, Godwin Motors – Moderator, Melinda Judy, CPS (Consumer Portfolio Services, Inc.) & Kevin Blankenship, Sr., Account Manager, Virginia for Westlake Financial Services**

## **Establishing Your Line of Credit: What does the Future Hold?**

**Paul McIntosh, Senior Vice President Dealer Services for Fulton Bank, N.A.**

Dealers will learn ways to establish, manage, and grow your floorplan and other lines of credit.

## **The Millennial Marketing Toolkit**

**Cody Healy, National Sales & Marketing Director for Diamond Warranty Corp.**

Dealers will learn about Social & Digital Marketing Basics, Dealership Marketing 101, Establishing a Bulletproof Local/Statewide Brand, Video Marketing and Do's & Don'ts of Dealership Advertising.

## **18 Sales Best Practices for Retail and BHPH Operations**

**Justin M. Osburn, NIADA Certified Master Dealer Instructor and Retail 20 Group Moderator**

In this session, you will learn 18 current sales secrets that will increase your volume and gross profit, immediately. Justin works with dealers every day selling a range from 5 vehicles to 5,000 vehicles a month.

## **Auction Technology Overview: Online Auctions are Here to Stay [Panel Discussion]**

**Andrew Wiley, CMD Consumers Auto Warehouse – Moderator; Dave MacLaury, TradeRev; Becky Hall, Manheim; Stu Zalud, ACV Auctions**

After listening to industry experts, you will have another tool in your inventory tool belt. You should feel prepared enough to venture online and feel comfortable in searching for inventory. Once you get the chance to search around, you will see why so many dealers are now buying and selling online!

## **How to hire salespeople and train them properly**

**Tracy Myers, CMD, Frank Myers Auto Group/America's Most Liked Dealer Services**

Hiring people is easy, retaining the RIGHT people for the job is the key to long-term success. Tracy will walk attendees through the decision to hire, the science behind the words that work to get your ads seen, where to place your ads, using your career tab as a job board, proper interview, on boarding and retention of the most important thing in your dealership: your human capital.

## **Building a Successful Collections Process**

**Luke Godwin, Godwin Motors**

This session will help dealers build a process that leads to better collections at the dealership. We will walk through technologies that are helpful to contact customers and get them to pay. We will also discuss the advantages of building rapport and trust with your customers that will lead to fewer repos and more money in the bank. Lastly, we will look at historical data to determine future cash flow and how to use it to your advantage.

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### Greensboro Auto Auction

Chrissy Connor

chrissy@greensboroaa.com

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Greensboro, NC 27407

(336) 299-7777 x 2401

www.greensboroaa.com

## EXPO LUNCH BUFFER



### Abingdon Auto Auction

Joanna Anderson

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20216 Auction Dr.

Bristol, VA 24202



### VIADA Ladies Auxiliary

9079 Park Avenue

Manassas, VA 20110

(800) 394-1960



### Roanoke Auto Auction

Loren Bruffey

raaauto@aol.com

1540 Underhill Ave. SE

Roanoke, VA 24014

(540) 982-6640

## CONVENTION PROGRAM & TOTE BAGS



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Avoca, PA 18641

(877) 474-9462 x103

www.proguardwarranty.com

## GRAND BANQUET DINNER



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Craig Amelung

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www.manheim.com



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## GRAND BANQUET RECEPTION



### CliftonLarsonAllen

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## HOSPITALITY ROOMS



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www.diamondwarrantycorp.com

## PAST PRESIDENT'S PIN



### Fisher Auto Parts

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## REREGISTRATION



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www.dealerre.com

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# CONVENTION & EXPO SPONSORS

## QUALITY DEALER RING



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Districts 1, 3, 4, 7 & 8

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200 Pjebrook Place  
Orwigsburg, PA 17961  
(371) 671-2815

## ASSOCIATION AWARDS RECEPTION



### America's Auto Auction

Jerry Daisey  
Jerry.daisey@americasautoauction.com  
656 S Military Hwy.  
Virginia Beach, VA 23464  
(757) 487-3464

## MORE SPONSORS



### Bryan Buchanan Auto Auction

Bryan Buchanan  
Ronniebuck2@cox.net  
1062 Mountain View Church Rd.  
Motvale, Va 24122  
(540) 947-5594



### Radford Auto Auction

David Sale  
Raadavid.sale@gmail.com  
2500 Tyler Road  
Christiansburg, Va 24073  
(540) 639-9011

*Thanks to the sponsors who also donated after the publishing of this magazine.*

## TOMMIE C. MELENDEZ

dealer sales manager

(202) 760-1762 mobile

(855) 748-6243 fax

tommie.melendez@autofinance.com

### Area serviced

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*A Membership Application  
is on the inside back cover.*

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Greensboro Auto Auction, NC  
Greenville Auto Auction, NC  
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Tri Cities Auto Auction, TN

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Services. (Discount may NOT  
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# 2019 VIADA CONVENTION & EXPO EXHIBITORS



## ACV Auctions

Jesse Ball  
Jesse@acvauctions.com  
640 Ellicott St., Ste. 108, Buffalo, NY 14203  
(716) 983-7906  
www.acvauctions.com

### Table 22F

ACV Auctions saves money, extends your network of dealers and streamlines the wholesale process so you have more time for customers. It is designed to ensure there are NO surprises throughout impartial, comprehensive condition reports. Our full-service platform includes payments, titles, transportation and arbitration. Sign-up is quick, painless and FREE.



## Advance Professional

Suzie Torrice  
suzie.torrice@advance-auto.com  
105 Longview Ln., Spotsylvania, VA 22553  
(540) 287-0259  
www.advance-auto.com

### Table 2F

When it comes to our customers, we want to ensure you understand what our promise means to you: Professional quality parts, service and solutions dedicated to their shop. We offer fast and accurate delivery with the industry's largest fleet, utilizing a national standard parts catalog allows us to provide faster service, and improved forecasting tools to provide better inventory replenishment.



## AFC (Automotive Finance Corporation)

Stephanie Freeman  
stephanie.freeman@autofinance.com  
13805 Hamilton Crossing Blvd., #300  
Carmel, IN 46032  
www.afcdealer.com

### Table 19

AFC provides inventory finance solutions to more than 12,000 independent automotive dealers across the U.S. and Canada.

With more than 120 local branches, our team is always just one call, text, or visit away. For more info about AFC's floor plan solution, visit [www.afcdealer.com](http://www.afcdealer.com).



## AUL Corp.

Gina Felix  
gfelix@aulcorp.com  
1250 Main St., Ste. 300, Napa, CA 94559  
(800) 826-3207 x 221

### Table 4

AUL founded the Original Any Year-AnyMileage® service contract in the industry over two decades ago, and we continue to fulfill our mission in providing leadership for this industry. AUL's mission is to be the premier national service contract administrator, as measured by any quantifiable business activity.



## BSC America/Bel Air Auto Auction

Craig Rice  
crice@bscamerica.com  
4805 Philadelphia Road  
Belcamp, MD 21017  
(757) 769-4221  
www.bscamerica.com

### Table 18

Premier independent auto auction running 2000+ units weekly. Featuring power-sports, truck & equipment sales monthly.



Dealership Management & Marketing Software Solutions

## Commercial Software, Inc. (ComSoft)

Chip Cooper  
chip.cooper@comsoft.com  
5214 Western Blvd, Raleigh, NC 27606  
(919) 851-2010  
www.comsoft.com

### Table 24

ComSoft specializes in Dealership Management & Marketing Software. Our flagship product, MonyMaker®, includes:

deal paperwork processing, inventory control, buy-here-pay-here and lease-here-pay-here tracking, management reporting & compliance tools. We offer integrated dealership websites as well as 3rd party marketing feeds. Visit [comsoft.com](http://comsoft.com) or call 1-800-849-3838.



## DealerRE

Tim Byrd  
tim@dealerre.com  
7319 Martin St., Ste. #4  
Gloucester, VA 23061  
(804) 824-9533  
www.dealerre.com

### Table 16

DealerRE specializes in formation and managing reinsurance companies for franchise, independent, and BHPH dealerships. Your reinsurance company, a separate entity from your dealership, can write contracts and policies like warranties, vehicle service contracts, debt cancellation coverage, collateral protection insurance, etc., and keep the profit in-house, cutting out the 3rd party.



## Diamond Warranty Corporation

Jim Limongelli  
jlimongelli@diamondwarrantycorp.com  
1492 Hwy. 315, Wilkes Barre, PA 18702  
(800) 384-5023  
www.diamondwarrantycorp.com

### Table 26

Great products and service starts with great people. With over a century of combined experience in the automotive space, Diamond Warranty is an industry-leading extended warranty provider to new and independent dealerships since 2006. Our portfolio contains world-class Vehicle Service Contracts, Gap Insurance, and Ancillary products backed by Am Trust Financial.



### Fisher Auto Parts

Craig Laferty  
 craig.laferty@fisherautoparts.com  
 512 Greenville Ave., Staunton, VA 24401  
 (540) 480-5632  
 www.fisherautoparts.com

#### Table 6

Our experienced staff will assist you in a professional and timely manner and find the right part for you every time. Our sophisticated network of distribution centers will guarantee you have quick availability to parts, even hard-to-find parts. We trust the quality and reliability of our brands and stand behind what we sell.



### Frazer Computing

Mike Kaye  
 mikekaye@frazer.com  
 P.O. Box 509, Canton, NY 13617  
 (315) 379-3520  
 www.frazer.com

#### Table 9

Frazer is a leading provider of Dealer Management Software for independent used car dealers with over 20,000 users nationwide!



### Howard Friedman

howard@friedman-insurance.com  
 233 Business Park Dr., #200  
 Virginia Beach, VA 23462  
 (757) 420-9600  
 www.friedman-insurance.com

#### Table 12

Insurance for used car operations including worker's compensation



### Fulton Bank

Paul McIntosh  
 PMcIntosh@fult.com  
 9030 Stony Point Parkway, Ste 200  
 Richmond, VA 23235-1948  
 (804) 565-4401 Direct (internal x15401)  
 www.fult.com

#### Table 27F

Fulton Bank has earned a reputation as leader among regional commercial banks in the Dealer Services Industry. Our team

of Indirect and Floor Plan bankers can help you with a full suite of products including -- real estate lending, inventory floor-plan solutions, cash management, merchant services, and more. Contact us today at 804.497.6746. Fulton Bank, N.A. Member FDIC. Loans are subject to credit approval.



### Gantt Insurance

Ryan Stefanko  
 ryan@ganttagency.com  
 180 E. 3rd St., Farmville, VA 23901  
 (804) 301-9123  
 www.ganttagency.com

#### Table 11

Gantt Insurance is a full-service insurance agency specializing in dealer bonds, dealer insurance, workmans comp, property, towing policies.



### Guernsey Inc.

Jake Mages  
 JakeM@buyguernsey.com  
 45070 Old Ox Rd Dulles Va 20166  
 703-470-8921

#### Table 8

Guernsey Inc. is an independently owned and operated provider of office products, copy paper, toners, ink, break-room supplies, furniture, janitorial and facilities supplies and promotional products.



### Heider Marketing & Advertising

Ronald Heider  
 rheider@hmaads.com  
 4663 Haygood Rd., #213  
 Virginia Beach, VA 23455  
 (757) 447-4987

#### Table 23F

HMA is a marketing management agency providing advertising, traditional media, social media and digital media services to car dealers. We know cars, consumers and how to drive traffic in today's hyper-competitive and media-saturated environment. Our mission is to help you sell more cars for less money.



### IAC, Inc.

Thomas LoRicca  
 tloricca@iacccredit.com  
 138 Orange St., New Haven, CT 06510  
 (203) 772-0220  
 www.iacccredit.com

#### Table 10

Auto Finance Specialist - we finance auto dealer customers - non-prime lender



### Manheim Fredericksburg

Craig Amelung  
 craig.amelung@manheim.com  
 120 Auction Dr., Fredericksburg, VA 22406  
 (540) 368-3400  
 www.manheim.com

#### Table 1F

Manheim® is North America's leading provider of end-to-end wholesale solutions that help dealer and commercial clients increase profits in their used vehicle operations. Through its physical, mobile and digital sales network, Manheim offers services for inventory management, buying and selling, floor planning, logistics, assurance and reconditioning. Manheim Marketplace enables wholesale vehicle clients more efficient ways to connect and transact business how and when they want. 18,000 team members help Manheim offer 8M vehicles annually, facilitating transactions representing nearly \$58B in value.



### NextGear Capital

Lori Kahre  
 Lori.kahre@coxautoinc.com  
 11799 North College Ave.  
 Carmel, IN 46032  
 (317) 428-7037

#### Table 17

NextGear Capital is the world's most comprehensive and innovative provider of lending products for vehicle dealers and auctions. NextGear Capital empowers dealers to floor plan vehicles from anywhere, at any time. NextGear Capital lines of credit can be used for a variety of

purchases Retail, Wholesale or Salvage.



Common Sense Loans at Uncommon Speed®

### Professional Financial Services

Meredith Brown

Meredith.brown@pfs-corp.net

Spartanburg, SC 29304

864-237-5272

#### Table 3

Visit Booth #3 to learn how Professional Financial Services (PFS) can provide you and your customers Common Sense Loans At Uncommon Speed®. We have local branches, local buyers, and provide fast funding. Our team is on hand to walk through the PFS program and how we're the perfect partner for your dealership. Ready to talk finance?



### ProGuard Warranty

Gus Baloga

gbaloga@proguardwarranty.com

407 McAlpine St., Avoca, PA 18641

(877) 474-9462 x 103

www.proguardwarranty.com

#### Table 25F

ProGuard Warranty is a 3rd-generation, family-owned business offering high quality vehicle protection plans and the best service in the industry. We offer inventive processes and easy to use tools that simplify sales and unique revenue streams for enhance profitability. Our commitment to meeting the specific needs of each dealership is evident in our flexibility, transparency and accessibility.



### PTS GAP

Krystal Black

Krystalb@ptsfinancialservices.com

706-602-0597

113 North Park Avenue Calhoun, GA 30701

#### Table 21

Free GAP Program for Dealers! Stop chasing customers for money after a total

loss. Put them into a new ride instead with PTS GAP. GAP by the week, bi-week, or month with NO DOWNPAYMENTS! Contact us today at 706.602.0597 Ext: 797



### PWI Preferred Warranties Inc.

Elise Johns

Elise.johns@karauctionservices.com

200 Pjebrook Place

Orwigsburg, PA 17961

371-671-2815

#### Table 20

PWI offers extended service contract protection plans for pre-owned vehicles throughout the United States. From the smallest budget to the widest range of coverage, PWI has a plan to meet every dealer and customer's needs.



### RE CLEAN

Donald Gattshall

info@recleanwax.com

2717 Sonic Drive

Virginia Beach, Virginia 23453

757-513-4962

www.recleanwax.com

#### Table 13

Forty-five years ago, the Townley and Gattshall families came together with the thought of changing the automotive cleaning industry. Our plan was to supply professionals with the best cleaners on the market that would not only provide maximum results, but also save time, (and money), with the use of them. We do so by delivering the highest quality results for our clients, while saving them time, money and work with their use



### REPAY

Mike Kuhn

mkuhn@repay.com

3 West Paces Ferry Road, Ste. 200

Atlanta, GA 30305

(404) 504-7472

www.repay.com

#### Table 31

REPAY's scalable and integrated white-labeled custom payment solutions can add an instant arsenal of payment technology without large development costs or

infrastructure investments. Using the most secure and advanced technology available, REPAY enables clients to simplify the payment process, increase profits and add value to their customers' payment experiences.



### Richmond Auto Auction

Diane Smith

dsmith@richmondada.com

3600 Deepwater Terminal Road

Richmond, VA 23234

(804) 232-7355

www.richmondada.com

#### Table 7

Richmond Auto Auction runs every Friday morning, featuring bank and credit union repossessions, GSA, government, city, and state assets, franchise/new car dealer inventory, and more. Buy and sell in-lane or online through Edge Pipeline, OVE, Open Lane, and Smart Auction.



### Service Champ

Amanda Bell

abell@servicechamp.com

10153 S Spotted Owl Ave

Highlands Ranch, CO 80129

919-606-2077

#### Table 14

Service Champ is a leading distributor of vehicle Maintenance parts and accessories for quick lube shops and now growing distributor for general repair shops and independent dealerships. Our principle product lines include oil, air, and fuel filters, wiper blades, chemical additives, shop supplies and tools at competitive prices.





#### Solera TitleTec

Diane Zewalk  
Diane.zewalk@titletec.com  
1301 Solana Blvd  
Building 2, Suite 2100  
Westlake, TX 76262  
919-909-7110

#### Table 28F

Manual paperwork is tedious and significantly impacts your efficiency. Electronic Titling replaces those manual processes with a web-based, digital titling solution that streamlines the titling process and gets your customers on the road quickly. And our Nationwide Auto Titling (NAT) solution automatically calculates taxes and fees for every vehicle you have to title, no matter which state it's going to.



#### STARS GPS

Allen Douglas  
adouglas@stars-gps.com  
P.O. Box 10, Thomasville, NC 27361  
(336) 476-7828  
www.stars-gps.com

#### Table 15F



#### Patty Sullivan Auto Trading

Jason Foster  
JLFoster114@gmail.com  
95 S Gateway Dr  
Fredericksburg, Virginia 22401  
412-995-0591  
**Table 30F**  
The Sullivan Transport Division is committed to service and honest communication to our customers at all times. We have served the Mid-Atlantic region for 25 years. Our efforts to do what we promise when serving our customers has been the tremendous level of success at Sullivan Transport. Contact our team manager Jason Foster direct 412-995-0591. Office 540-654-5200



#### Vehicle Acceptance Corp.

Lisa Evans  
levans@vacorp.com  
4121 Cox Road, Ste. 106  
Glen Allen, VA 23060  
(804) 297-4400  
www.vacorp.com

#### Table 5

Vehicle Acceptance Corporation offers inventory financing to the independent used car dealer. With 25 years of experience, 9 offices and services offered in 43 states, we are here to help all dealers with their Floorplan and cash flow needs.



*Find a VIADA  
Membership  
Application on  
page 25.*



## Exciting New Partnership Announcement for VIADA and CarDoozy

VIADA is thrilled to announce we have teamed up with CarDoozy to offer all VIADA members over 700 really great products that dealers regularly use in their daily business. Get the best price on products such as banners, flags, floor mats, key tags, stickers, forms, folders and much more!



### Save money on dealer forms and supplies.

#### Supplies your dealership needs:

Balloons | Banners & Flags | Books | Floormats  
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Promotional | Protective Covers | Stickers & Decals  
Supplies | AND MORE!

Visit [VIADA.ORG](http://VIADA.ORG) to learn more.



# LEGAL MUSINGS



SHAUN PETERSEN  
NIADA'S SENIOR VICE  
PRESIDENT OF LEGAL  
AND GOVERNMENT  
AFFAIRS

I played a lot of sports growing up and had some colorful coaches along the way.

Each of them had his own way of motivating and, when necessary, correcting. Some were humorous, some were loud, some were blunt and some were sarcastic.

No matter how they did it, though, criticism of performance was never something I welcomed warmly.

None of us wants to be criticized, especially when we believe our performance didn't warrant such feedback. But sometimes we just have to grin and take it.

At least that's what the United States Congress thinks.

In December 2016, Congress passed and President Obama signed the Consumer Review Fairness Act, which prohibits businesses from using form contract provisions that bar consumers from writing or posting negative reviews online, or threatening them with legal action if they do.

The law defines those form contracts as those used in selling or leasing goods or services, using standardized terms that are imposed on an individual without a

meaningful opportunity for the individual to negotiate those standardized terms.

The CRFA gives enforcement authority to the three entities: the Federal Trade Commission, state attorneys general and any other authorized state consumer protection official.

Though there is no private right of action in the CRFA, plaintiff's attorneys are not afraid to bring lawsuits against companies claiming violations of a federal statute such as this are unfair and deceptive practices under their state laws – most of which have statutory penalties and attorney's fees.

The FTC has been very active recently in bringing cases against companies trying to restrict negative criticism from their customers.

In a little over a month, the FTC has brought enforcement cases against 5 companies for a number of alleged violations of the CRFA. Among them:

- An HVAC company included non-disparagement text in form contracts offered to customers in the course of selling their goods and services that said: 1) "CUSTOMER and COMPANY agree that the within contract is a private and confidential matter and that the terms and conditions of the contract ... shall not be made public or given to anyone else to make public, INCLUDING THE BETTER BUSINESS BUREAU"; and 2) "Should the CUSTOMER breach this confidentiality clause, the CUSTOMER agrees to pay COMPANY liquidated damages. ... THE COMPANY MAY ALSO BE AWARDED COUNCIL [sic] FEES AND COSTS AS REQUESTED BY COMPANY."
- A flooring company's form contracts, offered to thousands of consumers, included language such as: "By signing this purchase order you are agreeing, under penalty of civil suit ... not to

publicly disparage or defame National Floors Direct in any way or through any medium."

- A recreational horseback riding company's contract included: "1) CONFIDENTIALITY/NON DISPARAGEMENT – I agree not to call Animal Control or any governmental agency or individuals if there is a discrepancy to how the horses/animals or property are taken care of. You will be charged a minimum of \$5,000 in damages if you report anything or making contact [sic] with any persons or agency or by having another individual(s) do it on your behalf"; and 2) I agree to our non-disparagement and protection of reputation clause. For the purposes of this Section, 'disparage' shall mean any negative statement, whether written or oral including social media about our Company, Volunteers, Owners, Representatives, etc."
- A vacation rental property company included a "disclaimers" paragraph in form contracts offered to consumers that included: "By signing below, you agree not to defame or leave negative reviews (includes any review or comment deemed to be negative by a Shore to Please Vacations LLC officer or member, as well as any review less than a "5 star" or "absolute best" rating) about this property and/or business in any print form or on any website..." In addition, the contract stated, "Due to the difficulty in ascertaining an actual amount of damages in situations like this, breaching this clause ... will immediately result in minimum liquidated damages of \$25,000 paid by you to Shore to Please Vacations LLC."
- A property management company used contracts that contained an "authorization, agreement & release consent form" that included prohibited language such as, "The Applicant ... specifically agrees not to disparage [Staffordshire], and any of its employees, managers, or agents in any way, and also agrees not to communicate,

publish, characterize, publicize or disseminate, in any manner, any terms, conditions, opinions and communications related to [Staffordshire], this application, or the application process...” It also said prospective renters specifically agree that “[a]ny breach of such confidentiality will support a cause of action and will entitle [Staffordshire] to recover any and all damages from such a breach.”

If you are thinking you want to prevent that annoying customer from teeing off on you on Google reviews or any other medium, think again!

What should you do?

Review your contracts for any language that looks like those the examples above and get rid of it. And read through the FTC’s free CRFA compliance guide for the dos and don’ts.

If needed, review it all with your lawyer – and be prepared to grin and take it. ■

## VIADA ANNUAL BUSINESS MEETING

**Friday, October 4, 2019 | 7:30 – 9:00pm**

**Hilton Virginia Beach Oceanfront (Peacock Ballroom)**

This meeting is open to all current VIADA members. You have a vote in the future of VIADA (one vote per membership)!



### ELECTION OF STATE OFFICERS

At the July meeting, the Board of Directors approved the following slate of officers to be presented and voted on by current VIADA members. The vote will take place during the annual Business Meeting on Friday, October 4 at the Convention & Expo. Officers will be installed Saturday evening at the Grand Banquet.

**Chairman** - Brad White, Mike Witt Auto, Salem

**President** - Donald Sullivan, Sr., Sullivan Auto Trading, Inc., Fredericksburg

**President** - Elect - Andrew Wiley, Consumers Auto Warehouse, Inc., Staunton

**Vice President** - Sajal Narayan, Best Bet Motor Sales Corp., Amherst

**Vice President** - Al Abady, Ellas Auto Outlet, Inc., Woodford

**Vice President** - Matt McMurray, CMD, Campus Automotive, Inc., Blacksburg

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# ARE YOU PROPERLY VETTING YOUR SERVICE PROVIDERS?

By Eric L. Johnson

I'm frequently asked by dealer clients to speculate about whether they have their compliance house in order simply based on what DMS provider, underwriting or scoring system provider, or forms provider they use. "I'm using all of these great and well-known companies in the marketplace," they'll say. "What else can I do?" Well, a recent action by the Federal Trade Commission sheds more light on dealerships' use of service providers and should serve as a warning to dealers to properly vet (and continue to vet) their service providers.

The FTC has accepted, subject to final approval, a proposed consent order with a DMS provider, LightYear Dealer Technologies, LLC, doing business as Dealer-Built, for allegedly "fail[ing] to implement readily available and low-cost measures to protect personal information it obtained from its auto dealer clients." This failure, the FTC claimed, "led to a breach that exposed the personal information of millions of consumers."

Here's what the FTC claims happened. The DMS provider had approximately 180 customers, which comprised nearly 320 dealership locations. The customers were large dealerships with multiple storefronts and hundreds of employees, along with dozens of small businesses with just a handful of employees. The DMS reportedly stored personal information about more than 14 million individual consumers.

The FTC alleged that the DMS provider directed a company employee to buy a storage device and attach it to the provider's backup network. The storage device wasn't securely configured, creating an open connection port that allowed transfers of information for approximately 18 months. Beginning in late 2016 and continuing for at least 10 days, a hacker gained unauthorized access to the backup

database through the unsecured storage device, including the unencrypted personal information of around 12.5 million consumers stored by 130 customers. The hacker attacked the system multiple times, downloading the personal information of more than 69,000 consumers and the entire backup directories of five customers.

That's not all. The provider's insecure settings were indexed on Shodan, a publicly available website that hackers may use to locate insecure Internet-connected devices, meaning that other hackers also could gain access to the information. What was stolen? Customers' full names and addresses, telephone numbers, SSNs, driver's license numbers, and dates of birth, as well as the wage and financial account information of dealership employees. Just the type of information a thief needs to commit identity theft and fraud.

The DMS provider learned of the breach and notified its dealership customers and then affected consumers. Dealerships received complaints about the breach and, in some cases, had to hire lawyers to help them notify their customers.

The FTC brought the administrative complaint against the DMS provider and alleged that it was a "financial institution," subject to the Gramm-Leach-Bliley Act, because it is "significantly engaged in data processing" for auto dealerships that extend credit to consumers. The FTC also alleged that because the provider collected nonpublic personal information, it was subject to the FTC Safeguards Rule.

The FTC alleged that the DMS provider violated the Safeguards Rule in multiple ways, such as by failing to "develop, implement, and maintain a written information security program"; by failing to "identify reasonably foreseeable internal and external risks to the security, con-

fidentiality, and integrity of customer information and fail[ing] to assess the sufficiency of any safeguards in place to control those risks"; and failing to "design and implement basic safeguards and to regularly test or otherwise monitor the effectiveness of such safeguards' key controls, systems, and procedures."

The FTC complaint further alleged that the provider's failure to employ these reasonable measures to protect personal information caused or is likely to cause substantial injury to consumers and constituted an unfair act or practice under the FTC Act.

So, is it your responsibility to properly vet and oversee your service providers? In a word, yes. You should carefully review your responsibilities under the FTC's Safeguards Rule. These responsibilities include taking reasonable steps to select and retain service providers that are capable of maintaining the appropriate safeguards for customer information and requiring them by contract to implement and maintain those required safeguards.

Sounds like another discussion you need to have with your friendly lawyer. ■

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# FEDS: FAKE FIN. CO. SCORED 80 AUTO LOANS WORTH \$1.7M

By FI Staff

Michael Miller and Melvin Goode Wentt have been sentenced for their roles in a bank fraud conspiracy involving seven defendants, over 80 fraudulently obtained auto loans, and \$1.7 million in bank and credit union losses, according to the U.S. Attorney's Office for the Northern District of Georgia.

Four other co-defendants previously pled guilty. One defendant is awaiting extradition from the United Kingdom.

"These defendants' 'creative financing' company specialized in 'auto loan conversions,' which was simply fraud," said U.S. Attorney Byung J. "BJay" Pak. "This scam was designed to trick lenders, which in this case were mostly credit unions, into granting loans for sham car sales. While the businesses in their scheme may have been make-believe, the federal sentences they received are very real."

Pak said the defendants and their co-conspirators started the fraud scheme by incorporating businesses that, by name, appeared to be auto dealerships but, in fact, were just shell corporations. These fake companies had names like "Premier Luxury Motors," "Platinum Motors Auto Sales," and "5-Star Motorsports," but they had no employees, no cars, no car lots, and no dealership licenses.

After establishing the fake companies, the conspirators recruited individuals to apply for car loans with banks and credit unions. The loan applicants would claim that they were purchasing a car from one of the fake companies and would supplement their applications with fake vehicle purchase orders created by the conspirators.

If a loan check was issued to the loan applicant, the proceeds would be deposited

into financial accounts opened by the conspirators and held in the names of the fake companies. The conspirators and the loan applicants would then split the money and never repay the loan — and there were no cars to repossess.

**AT LEAST SIX  
CO-CONSPIRATORS WILL  
SERVE UP TO 57 MONTHS  
IN FEDERAL PRISON FOR  
OPERATING A FAKE AUTO  
FINANCE COMPANY  
THAT NETTED ABOUT \$1.7  
MILLION IN LOANS FOR  
NONEXISTENT VEHICLES.**

The scheme spanned approximately four years. Over that time, the conspirators sought over 80 auto loans, totaling approximately \$2.7 million in attempted fraud, successfully obtaining about \$1.7 million.

Miller and Goode Wentt will serve 24 and 34 months, respectively, plus three to five years of supervised release; there is no parole in the federal prison system. Other co-defendants earned sentences ranging from three years' probation to four years and nine months in prison and restitution collectively totaling more than \$3.1 million. ■

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QUESTIONS?  
Call 800-394-1960 or Email [info@viada.org](mailto:info@viada.org)

# A PROPER PERSPECTIVE

By Tim Byrd, Founder and CEO of DealerRE

From Alabama just a few short years ago came the devastating news that one of our own, Todd Smith of Dothan Motor Company, Dothan, AL had died suddenly at the age of 47.

Last year from Georgia we heard that Billy Graham of Graham Automotive, Loganville, GA passed away without warning. Leaving us all stunned.

August 10th my wife, my son, our office manager, myself and dealers from all across the Carolinas, sat and listened as Steve Matthews of Matthews Motors, Clayton, NC was sworn in as President of the Carolina Independent Automobile Association. He gave such a stirring speech. Tuesday August 12th he was gone.

As I reflect on these men's lives, I see a common thread. More than the obvious fact that they were all in the car business, or that they all three died young. These men stood out. Not just in their communities, but also

in their State. They were known nationally in the car business. There is a reason for that.

I would like to share a little about each of them so that you can clearly see what I see and what will hopefully help you in your journey through this life.

In 1993, Todd Smith moved back to Dothan to join the family business Dothan Motor Company, which his grandfather started in 1946. With a great sense of family heritage, he eventually took the helm of the business from his father and uncle and grew it from nine to more than forty employees. Todd's life mission was to add significance to the lives of all people he came in contact with - family, friends, business associates, and strangers. He viewed his work as one opportunity for carrying out this mission. He also saw it as his greatest tool for spreading the love of Jesus Christ to the world around him. He wanted DMC to succeed so that he could, through financial support, add

significance to the lives at the Ethiopian orphanage that captured his heart in 2012, as well as other organizations that spread God's love. Any description of Todd would be incomplete if it did not include that he was a man of integrity who loved the Lord with all of his heart. His heart's greatest desire was to be "a man after God's own heart," and to hear God say, "Well done, my good and faithful servant."

Billy Graham's son writes, Dad was a man of kindness, discipline, and integrity, but also one that tried not to take himself too seriously. During his 3rd and final fight with cancer 7 years ago when he was at Thomas Jefferson University Hospital in Philadelphia. It was the toughest time in my life up to the day he passed. Yet, it allowed me to see my dad for the man he was. He was scared for sure, we all were. But he showed courage, strength, patience, and perseverance. Qualities that I can only hope to have if I ever face a similar situation. It taught me  
*Continued on page 19*



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the kind of man I should strive to be. It also reminded me why he loved the car business as much as he did. The day after his surgery he was devastated that he lost his eye. One of his friends in the car business remarked, without missing a beat, "Billy, I don't know why you're so upset, I mean you had two of them" - that humor was exactly what he needed to know he was going to be okay.

Steve Matthews, The Walkin' Man's Friend. Steve was described as a loving, generous man who loved people. Steve founded the Christian used car dealership at the Clayton location in 1994 with "three cars and a boat". He opened the Wilmington location in 2017. Each of the dealership locations are deeply involved in giving to local organizations, with the Wilmington location giving thousands of dollars to local churches. According to the dealership website, \$20 from each car sale in Wilmington is given to a local church. Anyone who ever met Steve, will agree, he was a man of integrity who always followed the golden rule; Treat others as you want to be treated. In the last speech he would ever give two days before his death, Steve said, "In everything I ever did in life, I wanted to be the best at it." He then opened his remarks in prayer, thanking God for all His many blessings. He asked God for help in being better citizens, better dealers, and for wisdom. Steve went on to speak of education for dealers and vowed to make that a platform for the coming year. "We can't wing it anymore".

When reflecting on tough times, Steve vowed that failure was not an option, but gave God the glory for helping them through. "We could not have done it without Him".

"If you do things the right way you will prosper. I promise."

These were men of integrity. Men of God who looked to Him for wisdom. They loved their families, but also, they loved their customers, their employees, their communities. They served them. Matthew 20:26 says "Whoever wants to be a leader must be your servant." They were leaders, because they knew how to serve. ■

# ECONOMISTS UNSURE OF RATE CUT'S EFFECT ON AUTO FINANCE

By Ted Craig

The recent quarter-point cut from the Federal Reserve is expected to help the used-car market by boosting the economy in general and making financing more affordable.

The Federal Reserve lowered its federal funds rate to a range of 2 percent to 2.25 percent.

"These rate cuts will help the economy," said Tom Kontos, chief economist for KAR Auction Services Inc.

"New- and used-vehicle sales and wholesale used vehicle prices will all benefit. In fact, lower payments in a payment-driven industry like automotive are always helpful."

Kontos said he was comfortable with the Fed holding interest rates, but he sees this as an "insurance move" to support continued economic growth.

Cox Automotive chief economist Jonathan Smoke said it was hard to predict where consumers rates would head after the cut. Smoke expects a moderate impact on auto finance, but less than other forms of finance.

Smoke explains that auto creditors have been risk averse all year and are unlikely to lower their finance rates by much. This has been especially true for subprime finance.

He did say auto finance rates have room to decline, but that will depend on risk tolerance.

Even if new-vehicle finance rates come down with the cut, Smoke said, it won't be enough to boost sales since new-vehicle prices remain at historically high levels.

There is still good news for dealers, Smoke said.

"The biggest immediate beneficiary of lower short-term interest rates in the auto industry will be dealers, as they should see an immediate reduction in the interest expenses, they pay for carrying inventory and for capital for infrastructure investments," he said. "Dealers saw investment expense rise with each Fed increase last year, and they have been contending with a perfect storm of higher costs across every major expense from inventory to interest to labor. ■

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## CASE OF THE MONTH

You are going to complain that the case we discuss this month has nothing to do with car credit, and you'll be right. The case does, however, have some very interesting lessons for a dealership facing a lawsuit alleging violations of state and/or federal consumer laws. Those laws almost always contain a definition of the term "consumer," that serve to limit claims that may be brought under them. Take a look at how that plays out in this case.

On behalf of Unifund CCR, LLC, Kohn Law Firm, S.C., sued John Burton to collect a credit card debt. Burton denied knowledge of the account.

Burton then sued Kohn and Unifund in federal district court, alleging that they violated the Fair Debt Collection Practices Act and the Wisconsin Consumer Act by suing him without first providing him notice of his right to cure the default. The state court ultimately dismissed the action against Burton based on his denial that he was the individual who had incurred the underlying debt.

The federal district court granted summary judgment for Kohn and Unifund on the FDCPA and WCA claims, finding that Burton failed to present sufficient evidence that the debt incurred on the credit card account was for personal, family, or household purposes, which is required to state a claim under those statutes. Burton appealed.

The federal appellate court affirmed the trial court's decision that Burton failed to create a triable issue of material fact that the credit card debt was a consumer debt. The appellate court first noted that a plaintiff can maintain an FDCPA claim, even if he contends that the underlying debt is not his, by showing that the debt collector treated him as a "consumer" allegedly owing a consumer debt. However, in such a case, the plaintiff must offer evidence to establish that the debt was a consumer debt incurred for personal, family, or household purposes. Next, the appellate court rejected all of Burton's arguments that the credit card debt was a consumer debt.

First, Burton argued that his own statements sufficed to show that this was a consumer debt. The appellate court found that, during the state court action, Burton represented that he had never applied for, had no knowledge of, and made no purchases on or payments toward the credit card account at issue. The allegation in his federal complaint stating that "[t]o the extent that [he] entered into a credit agreement ..., such agreement was entered into for personal, family or household purposes" was insufficient evidence to show that the debt was a consumer debt.

Second, Burton argued that Kohn and Unifund's treatment of the debt as a consumer debt was evidence that the debt was, in fact, a consumer debt. The appellate court found that the inclusion of FDCPA disclaimers in Kohn and Unifund's debt collection letters was insufficient evidence that the debt was a consumer debt because debt collectors may be exercising caution and including disclaimers on all communications with debtors simply to avoid any FDCPA liability.



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The appellate court also found that bringing the state court action against Burton in his personal capacity was also insufficient evidence that the debt was a consumer debt because an individual can be sued in a personal capacity for a business debt.

In addition, the appellate court found that it was of no importance that the collection letters were sent to Burton's home address because an individual can conduct business activities from his personal residence.

Third, the appellate court found that Kohn and Unifund's advertisement of their consumer debt collection services on their websites was not sufficient evidence that the debt they attempted to collect in this case was a consumer debt.

Fourth, the appellate court found that Burton could not rely on an email sent by the credit card issuer's employee that described the underlying account as a

"consumer account" because the email was inadmissible hearsay.

Finally, Burton argued that the billing statement listing purchases made with the credit card demonstrated that the debt at issue was a consumer debt. However, the appellate court found that the billing statements did not provide enough information for a trier of fact to conclude that the purchases were made for personal, family, or household purposes.

Here, the creditor successfully avoided liability by arguing that the plaintiff did not meet its burden of showing that the debt at issue was a consumer debt.

Some laws and regulations contain other helpful definitions and limitations that can serve to protect your dealership. As examples, some laws do not apply to credit extended to businesses or corporations, while others don't apply if the underlying transaction involved a dollar amount above a stated ceiling.

In short, just because a buyer claims you have violated a consumer law or regulation, it's not necessarily so!

*Burton v. Kohn Law Firm, S.C.*, 2019 U.S. App. LEXIS 23802 (7th Cir. (E.D. Wis.) August 9, 2019) ■

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