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Chairman’s Corner

Dear Colleagues,

As an introduction to this season’s PAAutomotive Magazine, I’d like to invite you to consider joining PAA in Bermuda this October. If you’ve never attended a PAA Fall Conference, you are certainly missing out. The Conference is a great opportunity to spend time with your fellow dealers in a relaxing setting, and this year’s speakers are sure to be informative and entertaining. There is still time and space, but you need to register today.

Once again, with lightening speed, the legislative staff was able to get the Board of Vehicles Act amendments passed. In February, the PAA Legislative Committee outlined the legislative priorities of Pennsylvania’s dealers and by the beginning of July the Governor was signing it into law. More information on the legislative process can be found in Mark Stine’s article “The Tea Party Under the Big Tent”, and Peter Bauer discusses the stay of chargeback in his article on manufacturer audits.

Our legislative successes are made possible by having a strong PAC. As we near the end of the 2011 campaign, I ask dealers to look at their past PAC contributions and think about the many things these funds achieve for us. Please consider contributing or increasing your contribution to our PAC, which participates in state races, and to NADA’s DEAC, which assists with federal elections. These donations go directly to support elected officials who are supportive of our industry.

Finally, I’d like to draw your attention to Melanie Bible’s article on QR codes. Staying up-to-date with technology has become an important part of our business, can increase profitability, and connects us to our customers. Many people still don’t know what these codes are but dealers are going to see them soon on the new MPG label and should be able to explain to inquiring customers what they are and how they work. PAA strives to stay current with burgeoning technologies. Recently, they began launching new video Broadcast Bulletins, joined Facebook, and they offer websites that can get our questions answered and supply our dealerships with desired products and necessary training.

You can find almost everything you need online at www.paa.org, including registration information for the PAA Fall Conference. I hope to see you there.

Sincerely,
Gregg A. Semel

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The Republican domination scenario of the 1990’s appears very similar to that of today - particularly the part where the mid-term elections resulted in the party out of power in Washington realizing significant gains due to popular dissatisfaction with an ambitious White House pursuing a controversial, and increasingly unpopular, agenda. In 2011, we simply substituted 1994’s ‘President Clinton’ with 2010’s ‘President Obama,’ and 1994’s ‘universal health care’ with 2010’s ‘stimulus spending’. Oh, and, once again, ‘universal health care’.

In those years, the Republican monopoly on political power in Pennsylvania was characterized by cooperation and the sharing of priorities by the Executive and...
Legislative branches of government as well as, illustratively, eight years of balanced state budgets enacted on time – occasionally several weeks before the June 30 deadline called for in the state Constitution. Many hopeful pundits projected that a similar Republican alignment after the 2010 elections would result in comparably smooth sailing.

Seems Like Old Times – But They’re Not.....

The ‘smooth sailing’ analogy for the 2011-12 legislative session has already fallen by the wayside among Harrisburg’s political observers – especially after witnessing an extremely contentious budget season that pitted the House against the Senate, and both chambers against the Governor.

Instead of smooth sailing, what has emerged is the imagery of a bumpy ride – with little relief in sight. But, why the dissimilarity? Why wouldn't Republican rule in 2011 directly mirror the experience of the 1990’s?

There are several factors that explain history not repeating itself. Specifically, the current economic and political backdrops in Pennsylvania have some fundamental differences with those existing in 1995.

Difference Number 1: Money – The state government was awash in money during most of the Ridge administration. The economy was strong and tax revenues were plentiful. Therefore, when tough votes were called for (for example, the raising of the gas tax in 1997), ample resources were readily available to secure an adequate number of votes for passage. No matter what party affiliation they ascribe to, nothing encourages a legislator to support a potentially controversial proposal more than having a road project or similar economic development initiative in their district provided for in the state budget. Hundreds of millions of dollars were spent on such projects (most of which were arguably worthwhile) to entice/reward legislators for their cooperation.

Difference Number 2: Ideological Purity – All Republicans are not the same. In 1995 however, most legislators were comfortable allowing their caucus leadership to negotiate policy objectives with the Governor on their behalf, and trusted their leadership to take care of them and their districts. Many of today’s Republicans in the House are of a new generation and pride themselves on their commitment to extremely conservative principles – ones that may be at variance with how Pennsylvania government was conducted in the past. These newer voices not only would question the need for taxpayer dollars being spent on dubious economic development or road projects, some of them fundamentally question the legitimacy of government spending on just about anything at all.
PAA’s amendments to the Board of Vehicles Act were signed by Governor Corbett on July 7, 2011, and become effective sixty days from the date of signage on September 5, 2011.

Act 65 of 2011 (SB 419) augments dealer protections in Pennsylvania’s Board of Vehicles Act to 1.) stay chargebacks by manufacturers following a warranty/sales incentive audit and 2.) create an appeal process for dealers to dispute an alteration in their area of responsibility.

The swift passage of SB 419 would have been impossible without the cooperation and support of several key members of the General Assembly. Sen. Robert ‘Tommy’ Tomlinson (R-Bucks) provided an ideal vehicle for the enactment of PAA’s franchise law provisions by allowing PAA to amend them into a bill of his that had already passed the Senate. The dealer amendments were offered by Rep. Doug Reichley (R–Berks, Lehigh) at a meeting of the House Professional Licensure Committee, chaired by Rep. Julie Harhart (R-Lehigh, Northampton). Finally, the importance of the direct involvement of Speaker of the House Sam Smith (R–Jefferson, Indiana, Armstrong) on the last day of the legislative session cannot be overstated.

Many bills that had been positioned for final passage were passed over on June 30 because of the lack of floor time available for their consideration by the full House. It was solely due to the Speaker’s willingness to engage on PAA’s behalf that this important bill was passed in time to be sent to the Governor before the legislature’s summer recess.

100% Mark-up
Legislation drafted by PAA to eliminate the 100% mark-up restriction on aftermarket products, found in the Motor Vehicle Sales Finance Act passed the House prior to the summer recess.

It is anticipated that Senate consideration of the 100% mark-up elimination bill will take place when the legislature re-convenes in September.

Difference Number 3: Fear of the Electorate – Pennsylvania’s voters have become much more energized since 1995 and have been directly responsible for the reconstitution of the membership of the House and Senate though their activities. Consequently, lawmakers have developed a renewed sense of direct accountability to the state’s voters.

For example, conventional wisdom always held that ‘no one ever lost their seat over a pay raise vote.’ Er, those days are clearly gone now. Additionally, many of the newer members of the Republican caucus are directly beholden to hard-line conservative grass-roots organizations who were instrumental in getting them to Harrisburg – and these groups are unforgiving and steadfast in their commitment to say ‘no’ to taxes (no matter what the circumstance) and ‘yes’ to the unquestioning furtherance of conservative economic, and occasionally social, ideals.

The New Political Oder in Practice – The FY 2011-12 Budget Process

While for several years during the Ridge administration the annual budget was completed in May, this year, even with Republicans controlling the entire budget process, there was only 13 minutes to spare before midnight on June 30 when Governor Corbett signed into law the FY 2011-12 spending plan. The state fiscal year commences on July 1.

After the November elections, it was presumed that one of the benefits of having comfortable Republican margins in both the House and Senate would be that crafting a final budget proposed by a Republican Governor would not be especially difficult. This however did not prove to be the case, and many disagreements between the Governor’s Office and the legislative leaders remained unresolved until the very last minute.

Admittedly, it was a very tough budget year. In contrast to the flush Ridge years, Pennsylvania was facing a $4 billion dollar budget deficit (caused primarily by the reliance on federal stimulus monies to balance the budget in recent years – funds that are now unavailable).

Additionally, Governor Corbett, and many of his fellow Republican candidates for office, pledged in his campaign that he would not support the raising or implementation of any new taxes. The budget would therefore have to be balanced by major spending cuts – not new revenues.

Spending cuts means program cuts. And program cutting means choosing which programs, and how much, to cut.
Every program or budget line item has a public, and often very vocal, constituency (e.g., parents of school age children, school teachers, students, state system colleges, state-related universities, public assistance recipients, unemployment compensation fund benefactors, etc.).

It is the consideration of these, and many other, constituencies and the following core issues, (1) what the final General Fund spending figure should be, (2) whether or not to raise taxes (or impose new ones), (3) what programs would be significantly cut, and (4) what other initiatives should be considered in conjunction with the budget process, that House and Senate leaders wrestled with the Governor about as they negotiated the state’s budget in June.

**We’re All Republicans Under this Tent**

For generations, political leaders of the Democratic Party openly envied their Republican counterparts because the Democrats were historically forced to administer to and consider the broad range of philosophical leanings ascribed to by their members.

Democrat legislators ranged from socialistic model big government advocates, to share-the-wealth economic reformers, to ‘blue dogs’ who were conservative on fiscal matters but liberal on social issues. Unsurprisingly, forging consensus with such a conflicted caucus often proved problematic.

Today, the Republican Party is experiencing its own problems with functioning under a ‘big tent’ in which dissimilar and contentious factions within the party are proving to be difficult to manage.

Moderate Republicans who are willing to compromise (on almost any issue) are programmatically at odds with the staunch conservatives of their caucus who’s philosophical rigidity prohibits much meaningful consideration of other ideological perspectives or unshared priorities. Therefore, while the Pennsylvania House is comprised of 112 Republicans and only 91 Democrats, the formidable majority suggested by those figures is not as monolithic as the casual observer might suspect.

The State Senate maintains a similarly weighted Republican majority in its chamber – 30 Republicans vs. 20 Democrats. Not all Republican Senators share the same priorities, however, and a moderate Republican from the more liberally-leaning southeastern part of the state cannot be expected to vote the same way on issues as a senator representing the conservative precincts of Lancaster or Butler Counties.

Additionally, though Senate Republicans share the same grand-scheme political philosophy as their House counterparts, vast institutional, stylistic, cultural and ideological differences nonetheless fundamentally separate them.

An example of this disconnect can be drawn from one of the major issues currently under consideration by the legislature: the privatization of the state liquor control system. The House majority leader has designated the selling of the state liquor stores the top priority for when the General Assembly re-convenes this fall. A true and long-standing conservative, the leader represents all of those who share the belief that the state government has no business being in the retail and wholesale liquor selling business (‘Government is here to serve the people, not serve alcohol.’).

The Senate majority leader publicly stated however that liquor privatization is not a major priority for his caucus and is not planning on addressing the issue, even if the House passes a privatization measure and sends it to the Senate for consideration.

The Senate leadership’s top priority is expected to be imposing some sort extraction tax or impact fee on the natural gas industry working the Marcellus Shale.

This is an initiative vehemently opposed by fellow Republican Tom Corbett however. The Governor’s top priority for the fall is enacting school choice legislation and the implementation of some sort of voucher system – an education reform proposal whose realization eluded Governor Ridge on three attempts.

Resolution of these competing priorities will not come easily and relations between these parties are already frayed and becoming increasingly bitter.

What remains at the end of the day is two branches of government and two legislative bodies who share the same party, but not the same mind.  

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¹ Best’s Insurance Reports: Life and Health, United States and Canada, 2010 edition (A+ is the 2nd highest rating out of 16 possible ratings.)

² Weiss Ratings’ Guide to Life and Annuity Insurers, Summer 2010 (A is the 2nd out of 16 with 1 being the highest.)
It isn’t a tiny crossword puzzle or an impossible maze. These oddly configured boxes are called QR codes, and they are becoming increasingly popular. Maybe you’ve seen them in magazines or on the “to be released” M.P.G labels. With no formal introduction, many people have been wondering “what are they”, “how do they work”, and “are they around to stay”.

Originally used to track automotive parts, the QR code, at its most basic, is a barcode – a barcode on steroids. It’s a cousin to the UPC codes on your groceries or the ISBN codes on your books.

However, where these barcodes encode data in only the horizontal plane, QR codes encode data both horizontally and vertically in a grid of tiny squares. This allows for much more data to be encoded, transforming a 2-D image into a digital location.

Traditional barcodes are great for identifying products and objects, with scanners that read the width of and distance between the vertical lines, but QR codes can actually embed that information in the code itself, and, when read with the proper software, can trigger actions like launching a website or downloading a file. QR codes are also readable at any angle while barcodes, as anyone who has used the self-checkout line at the grocery store has come to loathe, must be aligned properly.

**How does it work?**

QR codes are made for quickly and easily linking to content on smartphones. Smartphones (i.e., iPhones, Blackberries, Androids, et al.) are those that offer more advanced computing ability and connectivity than a contemporary feature phone. As of December 2010, only 31% of cell phone owners have a smartphone in the U.S., but as we all know the demand for these mini-computers continues.

And it seems smartphone users, a group containing mostly business professionals and teenagers, or, in other words, the acknowledged most impatient people on the planet, want an easier way to access information than by typing it out on
tiny key pads. They want to see it in print one moment and access it online the next.

With QR codes, users simply launch an application on their phone, point the phone’s camera at the QR code, and scan it. Then, the appropriate file will download or the user will be taken to an established website.

Restaurant menus, business cards, resumes, advertisements, and brochures are some of the places QR codes are starting to show up. Movie posters can link you right to a video trailer. Art galleries have started using them to link to information on the artist and videos depicting the creation of the work. To celebrate Internet Week, the City of New York outfitted Times Square with multiple giant QR codes. Most of these were directed to websites, the most common use of the code, although some promised a free ringtone or a chance to win tickets to upcoming shows as added incentive. On the other side of the country, one particularly entrepreneurial-minded individual who owns Seattle’s Quiring Moments, a cemetery headstone carving company, now offers QR codes on grave markers and provides an archive site with information about the deceased, such as: an obituary, family heritage and history, photos, comments by friends and relatives and even a map to locate the memorial. The ways QR codes will be used in the future are only beginning to be explored.

Where can you use QR codes?
There’s no stopping it – QR codes are coming to your dealership on M.P.G. labels. Potential customers will be able to scan the code on the label and interact with www.fueleconomy.gov to compare the vehicle scanned to other vehicles. The new labels will be legally required to be displayed on all 2013 model cars and light trucks, but consumers could see them sooner if manufacturers decide to voluntarily adopt them for their 2012 models.

The QR code will give customers more access to information on the car in front of them and allow them to see how the car would operate based on their own personal driving habits and any local information they enter into the app. Dealerships may want to find ways to assist those customers who don’t have a smartphone to access this information. And for those customers that do have a smartphone, adding a QR code to your company’s business cards might be a smart and effective way to stay connected to your customers. Or, place one on a locked showroom door so afterhours customers can go to a page and request that a salesperson follow-up with them on a particular vehicle at a later time.

Some are linking QR codes to Facebook pages, Twitter accounts, and LinkedIn profiles, allowing customers to “like” you immediately, follow you daily, or connect with you professionally.

Still, QR codes are fairly new in the U.S. (No surprise, they are huge in Japan.) Many of your customers, therefore, won’t recognize them when they see them or won’t have a smartphone with a QR reader installed. This greatly limits their impact and begs the question “are they here to stay”.

Of course, we see them everywhere right now and with increasing frequency. Overuse of a new marketing technique is not surprising. And new anything tends to follow a path from discovery, to overuse and disillusionment, to a proper level of use- think of how many songs you initially love, only to have ruined for you by the radio. But, in the case of QR codes, the proper level of use may end up being fairly low and short-lived.

Though numerous talking heads have called this “the year of the QR code” and claimed that the codes will revolutionize the print industry, it is apparent that marketers are more enamored of the possibilities of QR codes than customers demanding their use.

Do you happen to remember the CueCat of the late 1990s? The CueCat was a cat-shaped handheld barcode reader, which connected to computers, like your mouse does, and enabled a user to open a link to a website by scanning a barcode that appeared in an article or on some other printed matter. In this way a user could be directed to a web page containing related information without having to enter a URL. Sounds familiar, right? The product was a huge failure. The CueCat’s critics said the device was ultimately of little use and failed to solve a problem that never existed – who wants to scan their soda can to watch a commercial for Coke? Perhaps a decade has changed the market or perhaps, like the CueCat, QR codes will ultimately become a brief curiosity.

Because of this, dealerships must determine if QR codes are a good fit for their business and their audience. If
you feel there is a place for QR codes in your marketing toolbox, you can start adding them to your business cards and print advertisements. You can use them to design scavenger hunts, connect them to an online store, make t-shirts, and tie them to promotions, discounts, and give-a-ways.

Just remember that most current advertisements that use QR codes still have to explain how they work and the steps a person has to take to access the code. And even then, only a portion of viewers will be able to access the information on their device.

Still, QR codes are bound to become more common in the coming months, at least until something even easier and faster is developed.
Dear Friends,

So far in 2011, international nameplate dealers have continued to experience the fruits of a developing economic recovery. Buyers have returned to show rooms and credit is once again available.

March’s earthquake and tsunami in Japan have impacted some of the expectations we had for this year, leaving many dealers, including myself, with shortages of certain popular vehicles. However, as I’ve said before, America’s international dealer community is resilient and resourceful, and I believe we will survive and emerge from this current challenge stronger than ever. We have a loyal customer base and, although the residual effects of March’s natural disaster will likely be evident through the rest of this year, most affected automakers are ahead of schedule in their return to normal production levels.

Dealers are optimistic about the future. But that doesn’t mean we can let our guard down. If there is one thing the past few years have taught us, it is that the federal government has no qualms about involving itself in our businesses. It is a new reality we are learning to deal with. As dealers, we must be vigilant in defending our businesses and employees against far-reaching legislation and policy. I believe this starts by building relationships with our elected officials.

In May, 200 dealers traveled to Washington for AIADA’s 5th Annual Auto Industry Summit. During the two-day event, they heard from legislators, manufacturing...
executives, and members of the media who discussed some of the critical issues facing our industry.

AIADA also presented Pennsylvania Representative Mike Kelly with its Legislative Action Network Grassroots Advocacy Award for his work on behalf of international dealers both in his community and in Congress. The event concluded as dealers descended on Capitol Hill for over 100 meetings with senators, representatives, and their staff members. If you weren’t able to join AIADA this year, make plans to do so in 2012. Events like the Summit are designed to help you do your part to protect your business and make Washington a partner in our work to provide jobs and support in our local communities.

Until then, I encourage you to join AIADA’s Legislative Action Network. Also consider hosting your member of Congress at your dealership. AIADA’s Dealer Visit Program can assist you in setting up a time for your member to visit your dealership, issue the invitation on your behalf, and supply you with the talking points you’ll need to educate your member on the issues that concern you. For more information on AIADA’s Dealer Visit Program, visit www.AIADA.org.

AIADA continues to monitor key legislative items for their impact on our dealer members. Trade has been a hot-button issue this summer as Congress and the Administration seek an agreement over pending free trade agreements with South Korea, Colombia, and Panama. At this time, while a vote may be close, it appears that Trade Adjustment Assistance – a federal program that provides subsidies to workers who lose their jobs due to international trade – will be a sticking point. Mileage standards are also being debated on Capitol Hill, and AIADA is on the front lines, making sure that dealers have a voice on this critical issue. Visit AIADA’s website for the latest on these and other topics as they move forward this summer.

As always, please let me know how AIADA and I can best serve you.

Jim
In today’s tumultuous markets, investors have experienced significant volatility and potential reduction in the value of their retirement accounts and portfolios. Choosing to save and delay benefit today for value in the future can be challenging, which leads to increased emotion about money and investments.

The challenge investors are presented with is that snap decisions based purely on emotion often lead to investments that have negative effects on the long-term performance and reduced growth potential. Rather than taking a short-term, emotional approach, investors should work to develop a long-term strategy with proper diversification. When markets become volatile, many investors’ first instinct is to sell everything and move out of the market, accepting their losses; other investors flee to perceived safety in conservative investments which can reduce long-term growth potential. Neither of these outcomes are optimal and, fortunately, there are better ways to handle challenging times despite a tough market.

A critical starting point is to develop an understanding of your goals, both for the short and longer term. Once you have determined what you are trying to achieve, there are four key steps to working to safeguard your financial picture through positive and negative market cycles.

**Step One:** Develop a Plan To reach any goal, whether in your career or financial life, you need to understand what you are trying to achieve. As an example, if you are focused on reaching retirement, it is important to have an understanding of when you want to retire, the level of living expenses you want in retirement, the assets you have built thus far, and how can you build additional savings for the future. As you develop answers to these questions, you and your financial professional can work together to build an investment portfolio and strategy to help you toward reaching your goals. Equally important is building a plan that takes into account the varied elements of your financial picture, including savings and estate planning strategies, as well as various types of insurance protection for you and your family.
Step Two: Prepare for Rainy Days
Life can bring uncertainties; building a house with a weak foundation results in unexpected problems. Therefore, build a good foundation including an emergency reserve that can help get you through difficult times. Put in place efficient life insurance and long-term care insurance, and make sure you have a will, including the living documents. Once you have built the foundation of your financial future, you can embark on building long-term investments.

Step Three: Be Diversified
Regardless of your risk tolerance as an investor, you are exposed to additional risk if you are over concentrated in any one area. Historically, investors who have successfully weathered market fluctuations and cycles have had a variety of investments. These range from various types of bonds and income generating investments to a stock portfolio with diversification across geographies and both value and growth focused companies in various sectors. A critical step in diversification is asset allocation. This is the strategy of determining what bond and equity allocations you have in your portfolio.

This is valuable for several reasons. The first key is that by investing in equities in various geographies and sectors, combined with diversified bond holdings, you may be able to better tolerate downward movements in the market. Additionally, it is essentially impossible to predict who will be the winners over the next few years. By owning a diversified group of investments, you can build a more balanced portfolio that may not be so susceptible to drastic market movements. Each investor will have a different asset allocation based on their desire or willingness to take risk, investment experience, goals, tax bracket, age, etc.

Of course, it is always important to understand that diversification and asset allocation do not guarantee a profit or protection against loss in a declining market. All investments are subject to market and other risks, will fluctuate in value, and may lose principal value invested.

Step Four: Revisit Your Plans
As life events happen and goals change, so too will the strategies and asset mixes that are appropriate for you. Many events in life can drastically change your financial picture, such as the birth of a child or grandchild, salary increases, inheritances, etc. As events in life change your focus, you should revisit your goals and make sure your strategies are still leading you to the desired destination.

Rebalancing is also a key part of managing your portfolio. As markets fluctuate, the allocation between sectors and equities vs. bonds will naturally change. A positive year for international equities, for example, could result in your portfolio being overly focused on that area and thus out of alignment. By rebalancing, you can sell some of the sector that recently did well and buy more of the sectors that have not yet performed. This fits in line with the classic investment guidance of “Buy Low and Sell High”. Additionally, while rebalancing cannot guarantee a profit or protection against loss in a declining market, it can help you monitor the actual risks you are taking and help you avoid taking substantially more risk than you intended.

Working with a financial professional and developing a strategy can help you to manage your finances in a volatile and changing market.

Preparing for your future and managing risk means more than an occasional meeting with a financial professional. It is about making your money work for you and accomplishing your financial goals, whether they are reaching retirement, sending children to college, leaving a financial legacy or taking a dream vacation. By developing a solid plan based on your goals, you can be prepared for life’s opportunities and challenges.

This article is provided by Christian Boutsikaris. Christian Boutsikaris offers securities through AXA Advisors, LLC (member FINRA, SIPC) 1755 Oregon Pike, Lancaster, PA 17601 and offers annuity and insurance products through an insurance brokerage affiliate, AXA Network, LLC and its subsidiaries. AXA Advisors and AXA Network do not provide legal or tax advice. Please consult your tax or legal advisor regarding your individual situation.
“My focus is running my dealership—not worrying if my business is protected or how to generate income in my finance department. Zurich lets me do that.”

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In 2010, more than 1,300 dealerships purchased both business insurance and F&I products from Zurich. Products such as our Unicover® policy, which packages most of the coverages needed by dealerships into one policy. Or our Streamlined Selling System®, which can help you drive increased F&I profit. One company for all your needs, backed by more than 85 years insuring dealerships. Call Bruce Shea, Regional Sales Manager, at 800-243-5414 or visit www.FandIResourceCenter.com for more information.

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New Adverse Action Notice Disclosures Take Effect July 21

A provision in last year’s Dodd-Frank regulatory overhaul requires dealers and other creditors who use a credit score in taking adverse action – such as turning down a credit application – to include new credit score disclosures in their adverse action notices beginning July 21. (This provision also requires the disclosures to be included in risk-based pricing notices, but this does not affect dealers who issue Credit Score Disclosure Exception Notices to comply with the Risk-Based Pricing Rule.)

NADA is helping dealers comply with this new regulation in a number of ways. First, dealers can watch a short video on the changes featuring Paul Metrey, chief regulatory counsel, Financial Services, Privacy, and Tax for NADA. Second, dealers can participate in a comprehensive webinar from NADA University on Wednesday, July 6 from 1-3 p.m. EDT. (To register, call (800) 557-6232 or sign in to NADAuniversity.com, visit the NADA U Store, then select Products, then Webinars & Seminars.) Third, NADA will soon release a new version of its publication “A Dealer Guide to Adverse Action Notices” explaining the new disclosure requirements and providing model adverse action notice forms that the Federal Reserve Board is developing to accommodate the new disclosures. NADA will release this publication shortly after the Federal Reserve Board finalizes its model forms.

Fed Proposes Lifting July 21 Compliance Date for New Small Business Data Collection and Reporting Requirement

Following strong advocacy by NADA and its Regulatory Affairs group, the Federal Reserve Board has proposed temporarily exempting dealers engaged in indirect (three-party) vehicle financing transactions from a new, comprehensive data collection and reporting requirement that is scheduled to take effect July 21. A provision of the Dodd-Frank regulatory overhaul of 2010 requires financial institutions, including auto dealerships, to inquire into whether a credit applicant is a small business or a women-owned or minority-owned business, maintain a record of responses to the inquiry for three years, report it to the federal government on an annual basis and make it available to the public upon request. NADA met with Federal Reserve Board staff on several occasions to request that the board exempt dealers from these duties because more direction is needed from the government. NADA plans to register its support for the exemption in written comments urging the board to adopt its proposal.

Fed Raises Threshold for Contracts Covered by Truth in Lending Act

A provision in the Dodd-Frank regulatory overhaul of 2010 has raised the dollar threshold for consumer credit and lease transactions that are covered by the Truth in Lending Act and Consumer Leasing Act. The threshold was raised from $25,000 to $50,000, effective July 21. The law also mandated that the new threshold be adjusted for inflation on an annual basis. To meet this mandate, the Federal Reserve Board has announced that this threshold will increase to $51,800 beginning Jan. 1, 2012.

NADA DATA 2011 Shows Improved Financial Performance for Franchised Dealers

The financial performance of new-car and -truck dealerships improved in 2010 despite a slow economic recovery, according to NADA’s latest report on the state of auto retailing. New-car dealerships on average employed 50 people with an annual payroll of about $2.6 million in 2010, an increase from 2009, says Paul Taylor, NADA chief economist and editor of NADA DATA 2011. “New-car dealerships improved their profitability in 2010 through strict cost control, such as reducing rent and real estate costs, cutting advertising expenses and maintaining lower floorplan costs,” Taylor said. “However, the difficult economic recovery and brands leaving the marketplace caused 760 dealerships to close in 2010.”
It has been six months since I stepped down as President of PAA. During this period of time, I have been asked “how are you enjoying retirement” so many times that even I am tired of the answer. It reminds me of many quotes about retirement, but George Burns said it best when he quipped “Retirement at sixty-five is ridiculous! When I was sixty-five I still had pimples.” At least I don’t have pimples.

A Charitable Bank for PA Dealers

By Paul McMillen
PAAF President
The answer to the often-posed question about what I am now doing is simply that I am engaged in something that I have wanted to do my entire professional career; and that is, forming and managing a charitable foundation. A Foundation that incorporates my previous education and training, plus all that I have learned in the non-profit sector for over 30 years at PAA.

What dealers need to know is that the PAA Foundation is extremely unique in that it takes a concept, the community foundation, and adapts it to the PAA organization. That, and the fact that it is a great deal - a tool to accomplish all their charitable giving.

PAA is an association comprised of new car and truck dealers (and others affiliated with this group) throughout Pennsylvania. PAA represents that group very effectively in its role as an advocate between the state government and the membership. It is the voice of the new car dealer in the General Assembly and in the administrative offices of government.

The Foundation also represents the membership, not through the group but through the individual member. Whereas, the Association’s activities are centered on benefitting the group, the Foundation’s are focused around the individual member and their family’s charitable interest.

The PAA Foundation is very similar to a bank.

It manages the accounts of its depositors. The depositors are the members of PAA who have donor advised accounts. The deposits (money coming in) and distributions (money going out) are all determined by the individual account holders. Distributions are for charitable activities and organizations. Your name is on the check - you get the credit from the organization. Like a bank, interest is paid on the deposits and long term accounts are invested in the market on behalf of those who participate.

Think of it as your savings account for giving - one that can be passed down to your children and grandchildren into perpetuity. It recognizes your family in the community with a charitable legacy that never ends. The PAA Foundation will ensure that your family’s foundation will continue for generations and generations in your name.

What further differentiates this Foundation from any other is there is nothing like it in the United States (or possibly the world).

Why? -- The answer is the PAA Foundation is for you, by you, and is 100% about you. It is a deal: a resource to manage all of your giving, an avenue to assist in estate planning, a way to lessen your tax burden, and finally there are incentives built in for all accounts. There are monetary awards paid to all accounts, regardless of size. These incentives have literally made the cost of establishing and maintaining your account free for the dealer. Additionally, there are matches to your distributions that will increase the benefit of your gift to the charities you select.

It is my hope and desire that every dealer owner in the state establishes an account in this Foundation. Every dealer should have a family foundation that can allow that dealer and his family to be recognized within his local community for their good works - one that can enhance the image of that individual leader and of the new car dealer membership as a whole.

It will work for you if you have charitable intent (and think about it, you do). How much money do you give to charity each year? Whether it be your church, your United Way, your university or any other charitable organization, the Foundation can assist you. Not only that, but the Foundation can help you increase the amount you give through its incentives. Your contributions to the PAA Foundation are tax deductible in the year you make the gift; and, instead of going to a general fund, it will go into an account named for you, your family, or your business.

To set up an account is as easy as calling the Foundation’s Executive Director, Anne Shuman, or myself. The Foundation will complete the necessary legal documents for your personal counsel to review, if necessary, and all the accounting costs are borne by the Foundation.

I have often told dealers that a customer wouldn’t recognize a good deal from a bad one even if you gave them the car for free. Well, the same is true here. This Foundation is for you and only you, and it provides a way for you, and your family for years to come, to give back to your community, to support your favorite organizations, and to make a difference. Dealers who don’t take advantage of this opportunity seem to me to be like the customer who doesn’t know a good deal when he sees one. Please give me a call - 1-800-242-3745 ext. 3347. It will be one of the best investments you have ever made.
Substance abusers are:
• **10 times** more likely to miss work*
• **3.6 times** more likely to be involved in on-the-job accidents*
• **5 times** more likely to injure themselves or another in the process*
• **33%** less productive*

Protect your company from becoming part of these statistics!

Federated offers a program with the tools and resources you need to help make your business one that is drug- and alcohol-free. For more information, contact your local Federated representative or call **1-800-533-0472**.

* American Council for Drug Education
(Printed in EHS Today 10-6-2009)
On July 14, 2011, PAA sent an email broadcast to the owners and general managers of its new car and truck dealerships containing a link to the first “Broadcast Bulletin”.

A new communications initiative, the Broadcast Bulletins will be distributed when timely topics arise that can be presented in a visual and audio format to benefit PAA memberships. They will typically average 3-5 minutes in length.

In addition to email distribution, the videos will be posted to the “Members Only” section of the PAA website for dealers to review the information when necessary. The first Broadcast on “Manufacturer Audits - Warranty and Sales Incentive Audits” presented by Chad Marsar, PAA Vice President Legal and Regulator Affairs, is posted online.

If you have a suggestion on a topic you’d like to see covered in a Broadcast Bulletin, please contact Melanie Bible, PAA Director of Communications at 1800-242-3745 ext. 3327 or mbible@paa.org.
**Note:** On July 7, 2011, Governor Corbett signed into law Act 65 of 2011, which amends the Board of Vehicles Act by providing a 30 day waiting period in which a manufacturer is prohibited from enforcing an audit chargeback. This chargeback waiting period provides time for a dealer to review its options and to file a protest with the Board, if a dealer decides to protest the chargeback amount. The amendment goes into effect on September 5, 2011.

There are numerous protections afforded to dealers by Pennsylvania’s dealer franchise law, the Board of Vehicles Act (“Act”). The State Board of Dealers, Manufacturers and Salespersons (“Board”) provides a forum for efficiently and expeditiously exercising these protections, which range from the ability to protest or oppose: a notice of termination; requirements to renovate, construct or relocate facilities; or to protest the establishment or relocation of a surrounding dealership point. Another of these protections is a limitation on a manufacturer’s right to audit and charge back a dealer for warranty and sales incentive payments. Unless fraud is found, the Act permits a chargeback only for two years from the date the claim was paid, and only if the claim was false or unsubstantiated.

The frequency and severity of warranty and sales incentive audits have been increasing in recent years. Manufacturers are heavily scrutinizing warranty claims and sales incentive payments in order to recover payments from dealers, even where the dealer has performed the warranty repair or complied in substance with the requirements to secure the sales incentive payment. This is not limited to a few manufacturers; all manufacturers (including heavy truck manufacturers) are involved in audits of dealers.

Granted, manufacturers need to ensure dealers are
performing repair work that is required by manufacturer causes and not customer abuse/neglect (street-raced Subaru WRXs or Mitsubishi Evos, anyone?), or dealer fault. Additionally, manufacturers have the right to ensure dealers are providing sales incentives only to qualified customers (i.e., rebates for loyalty, military, first-time buyer, college grad, etc.). However, the desire of manufacturers to recoup claims paid to a dealer that were not properly earned in sales or service departments, including overall dealer sales program money, can sometimes result in a manufacturer overreaching and improperly charging back for dealer payments made for warranty services provided or sales made.

In recent years, this type of chargeback activity resulted in two written decisions involving two dealers who filed protests of their chargebacks with the Board. The dealers sought determinations of whether the manufacturers improperly charged back warranty and sales incentive amounts in their audits. The Board ruled favorably for the two dealers on their protests of the chargebacks, resulting in substantial reductions in the chargebacks permitted to be assessed. More importantly, in its two written decisions (one upheld on appeal, one not appealed), the Board established ground rules for how the audit chargeback provisions were to be interpreted, not only for these dealers but for other dealers and manufacturers that might appear before the Board in future audit protest cases.

Shields VW Warranty Audit Decision
In the VW warranty reimbursement chargeback case (“Shields VW”), the Board interpreted and concluded (and on appeal the Commonwealth Court upheld) a number of different aspects of the warranty payment and audit process law, including:

- A manufacturer only has 30 days to question the paperwork, details and processes for a warranty reimbursement request;
- After 30 days, warranty claims cannot be charged back for violations involving paperwork, details and processing claims where repairs were actually made;
- Where a claim is paid, absent a finding of fraud, the manufacturer has only two years from the date the warranty claim was paid to charge back claims, and can only charge back for claims that are false or unsubstantiated;
- Where a protest is filed before the chargeback is made, the chargeback is stayed (the manufacturer cannot debit the dealer’s account) until a final determination is issued by the Board;
- The manufacturer bears the burden to prove the dealer violated the law in that the claims paid were not substantiated or were false;
- The Board will apply a definition of “unsubstantiated” to give weight to documentation different from the manufacturer’s requirements and policies to substantiate a warranty claim;
- The Board can apply weight to evidence differently than what a manufacturer would deem acceptable as proof to process a warranty reimbursement claim or a manufacturer would accept in an audit to substantiate a claim;
- Where the dealer’s warranty reimbursement claims that did not have technician time-stamps were otherwise substantiated and were not false, the manufacturer could not charge back for those warranty reimbursement claims;
- Where proof of repair is not satisfactory, additional proof can be provided by the dealer during the audit process to show a vehicle’s eligibility for the warranty coverage; however, if the dealer does not provide the proof during the audit process, such proof will not be able to be presented before the Board; and
- The Board cautioned: a dealer must still follow the manufacturer’s requirements in order to substantiate claims during the initial warranty repair process.

continued on page 26
Sales Incentive Audit: Dealer Secures a Similar Result

In the Chrysler sales incentive case (“Lieberth Dodge”), in which Chrysler did not appeal the Board’s decision and conclusions, the Board, citing the prior Shields VW decision, determined that:

• A manufacturer only has 30 days to question the paperwork, details and processes for a sales incentive reimbursement request;

• After 30 days, sales incentive claims cannot be charged back for violations involving paperwork, details and processing claims where vehicle sales were made and the customer qualified for the incentive;

• Where an incentive is paid, absent a finding of fraud, the manufacturer only has two years from the date the sales incentive was paid to charge back incentive claims, and only for incentive claims that are false or unsubstantiated;

• Where a protest is filed before the chargeback is made, the chargeback is stayed (the manufacturer cannot debit the dealer’s account) until a final determination is issued by the Board;

• Substantiating a sales incentive claim includes that the customer:
  - was entitled to the sales incentive at the time of sale;
  - provided proof of eligibility for the incentive/rebate; and
  - received the sales incentive as part of the vehicle sales process;

• Where proof of eligibility provided during the initial reimbursement process is not satisfactory, additional proof can be provided by the dealer during the audit process to show a customer’s eligibility for the incentive/rebate;

• Where the sales incentive was not paid at the time of the sale, the sales incentive could still be paid to the customer before the close of the audit process to avoid a chargeback;

• Where it is substantiated that a vehicle was sold within a designated time period, a manufacturer cannot charge back for overall dealer sales program money, stair-step or retroactive program payments; and

• The Board cautioned again: the dealer must still follow the manufacturer’s requirements in order to substantiate claims during the vehicle sale and initial sales incentive process.

Additional favorable chargeback issues decided in Lieberth Dodge included:

1. Employee purchase program – Where the selling price was more than the factory invoice price, no chargeback could occur where the dealer substantiated the increased sales price was due to options or accessories purchased by the customer;

2. No charging of documentary fee – Where a documentary fee is not permitted to be made as part of an employee price program, no chargeback is permitted to be made where the dealer refunds the fee to the customer; if the documentary fee is not refunded, the manufacturer can charge back for the documentary fee, but cannot charge back for the sales incentive;

3. Miscalculation of incentive to customer – Where the dealer miscalculated the incentive/rebate due the customer but refunds the amount in error to the consumer after the sale closes and before the audit ends, the dealer is not subject to a chargeback of the sales incentive;

4. Sale to an affiliated leasing company -- If the program rules allow for a vehicle to be sold to a leasing company affiliated with the dealer, a manufacturer cannot charge back for sales incentives on those sales; and

5. Use as a service loaner -- If the program rules allow for a vehicle to be sold to a dealer-affiliated leasing company and then used as a service loaner vehicle, a manufacturer cannot charge back for sales incentives on those sales.

Using What’s Been Learned

Applying the Shields VW and Lieberth Dodge decisions to other dealer audits over the past few years, some of the more important lessons to take away (and other insights gleaned) include:

• Learn, understand
Tips from Skip

Window Tinting

As an initial proposition, it is unlawful to tint the windshield as well as the left and right side windows; and, on some vehicles, after market window tinting is totally prohibited on all side and rear windows.

PA Safety Inspection prohibits all windshields from having after market tinting, and equipment regulations prohibit all vehicles from having tinted left and right front side windows.

Why is it unlawful to tint left and right front side windows? Tinting front side windows certainly creates an issue with the law enforcement community because, upon approaching a vehicle with tinting, it is very difficult to determine inside activity. In some cases, a dangerous situation could be averted if the occupants were visible from the outside.

Tinted front-side windows create a definite safety issue for all motorists. Upon approaching an intersection where a stopped vehicle is attempting to enter the flow of traffic, the first thing a cautious driver will do is try to determine if the stopped vehicle driver is looking toward approaching traffic. If the driver is being distracted and not paying attention to oncoming vehicles, an approaching vehicle will take appropriate action and possibly avert an accident. If the front-side windows are tinted, an approaching vehicle cannot determine if the driver is aware of oncoming traffic or if the intersection is safe to enter.

Tinted left and right front side windows are illegal and absolutely UNSAFE.

Peter Bauer is an attorney with the Automotive Dealership Law Group at McNees Wallace and Nurick LLC in Harrisburg, PA. MWN provides a full range of legal and counseling services to franchised new vehicle dealers. For more information about this topic or any other dealer related issues, contact Peter at (717) 237-5460, or pbauer@mwn.com.

Now more than ever, as dealers are subjected to ever-increasing warranty and sales audit activity by manufacturers, the Act provides necessary legal protections for dealers in Pennsylvania to help level the playing field on issues such as increasingly overreaching audit chargeback amounts by manufacturers. So, when threatened with an unfair and improper chargeback, put these dealer cases and their lessons to good use against a manufacturer and its audit team!
With the industry rebounding and the demand for vehicle repairs constant, dealerships in Pennsylvania are once again suffering from a shortage of technicians. According to the Bureau of Labor Statistics, the United States currently employs 818,211 automotive service technicians and mechanics and 249,230 bus, truck and diesel engine specialists.

Paul Taylor, chief economist for NADA, says there are currently about 32,000 technician job openings each year. Projections call for an additional 6,000 positions a year over the next five years, bringing demand to 38,000 annually.

The numbers are daunting, though what is even more troublesome are the demographic trends underlying the increase in demand. As baby boomers retire, the question becomes how to inspire a student’s interest in becoming a vehicle technician and get them to stick with it as a career.

Participation in vocational education classes by high school students — the traditional entry point for technicians — has declined steadily over the years. According to a Department of Education study done in 2002, the percentage of students graduating from high school with a concentration in vocational education fell to 25% in 1998. And in recent years even higher percentages are college bound.

There is little advocacy and awareness at the high-school level for jobs and careers in the automotive industry. The stereotype of the dim-witted, underachievers who tinkers with his car remains. This is something that must be addressed in order to combat the shortage of technicians.

In addition to the image of the wrench turning mechanic, vocational schools themselves are stereotyped as being for those who can’t survive a college prep curriculum. Often, parents steer their children away from vocational schools, even when the child shows an aptitude for vocational training.
studies, holding onto a belief that the only way for their child to succeed is to get a college education.

Many students are simply not aware of the opportunities for good jobs at relatively high wages that are possible.

Some of it is that students are not educated to look for jobs that provide fair wages, a strong benefits package, and training and advancement opportunities. Most dealerships do offer these. In fact, in a 2004 survey, it was found that companies were offering a number of benefits to retain technicians: paid vacations (95%), paid holidays (88%), health insurance (74%), training (82%) and uniforms (91%). Instead, most students are looking for what is going to put the most money in their pocket in the shortest amount of time, resulting in a workforce that looks for the biggest buck instead of a sustainable career. Students don’t recognize the potential for advancement or the challenges presented as a technician. Also, as car manufacturers roll out vehicles sporting the latest in computer technology and alternative fuel usage, the need for well trained vehicle diagnosticians only grows.

A lot of training is needed on this complex issue.

But there’s more - in addition to wanting to direct more students to the industry, it is also imperative that those students who are graduating from vocational schools and applying to dealerships have the required skills that dealers need.

Over the past year, PAA, with funding assistance from the Department of Education, offered six seminars throughout the state to train the educators at Pennsylvania vocational schools as well as PA certified Safety and Emission instructors throughout the state. Over the years, it came to the association’s attention that instructors in various parts of the state, and consequently technicians, were being instructed inconsistently on Safety and Emission procedures. Both AYES and non AYES schools as well as secondary and post-secondary schools attended the 6 hours of training presented by PAA’s Skip Wagner. Nearly 200 individuals received instruction and a comprehensive manual was provided to each attendee that included regulations, PennDOT bulletins, and PAA Service Updates.

The “Train the Trainer” seminars were acclaimed by attendees as immensely informative and greatly worthwhile. Connecting to instructors and fostering relationships with those individuals who instruct students is just one piece toward combatting technician shortages. Dealers can also help by reaching out to their local vocational schools and establishing a dialogue with automotive instructors and school administrators. Attend career days and help to educate the students on the benefits of working in the industry. If you are interested in doing so, PAA even has a career brochure you can distribute to your local schools.

You can recruit, train and grow your own technicians. What makes for a successful program? A supportive school district and a lot of industry involvement.
PENNDOT CONTRACTS REQUIRE TRAINING FOR ANYONE WHO IS INVOLVED IN COMPLETING MOTOR VEHICLE TRANSACTIONS AND/OR IS RESPONSIBLE FOR ACCURACY OF PAPERWORK.

4-HOUR ADVANCED TRAINING COURSE

4-Hour Advanced Training Course Schedule
9:00 a.m. - 1:00 p.m.

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COST: $109 members, $99 each additional member $129 non-members

CONTENT: This advanced course covers proof of ownership documents, acceptable proof of identification and financial responsibility, PA address requirements, MV-1/ MV-4ST/MV-120 issues, power of attorney, and agent service contract overview.

TITLING & REGISTRATION CERTIFICATION PROGRAM

Titling & Registration Certification Program Course Schedule
9:00 a.m. - 3:30 p.m.

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PAA’s Two-Day Titling and Registration Program also satisfies the Basic Training requirements of the contract, providing more in-depth knowledge of the titling process.

CONTENT: This two-day course goes into greater detail than the 6-hour Basic Training Course. It provides in-depth instruction in the areas of basic notary duties, proof of ownership documents, proof of financial responsibility documents, MV-1, MV-4ST and MV-3 completion procedures, sales and use tax procedures, and power of attorney usage procedures. It will cover Chapter 43, 11 and 13 regulations, and will provide instruction on miscellaneous title and registration application procedures.

6-HOUR BASIC TRAINING COURSE

6-Hour Basic Training Course Schedule
9:00 a.m. - 3:30 p.m.

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COST: $179 members, $169 each additional member $199 non-members

CONTENT: This basic course covers, proof of ownership documents, proof of financial responsibility documents, MV-1, MV-4ST and MV-3 completion procedures, sales and use tax procedures, and power of attorney usage procedures. It will cover Chapter 43, 11 and 13 regulations, and provide instruction on miscellaneous title and registration application procedures.

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