

- Speakers
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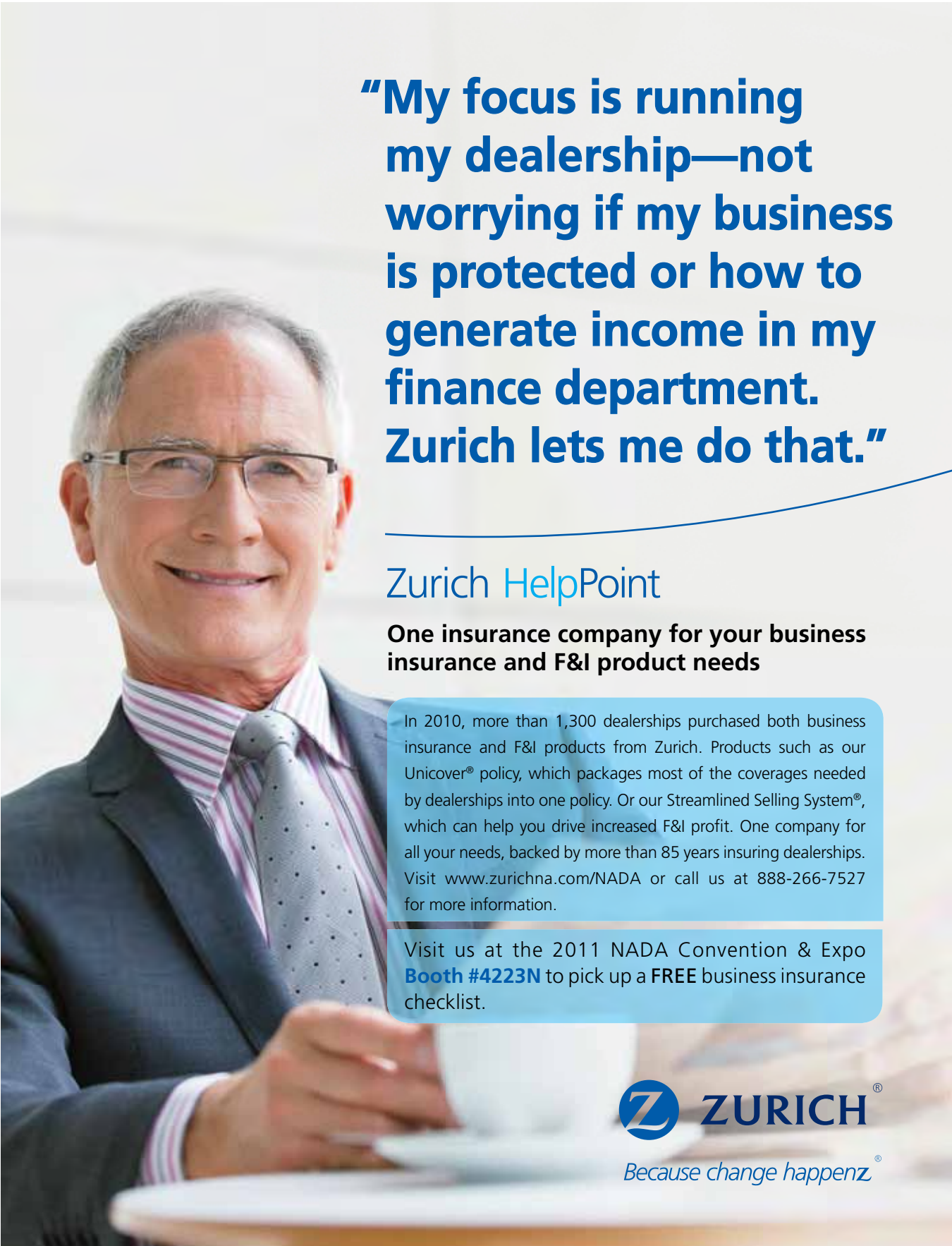
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Ed Tonkin
NADA Chairman

UP FRONT STAYING FOCUSED

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After two-plus years of a wrenching recession and sluggish recovery, we began 2011 on more solid ground. Now the challenge is to stay focused as we steadily move forward. And there's no better place to do so than the NADA convention this month in San Francisco. NADA's show is always the best opportunity for dealers to share ideas and get proven solutions to the challenges we all face, such as complying with federal and state regs, controlling expenses, and increasing profits.



This is especially important after the past year, when we faced several threats to our business. But NADA was there to combat those threats. Most notably NADA's grassroots efforts helped prevent dealers from being included in the Wall Street reform bill last summer. The original proposal would have made it harder and more expensive for consumers to buy vehicles from dealers. But thanks to NADA, the final version exempts dealers from being regulated by yet another regulatory agency, the new Bureau of Consumer Financial Protection. This was one of our most significant legislative victories—ever.

There were other NADA successes as well, including the dramatic turnaround on UNICAP by the IRS.

But now we are in a new year, so consider this issue of *NADA Convention Magazine* your road map for NADA 2011. In it you'll find what's in store for the convention, the industry, and NADA in the year ahead. In "Social Marketing" (page 16) we showcase dealers who are increasing their presence on Facebook and Twitter to beef up car sales. Two features—"Automakers 2011" (page 20) and "Sales Trends" (page 26)—forecast what's ahead for the auto industry. And in the "NADA 2011" section (pages 34-43), we look at the latest regulations affecting your store and profile my successor as NADA chairman, Stephen Wade of St. George, Utah.

I'm so proud of what we accomplished in 2010 and what we have set as goals for 2011. Let's make this year one of continued growth, with NADA leading the way.

A handwritten signature in black ink, appearing to read "Ed Tonkin". The signature is stylized and somewhat cursive, written on a light-colored background.



Year in Review

NADA highlights from 2010.

BY NANCY DUNHAM



03.10 NADA's first Automotive Forum in New York City

IT WAS A BUSY AND PRODUCTIVE YEAR for the auto industry and NADA in 2010. Vehicle sales ratcheted up, loan delinquencies trended down, and NADA and its dealers were at the forefront of many legislative and regulatory victories, as well as notable humanitarian efforts. Here's a look back at how far we've come in just 12 months.

JANUARY

- After a devastating earthquake in Haiti, dealers heed NADA's call for 100 light trucks to be donated to deliver food, water, and supplies.

FEBRUARY

- As news of the Toyota recall spreads, dealers across the country take a front-line role in alleviating consumers' concerns by performing the repairs quickly and efficiently.
- NADA hosts its 93rd annual Convention & Expo in Orlando, Fla. More than 15,000 participants—including dealers from more than 30 countries—attend.

MARCH

- NADA holds meetings with the Small Business Administration to discuss ways to make the SBA's dealer floor-plan pilot program more effective.
- NADA organizes the first-annual NADA/IHS Global Insight Automotive Forum in New York, in conjunction with the New York International Auto Show.

06.10 Sen. Sam Brownback (R-Kan.), right, with NADA chairman Ed Tonkin



APRIL

- The Obama administration unveils its historic fuel-economy rules, setting a 35.5-mpg average for the U.S. auto industry by 2016. While the new rules will cost the industry \$52 billion to meet, automakers embrace the standards. NADA expresses concern that the mandates violate the single national fuel-economy standard set in 2007 and warns that they will raise car and truck prices for consumers.
- Sen. Sam Brownback (R-Kan.) agrees to offer an NADA-backed amendment to protect dealer-assisted financing from further regulation. NADA wages a massive grassroots campaign that includes a trip to Capitol Hill by more than 100 dealers in support of the Brownback amendment.

MAY

- NADA continues to fight for the Brownback amendment, which would keep auto credit affordable. Efforts include another trip to Capitol Hill to rally support and campaigns to encourage dealers to immediately contact their senators and urge support for the amendment.

JUNE

- After months of grassroots efforts and intense negotiations, NADA wins one of its biggest legislative victories ever when Congress passes the Wall Street reform legislation excluding dealers from the new Consumer Financial Protection Bureau.
- NADA organizes the first-annual NADA/AFSA Vehicle Finance Executive Forum.

09.10 Dealers gather for NADA's annual Washington Conference.



08.10 NADA's new social media campaign begins.



JULY

- NADA applauds the findings of a government audit critical of the abrupt dealership closings initiated by GM and Chrysler in 2009. The report finds that rapid dealer reduction would “increase unemployment, threaten communities and decrease state and local tax revenue without any material corresponding decrease in the automaker’s costs.”

AUGUST

- NADA launches a social media campaign to promote its 2011 Convention & Expo in San Francisco via Facebook, LinkedIn, and Twitter. In the first few weeks, more than 500 people sign up to become followers.

SEPTEMBER

- Because of NADA’s efforts, the loan limit on SBA-guaranteed loans to dealers is increased from \$2 million to \$5 million.
- Nearly 500 dealers and association executives gather in Washington for NADA’s annual Washington Conference and legislative briefing. Dealers hear from Sens. Sam Brownback (R-Kan.), John Thune (R-S. Dak.), and Amy Klobuchar (D-Minn.), as well as Rep. John Campbell (R-Calif.)



10.10 NADA chairman Ed Tonkin speaks with reporters in Detroit.

12.10 Ean Williams with his canine companion, Kobe



OCTOBER

- NADA chairman Ed Tonkin delivers a widely reported speech to the Automotive Press Association in Detroit that raises serious questions about an Obama administration proposal to increase fuel economy to 62 mpg by 2025.
- NADA efforts result in an increase in the number of dealers who qualify for SBA loans.
- In response to proposals for new fuel-economy labels, NADA urges federal regulators not to require labels that give a pejorative “letter grade” to vehicles.
- With the support of the American Truck Dealers, Rep. Earl Blumenauer (D-Oreg.) introduces the Heavy Truck Fairness Act to stimulate heavy-duty truck sales.

NOVEMBER

- As a result of five years of NADA advocacy, the IRS accepts the dealers’ position on UNICAP, simplifying and favorably resolving several major income tax issues.
- NADA urges members to contact their senators and ask them to support the repeal of a 1099-reporting requirement in the health-care reform law, passed earlier in 2010. The requirement mandates that all businesses file 1099 forms with the IRS any time they purchase goods or services worth \$600 or more.
- At a hearing on a proposal to establish the first-ever fuel economy rules for commercial and work trucks and engines, ATD urges federal regulators to ensure that the mandates are “appropriate, cost-effective, and technologically feasible.”

DECEMBER

- President Obama signs estate tax legislation backed by NADA that is part of a broad tax-cut package. The provision sets a maximum estate tax rate of 35 percent for two years, with an exemption of \$5 million for individuals and \$10 million for employees.
- Nine-year-old Ean Williams receives a skilled companion dog to help him with his complicated and rare disabilities, thanks to a gift to Canine Companions for Independence from the National Automobile Dealers Charitable Foundation.

Nancy Dunham is a contributing writer of NADA Convention Magazine.

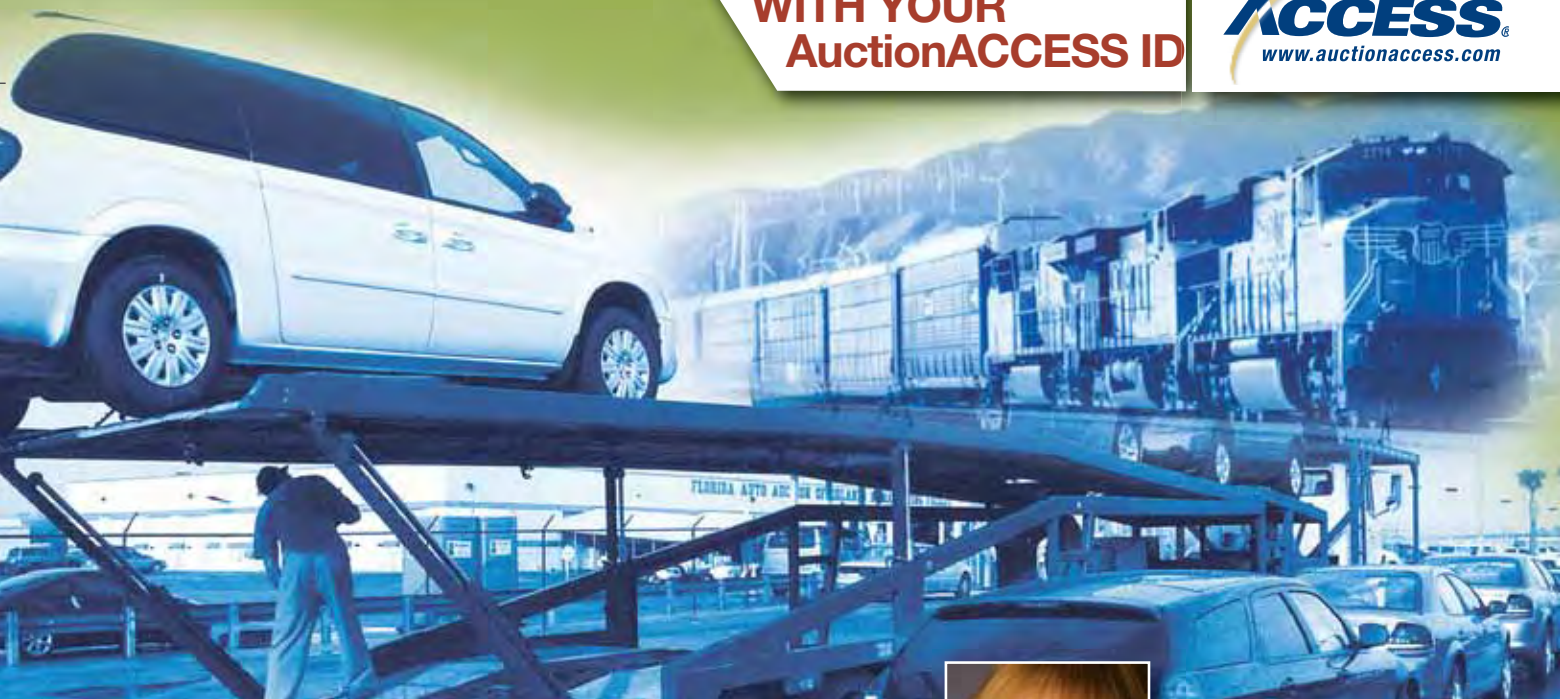
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SAN FRANCISCO

FAST FACTS

San Francisco began life in 1776 as a Spanish mission, though with its crop-resistant sandy fields, it had a tough start, as soldiers stationed at the *Presidio* (army camp) fought the War of the Fleas.

Then came gold, discovered in 1846 in the nearby Sacramento River. San Francisco's population soon swelled from 800 to 100,000. Meantime, the city's harbor became the lawless "Barbary Coast," with cheap whiskey and opium. General anarchy and frequent murders spawned the Committee of Vigilance, but its summary executions weren't enough to kill the town's free spirit, which ultimately made it the place to be for Beat poets, hippies, gays, and others. Additional city facts:

- Nicknamed Fog City and The City By the Bay (just don't call it Frisco).
- Fire did far more damage in 1906 than the 8.3–Richter Scale earthquake itself, claim San Franciscans (how's that for denial?).
- Oldest building: Mission Dolores, built in 1791 and survivor of two major earthquakes.

■ Coit Tower's colorful 1930s Diego Rivera–inspired murals of workers were condemned by some as being simply "Red."

■ Original design for the Golden Gate Bridge: gigantic concrete pylons with yellow caution stripes to warn ships.

■ Infamous Alcatraz "guests" included Al Capone, the "Birdman," and Arthur "Doc" Barker—son of gang boss "Ma" Barker—killed in an escape attempt.

■ Haight-Ashbury, the far-out hippie haven, peaked in summer 1967 with psychedelic music, LSD, long hair, and free love; now there's free *wireless* at the district's Coffee to the People shop.

■ City's cable cars are the country's only National Historic Landmark that moves. Go enjoy a ride while you're here!

—Peter Craig





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SPEAKERS/SCHEDULE

CONVENTION EVENTS



James E. Lentz

is president and chief operating officer of Toyota Motor Sales USA, Inc. (TMS), responsible for sales,

marketing, and distribution for Toyota, Scion, and Lexus in the United States. Lentz has been with Toyota since 1982, first as merchandising manager for the Portland region and then as a manager in various divisions in San Francisco, Los Angeles, and at TMS headquarters in Torrance, Calif.



Condoleezza Rice,

the secretary of state from 2005 to 2009, is now a professor at Stanford University and a senior fellow at

the Hoover Institution. Before serving as America's chief diplomat, she served as national security advisor from 2001 to 2005. Rice is the author or co-author of several books; has served on the boards of directors for Chevron, Charles Schwab, and Transamerica; and has been involved in numerous humanitarian pursuits.



Chesley B. "Sully" Sullenberger III

is the heroic pilot who masterfully landed a US Airways flight on the Hudson River and

saved the lives of 155 people. Captain of what has been dubbed the "Miracle on the Hudson," Sullenberger is now an aviation expert and accident investigator. He is also author of the *New York Times* best-seller *Highest Duty: My Search for What Really Matters*.

FRIDAY, FEBRUARY 4

10:00 a.m. – 6:00 p.m.	Early Convention Registration – Lobby, North Moscone
1:30 p.m. – 2:45 p.m.	Workshops – Meeting Rooms – West Moscone
3:15 p.m. – 4:30 p.m.	Workshops – Meeting Rooms – West Moscone

SATURDAY, FEBRUARY 5

7:30 a.m. – 9:30 a.m.	Women Dealers Breakfast – Fairmont Hotel, Crown Room
7:30 a.m. – 4:30 p.m.	Convention Registration – Lobby, North Moscone
8:00 a.m. – 4:30 p.m.	Expo Open – Ribbon Cutting – North and South Exhibit Halls A–E
8:00 a.m. – 4:30 p.m.	Lifestyle Center – Gateway Ballroom 103, South Moscone
11:00 a.m. – 12:15 p.m.	Workshops – Meeting Rooms – West Moscone, Levels 2 & 3
1:45 p.m.	General Session Doors Open – West Moscone, Level 3
2:10 p.m.	Pre-session Entertainment – West Moscone, Level 3
2:30 p.m. – 4:30 p.m.	Formal Opening of the 94th Annual NADA Convention & Expo – West Moscone, Level 3

SUNDAY, FEBRUARY 6

9:00 a.m. – 3:30 p.m.	Convention Registration – Lobby, North Moscone
9:00 a.m. – 3:30 p.m.	Expo Open – North and South Exhibit Halls A–E
9:00 a.m. – 3:30 p.m.	Lifestyle Center – Gateway Ballroom 103, South Moscone
9:00 a.m.	Inspirational Service Doors Open – West Moscone, Level 3
9:30 a.m. – 10:30 a.m.	Inspirational Service – West Moscone, Level 3
11:00 a.m. – 12:15 p.m.	Workshops and Dealer Franchise Meetings – Meeting Rooms – West and South Moscone
1:30 p.m. – 2:30 p.m.	Dealer Franchise Meetings – Meeting Rooms – West and South Moscone
2:15 p.m. – 3:30 p.m.	Workshops and Dealer Franchise Meetings – Meeting Rooms – West and South Moscone

MONDAY, FEBRUARY 7

8:30 a.m. – 9:45 a.m.	Workshops and Dealer Franchise Meetings – Meeting Rooms – West and South Moscone
8:30 a.m. – 5:00 p.m.	Convention Registration – Lobby, North Moscone
8:30 a.m. – 5:00 p.m.	Lifestyle Center – Gateway Ballroom 103, South Moscone
8:30 a.m. – 5:00 p.m.	Expo Open – North and South Exhibit Halls A–E
10:30 a.m. – 11:45 a.m.	Workshops and Dealer Franchise Meetings – Meeting Rooms – West and South Moscone
1:00 p.m. – 2:15 p.m.	Dealer Franchise Meeting – Meeting Rooms – West Moscone
2:45 p.m.	General Session Doors Open – West Moscone, Level 3
3:05 p.m.	Pre-session Entertainment – West Moscone, Level 3
3:30 p.m. – 5:00 p.m.	General Session – West Moscone, Level 3
5:00 p.m.	Convention Concludes



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NOMINEES

TIME DEALER AWARD



Congratulations to the nominees for national *Time* Magazine Dealer of the Year from NADA and all state and metro dealer associations. The winner will be announced at the opening session, Saturday, February 5.

- ALABAMA:** *J. Bruce Limbaugh*, Birmingham
- ARKANSAS:** *Ronnie Ramsey*, Harrison
- CALIFORNIA:** *Walter Kienle*, Riverside
- CALIFORNIA:** *Philip E. Mossy*, San Diego
- COLORADO:** *Douglas Moreland*, Colorado Springs
- DELAWARE:** *Michael Uffner*, Wilmington
- FLORIDA:** *Michael J. Bakich*, Leesburg
- FLORIDA:** *Thomas Castriota*, Hudson
- FLORIDA:** *Nathan Potratz*, Orange Park
- GEORGIA:** *Stephen N. Mader*, Newnan
- HAWAII:** *William "Bill" van den Hurk*, Honolulu
- IDAHO:** *Lyle Pearson*, Boise
- ILLINOIS:** *Mike Murphy*, Morton
- INDIANA:** *Fernando Falcon*, Indianapolis
- IOWA:** *Bill Colwell*, Hudson
- KANSAS:** *Dawson Grimsley*, Wichita
- KENTUCKY:** *Bill Leachman*, Bowling Green
- LOUISIANA:** *Adrian Harris*, Zachary
- MAINE:** *John Isaacson*, Auburn
- MARYLAND:** *H. Daniel Jobe*, Greenbelt
- MARYLAND:** *Tom O'Donnell*, Ellicott City
- MASSACHUSETTS:** *William DeLuca III*, Andover
- MICHIGAN:** *Frank Audette*, West Bloomfield
- MICHIGAN:** *Otto Belovich*, Traverse City
- MICHIGAN:** *Douglass R. Fox*, Ann Arbor
- MINNESOTA:** *Rick Jensen*, New Ulm
- MISSISSIPPI:** *Jim Estabrook*, Pascagoula
- MISSOURI:** *Phil Smith*, Raytown
- MONTANA:** *Leslie Oakland*, Great Falls
- NEBRASKA:** *Jess Hull*, LaVista
- NEW HAMPSHIRE:** *Susan McFarland Moynahan*, North Hampton
- NEW JERSEY:** *Charles Miller*, Lumberton
- NEW MEXICO:** *Dennis Snyder*, Albuquerque
- NEW YORK:** *Roger Burdick*, Cicero
- NEW YORK:** *Tom Coughlin*, Westchester County
- NEW YORK:** *Carl Emerling*, Springville
- NORTH CAROLINA:** *Owen Bertschi*, High Point
- NORTH DAKOTA:** *Patrick K. Murphy*, Williston
- OHIO:** *Alan Spitzer*, Elyria
- OREGON:** *Bob Wentworth*, Portland
- PENNSYLVANIA:** *Andy Scott*, Allentown
- RHODE ISLAND:** *Christopher Hurd*, Johnston
- SOUTH CAROLINA:** *Jerry Stokes*, Beaufort
- SOUTH DAKOTA:** *Jim Wegner*, Pierre
- TENNESSEE:** *Don Jenkins*, Clarksville
- TEXAS:** *Tom Durant*, Grapevine
- UTAH:** *Byron W. Hansen*, Brigham City
- VIRGINIA:** *Robert G. Hisaoka*, Vienna
- VIRGINIA:** *H. Carter Myers III*, Chester
- WASHINGTON:** *Buzz Rodland*, Everett
- WEST VIRGINIA:** *Wally Thornhill*, Chapmanville
- WISCONSIN:** *Dan Toycon*, Bloomer
- WYOMING:** *Dick Weber*, Sheridan

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WHAT'S NEW AT THE CONVENTION

The NADA convention is always a great place to network, get new profit-building ideas from workshops, shop the hall, and hear big-name speakers. But this year's convention also will see a number of firsts.

"ONLINE PRESENCE" WORKSHOPS

While some 100 workshops will cover 35 different topics, there's a brand-new "Online Presence" category that features the auto industry's top Internet marketing professionals from Google, AutoTrader.com, and others. These special workshops focus on the online behavior of car shoppers from six months to one week before they buy a car, as well as how to use the Internet to influence buyers through video, chat, mobile, and other e-communication tools.

NADA WELCOME RECEPTION

NADA and J.D. Power and Associates will cosponsor a welcome reception Fri-

day from 5:30 p.m. to 7:00 p.m. at the San Francisco Marriott Marquis. Dealers can buy tickets when signing up for the J.D. Power International Automotive Roundtable or during convention registration. For ticket pricing and registration information, go to www.NADAconventionandexpo.org.

REDESIGNED NADA PAVILION

The NADA Pavilion, located in the middle of the Moscone Center's South Hall on NADA Main Street, was redesigned for 2011. The 5,600-square-foot exhibit (booth #1119S) will showcase NADA's core membership services, including Regulatory Affairs (Federal Agency Outreach), Legislative Affairs, Public Affairs, NADA Academy, Learning Hub, Resource Toolbox, 20 Group, NADART, Information Technology, and STAR (Standards for Technology in Automotive Retail). As part of the Federal Agency Outreach, representatives from several

federal agencies that regulate dealership operations (the IRS, EPA, and NHTSA) plus NADA legal and regulatory staff, will be on hand to answer questions.

DEALERS DRIVING ROAD SAFETY

A new NADA program—Dealers Driving Road Safety—is being launched on the exhibition floor (booth #1732S). Dealer groups already participating in safety programs will show other dealers how to begin similar programs in their communities by focusing on three areas: child passenger safety, safe teen driving, and rural driving safety. Past NADA chairman Annette Sykora will explain the best ways to host child passenger safety programs. DCH Auto Group vice-chairman Susan Scarola will discuss the group's efforts on safe teen driving. And incoming NADA vice-chairman Bill Underriner will offer his expertise on rural driving safety.

—Joan Mooney



The new NADA Pavilion

Social Marketing

Dealers Boost Sales With a Little Help From Their Friends.

BY NANCY DUNHAM

WHO SAYS THE YOUNGER GENERATION has all the great social media ideas?

In early 2010, Denny Hardee of Hardee Ford, South Hill, Va., implored his sons Chris and Shaun to start a Facebook page for the dealership. Little did any of the three realize how successful the idea would become.

“We now have 1,300 followers and social marketing is the best source of advertising we do,” says Chris Hardee, whose dad retired at the end of 2010, turning the reins over to him and Shaun. “It’s a tough time to get people on our lot, and social media—Facebook—has sparked a lot of interest.”

Now that the store’s Facebook following has mushroomed and showroom traffic and sales have soared, Hardee Ford has canceled other advertising. Although exact figures aren’t available, Chris says he can trace numerous sales back to the site.

TRADITIONAL MEDIA LOSING GROUND

For years, consultants have touted social media and Internet marketing as the best way to boost dealership sales, especially among the 18- to 24-year-olds. For that group and an increasing number of older buyers, traditional advertising is a lost cause.

But it’s important to target your outreach. Analyst Joe Phillippi of AutoTrends, who admits he’s no social media guru, says that for anybody in the auto business (or, for that matter, any business), the volume of social media and Web marketing campaigns can be overwhelming.

“Every day, my in-box is overflowing,” Phillippi says. “To the ordinary consumer it becomes a question of how you pick and choose.”

Dealer Stan Anders, Iberville Motors, Plaquemine, La., says his social media success has come from just such targeted outreach. “You have to avoid trying to be everything to everybody,” he says of social media. “Pick a niche that you think works for you and stick with it.”

WORD OF MOUTH SPEAKS VOLUMES

Chris Hardee says the key to his Facebook success has been word of mouth. When a few former high school classmates realized Hardee was an auto dealer, they not only bought from him but spread the word to their friends.

“I have traced it back and a lot of friends suggested it to their friends,” says Hardee. “I have had people I haven’t talked to since I graduated [from high school] buying cars from us.”

Social surge: Social media started just nine years ago, but now Facebook is the most-visited Internet site—even more than Google.



The Hardees work to make the site fun and profitable. They post real-time incentives and deals and invite followers to interact with them.

Just after Thanksgiving, the dealership asked its Facebook followers to tell the dealership about their Ford dream cars and got “overwhelming response,” says Hardee. The store sent each respondent an e-mail about his or her “dream car”—including an electronic flyer—and sold two new cars as a result.

As the dealership’s Facebook page has grown in popularity, the Hardees have become more innovative, sometimes posting short videos to the site. One such video might include Chris talking about a just-prepped used car as he stands in front of it. The videos have often generated serious sales leads.

“It’s exciting for all of us,” says Hardee. “And, really, it only takes minutes a day.”

LESSONS FROM THE DEALER ACADEMY

Chelsea Grinwald just joined her family’s dealership, Grinwald Ford/Mercury, Watertown, Wis. Ideas from her time spent at NADA Academy have not only enhanced the dealership’s visibility on the social media map but significantly boosted used-car sales and profits.

It all started when Chelsea became the dealership’s marketing manager and told her father, dealer John Grinwald, that they could better use the Web to boost used-car sales and turnover (although helping out the store was nothing



Data delivery: People are increasingly getting their information through mobile apps on their cell phones.

new to Chelsea, who began such outreach for her family's business to friends when she was still in high school).

"I thought our used-vehicle department was fairly strong," says dealer Grinwald. "She told me it really was *not* that strong."

The dealership had premium space on AutoTrader and what the dealer felt was competitive pricing, but Chelsea's ideas helped him fine-tune used-car pricing and electronically tap into a wellspring of customers through social media sites like Facebook and Twitter.

"We made some changes, pricing our cars to be competitive on the Internet," says dealer Grinwald. "I found myself buying cars that fit the model [we developed]."

Before the system was in place, the dealership kept about 55 used cars in stock and turned inventory about four times annually. Now the inventory is down to about 45 used cars

in stock and turns are up to about seven times a year.

"You have to buy right," says Grinwald. "That's the No. 1 answer. The day of paying whatever it takes has passed. Don't buy an [economy car] for \$8,500 and then retail it for \$8,900."

When customers come in armed with figures—such as how much the dealer paid for a car at auction—Grinwald doesn't budge from the price.

Smart move, says general manager Rick Quigley of Fairfield Auto Group, Montoursville, Pa. "We basically say [to used-car customers], if you want the warranty, free car washes, loaners, and top-notch service, here's what [the car] will cost. Some dealers close sales by selling tons of Lemon Law buybacks. They don't do one thing to those cars—if people buy one car from them, they won't buy [another]." ■

Nancy Dunham is a contributing writer of NADA Convention Magazine.

GAME CHANGING

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Automakers 2011

Forecast: Slow but steady growth.

BY NANCY DUNHAM

THOUGH THERE IS MUCH REASON FOR optimism about 2011, automakers aren't out of the woods yet, say analysts. Many variables, including gas prices—which can rise significantly if there's a harsh winter—may play key roles in how 2011 vehicle sales shape up.

“Two thousand nine was definitely a low point for the industry and for the U.S. economy as well,” says Dan Montague, North American lead analyst, PwC Autofacts. “These two things go hand in hand. Now more than ever before, the success of the U.S. and of the North American auto industry is tied to [their] joint economies.”

Amid a sluggish recovery from a devastating recession, “the industry has actually done very well,” Montague says. “A lot of the heavy lifting—in terms of financial and operational restructuring—was done in 2009, and benefits started to show themselves in 2010.”

Whether that will continue in 2011 depends on various factors, many of them out of the auto industry's control. Says Montague, “We are definitely optimistic in terms of sequential improvement over 2010 in both assembly and sales, but we do still have downside risks built into our models because there are a lot of unknowns.

“I think we are all stigmatized by the downturn,” continues Montague. “Even though things are getting a little better, they largely are just remaining stable. Stability instills confidence, and folks feel more bullish [about autos] because we are not in crisis mode.”

Following is a look at some of the major players in the U.S. auto industry, focusing on what they've done right (or wrong) and where they may go in 2011.

FORD: CONTINUING ITS WINNING STREAK

Thank Ford's strength of leadership and long-term planning for the automaker's rise in market share to 16.5 percent for the first 11 months of 2010 from 15.1 percent during the same time period a year ago (These figures include U.S. sales for Ford, Lincoln, and Mercury, but not Volvo.)

“One Ford”—the automaker's global design theme—is a project that leadership has committed to and brought to fruition in a short period of time, say analysts. That strategy has paid off, and the appeal of Ford vehicles—especially crossovers like the Edge and Flex, which are in the largest segment of new-car sales in the United States—puts the automaker in good shape.



2010 Chevrolet Cruze

“Ford has done extremely well,” says Auto Trends analyst Joe Phillippi, noting that auto sales are not booming across the board. “We are paying back 10 years of excess [vehicle sales]. In the first eight years of this decade, consumers overbought.”

GM: FIGHTING TO REGAIN TRUST

GM surprised many in 2010 with its dramatic shift from crisis mode into competitor. “I think everybody is heartened by the progress that has been made at GM not only in terms of restructuring but what has been done in six months, such as the IPO and strength of product that has come to market,” says PwC Autofacts’ Montague. “They’ve done a tremendous job of transitioning from crisis mode to growth mode.”

Consumers have remained patient with the automaker as it has transformed into a company that can build world-class products.

New products in the pipeline—perhaps including a few revitalized products that had been in the Hummer product line—and new interiors and refreshed looks could well create buzz and then sales in 2011, says Phillippi. The Chevrolet Equinox, Chevrolet Volt, Cadillac SRX, and next-generation

Chevrolet Malibu will all likely be contenders, say analysts.

“The interesting thing, especially in a market as competitive as this one, is that it doesn’t take very long to tear down a reputation but it does take a long time to build it back up,” says PwC Autofacts analyst Brandon Mason. “GM has admitted it has a long way to go to regain the trust of consumers and win new buyers.”

Don’t look at the slight dip—from 19.8 percent of market share in the first 11 months of 2009 to 19.1 percent during the same period in 2010—as a negative, analysts say. Considering that the automaker shed four brands, it really didn’t give up much ground.

“We have been doing a little bit better all year long,” says dealer Stan Anders, Iberville Motors, Plaquemine, La., who saw an 85 percent jump in sales between November 2009 and November 2010. “I think it is going to continue to get better and better.”

CHRYSLER: A CHANGE IN DIRECTION

Chrysler’s rise in market share from 9 percent in the first 11 months of 2009 to 9.4 percent during the same period in 2010 stems directly from its aggressive moves. Refreshed and



2011 Nissan Leaf

new products—especially the Dodge Durango, Jeep Grand Cherokee, and Jeep Compass—have boosted the automaker to contender status in the United States.

Next move: collaborating with Fiat to bring new products to the market, likely beginning in 2013.

“A lot of the changes going on in Chrysler you don’t see because they are under the hood,” says PwC Autofacts’ Mason. “The collaborations have led to new engines, and transmissions are coming along very well.” Also, the partnership with Fiat will help the automaker meet CAFE regulations, which are driving so much of the product development for all automakers, analysts say.

That commitment to product is what drives car sales, says dealer Jack Antwerpen, who has multiple dealerships in and around Baltimore, including Antwerpen Jeep/Chrysler in Catonsville, Md.

HONDA: LOOKING TO ALTER COURSE

Honda’s aging portfolio caused the automaker’s dip in market share to 10.6 percent in the first 11 months of 2010 from 11.1 percent during the same time period in 2009 (for both Honda and Acura), many analysts say.

Sudarshan Mhatre of PwC AutoFacts says the dip was due more to aging than to any real design flaws. “They will likely rebound in the next 12 to 16 months as they start refreshing models,” he says, noting that the next-generation Civic and CRV will both be introduced next year, with new Accords and Pilots soon following. “That will help them regain a lot of lost volume.”

NISSAN: ELECTRIFYING CHANGES

Nissan and Infiniti saw a slight bump in market share—from 7.4 percent in the first 11 months of 2009 to 7.8 percent during the same period in 2010.

The all-electric Leaf was introduced in 2010, and analysts are closely watching to see how consumers choose between the Leaf and the Chevy Volt. In addition, innovative cars such as Nissan’s Juke crossover and Murano CrossCabriolet are confirmed for production. Although such vehicles will only hit a niche market, analysts say the automaker’s innovation is encouraging.

Shifting to unibody construction on SUVs—to help meet CAFE standards—and building more cars domestically may well make the automaker more attractive to U.S. consumers, analysts say.

Dealer Jim Bone of Nissan of Santa Rosa (Calif.) says he originally went with Nissan over other automakers because of its innovation. “What lured me to it...was how they emerged from a difficult period. It’s very clear that Nissan has great things on the horizon.”

TOYOTA: WORKING TO REGAIN TRACTION

Analysts agree that the recalls in January and February of 2010 were partly to blame for the automaker’s drop in market share from 16.9 percent in the first 11 months of 2009 to 15.2 percent during the same period in 2010.

As in GM’s case, Toyota has struggled to regain consumer confidence. The automaker’s upcoming partnership with Tesla to develop a joint battery system will likely benefit

both companies, according to analysts.

Loyalty to the brand has heartened Toyota of Killeen (Tex.) dealer principal Paula Lohse. “We had such a wild year with the recalls and I’m very encouraged our loyal owners stayed loyal,” she says. “I believe our number will [soon return to] pre-recall times. Toyota has made our vehicles better, safer, and more reliable. They are the best cars out there.”

HYUNDAI/KIA: STAYING THE COURSE

For Hyundai/Kia any change has been good. The automakers’ combined U.S. market share for the first 11 months of the year, for example, went from 7.3 percent in 2009 to 7.9 percent in 2010.

Credit the automakers’ ambitious growth strategy globally—especially in North America, as shown by the opening of a second assembly facility in the U.S.—and vehicle lineup, which includes the popular Kia Soul, Hyundai Sonata, and upcoming Kia Optima Hybrid, for a jump that will likely continue into 2011.

“They’ve really got their act together in terms of product development that really resonates with the America consumers,” says Mason.

EUROPEANS: TARGETING TOYOTA AND LEXUS

As part of its ambitious plan to overtake Toyota as the world’s largest automaker by 2018, Volkswagen is counting on nearly quadrupling U.S. sales to 800,000. But through November, its sales were just 232,963. The construction of VW’s new assembly plant in Chattanooga, Tenn., this year—the first here for the automaker in 25 years—could help boost sales.

In the luxury market, BMW and Mercedes-Benz are both working on beating Lexus as the No. 1 U.S. seller. Through November, the ranking was Mercedes, Lexus (separated by only about a thousand units), and BMW. The two Germans were aided this year by an unusual recall by Lexus of some models from 2004 to 2006. And next year BMW will introduce a new 5, X3, and 6 Series.

Porsche is facing challenges in the current economy, but it’s a niche brand with many loyalists. With its new philosophy that high-performance cars can be environmentally friendly, it introduced the Cayenne S hybrid last fall and has more hybrids planned. Mercedes is adding to its eco-friendly offerings with the 2011 B-Class F-Cell compact crossover. ■

Nancy Dunham is a contributing writer of NADA Convention Magazine.

China and India: Big Potential

CHINA

Despite the worst global downturn in decades, China saw its domestic auto market grow by about 32 percent in 2010 after an already-huge surge in 2009. That means that car sales doubled between 2008, when sales were about 7 million units, and 2010, when they will likely hit 14 million units, says analyst Sudarshan Mhatre of PwC AutoFacts.

And growth for China is not expected to subside anytime soon, analysts say, partly because of the government’s incentives to both buyers and automakers. Perhaps a bigger reason: the country’s wealth has been spreading inland, where the country’s enormous population is concentrated.

Of special interest to the government is the latest technology to drive electric and new-energy vehicles. The Chinese are hoping to get a jump on their competitors while the playing field is still level.

“This story isn’t over yet,” says Mhatre of economic growth on all fronts. “You are bound to see this country grow for a long time.”

But there may be some hiccups along the way. In late

December, China announced it would reinstate its 10 percent tax on cars with small engines. (Larger cars already have a 40 percent tax.) And Beijing is going to cap the city’s new-car registrations at 240,000 annually.

INDIA

The other big growth story is India, says Mhatre. Like China, the market ballooned by about 33 percent from 2009 to 2010—but without the government incentives to purchase vehicles. The growth was driven solely by market economics. No stimulus necessary.

In fact, a lot of automakers experienced price hikes and passed those onto consumers. Plus, the Indian government ended subsidies for diesel and gasoline, so consumers faced higher fuel costs. “In spite of that, the market had a 32 or 33 percent growth,” says Mhatre. “That makes it even more remarkable and shows the underlying health of the economy.”

Watch for the boom to continue to a predicted 6 million units by 2016—about double what it is today—thanks to the introduction of more low-cost compacts.

What a Concept

Cars of the
not-so-distant
future.

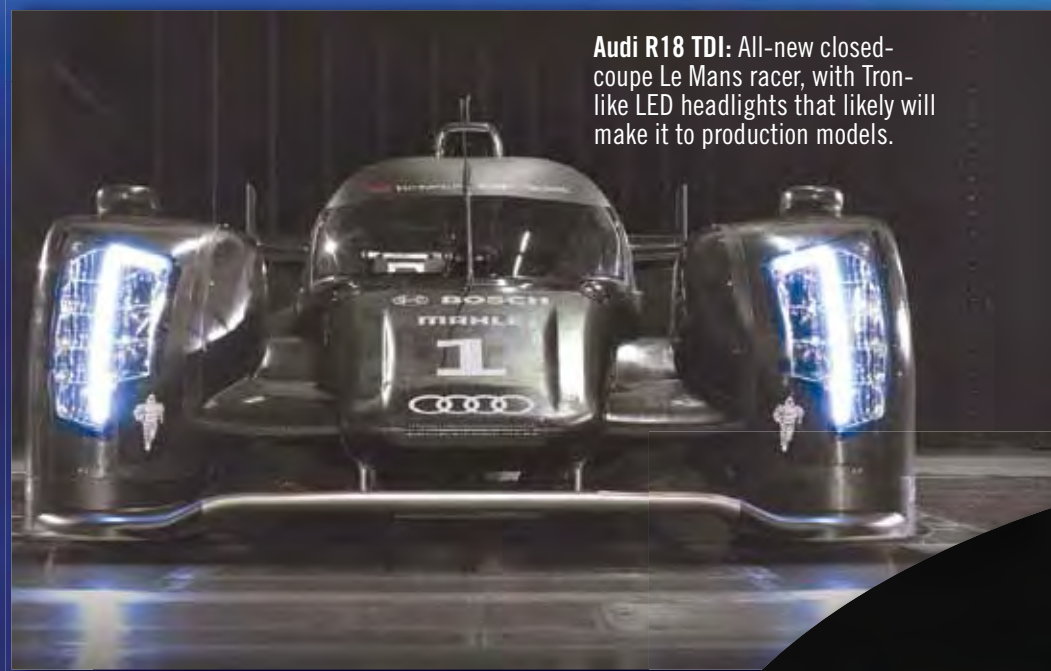
BY JOE PHILLIPS

It's been some 125 years since Karl Benz created his first gas-powered vehicle, and each year automakers keep trying to add something new to the mix. Often, that meant adding more cylinders or horsepower to an engine. Today it means adaptive cruise control, lithium-ion batteries, hill assist, start/stop engines, and the like. There are even in-car cameras that provide 360-degree overhead views to help with parking and a high-tech system that allows a car to communicate with traffic lights, so it knows when they will turn green. One thing's for sure: Such advances in technology and design help keep bringing buyers back to the showroom.

Here's a look at some of the latest automotive concepts.



Jaguar C-X75: EV racer boasts 780 hp and blasts from 0 to 60 mph in just 3.4 seconds, thanks to micro gas turbines and four potent electric motors (one at each wheel). Range: 560 miles. Top speed: 205 mph.



Audi R18 TDI: All-new closed-coupe Le Mans racer, with Tron-like LED headlights that likely will make it to production models.



Nissan Ellure: Hybrid sedan mixes flowing side panels with fin-like headlights, and has a trendy cabin with recycled upholstery and wraparound rear seat.



GMC Sierra All-Terrain HD Concept:

Husky tech-savvy pickup, with honking 35-inch tires, swing-down steps for easy entry/exit, and a cutting-edge stereo with 80GB hard drive and 20 minutes of DVR-like recording. An outside storage compartment comes with an electrical outlet, compressed-air outlet, and 360-degree floodlight.



Cadillac Urban Luxury Concept: Micro Caddy—with pair of scissor doors—could almost fit in the back of an Escalade. Estimated mpg: 56 city/65 highway, thanks to the three-cylinder turbo.



Mazda Shinari Concept: Targeting Acura and BMW, Mazda's new sleek four-door sport sedan has a long, low hood, wide-mouthed grille, and sculpted side panels a la Fisker Karma. To up its eco-cred, the Shinari showcases Mazda's next-gen fuel-sipping Sky engine.



Mini Cooper Paceman Concept: Two-door version of the stretched Countryman SUV has a steep-sloped rear, sports-coupe styling, and same high-test turbo as in the John Cooper Works edition.



Kia KV7 Concept: Futuristic crossover/minivan combines various design cues from Sportage and Sorrento models, and adds supersized gull-wing door (passenger side only) and four neon-lime seats that swivel 360 degrees.



Subaru Impreza Concept: Five-door hatchback is more aerodynamic than previous Subarus, featuring fin-shaped fog lights and a crash-avoidance system that uses cameras in the A-pillars to spot sudden obstacles and apply the brakes.

Sales Trends

NADA chief economist upbeat about auto sales.

BY NANCY DUNHAM

THE DEVASTATING ECONOMIC STORM HAS passed, and dealers around the country saw sales begin to blossom last year. For 2011, NADA chief economist Paul Taylor says both automakers and dealers can expect plenty of sunny forecasts with just a few intermittent clouds.

Says Taylor, "Sales will reach 12.9 million new cars and trucks this year, about a 12 percent increase from 11.55 million in 2010."

Taylor attributes part of this spike to the fact that the average vehicle on the road today is more than 10 years old. "Americans will need to replace their aging vehicles," he says. Here is more of what to expect:

USED-CAR SUPPLY STILL DOWN

The sagging used-car supply is due to eight years of new-car sales that averaged 16.5 million, then plummeted to 13.2 million in 2008 and 10.4 million in 2009. Add to that rental and fleet cars that have ultra-high mileage before they are retired, and 5 million to 7 million used cars are out of marketplace contention.

The bottom line: A complete supply of used cars won't be restored for a while. The size of the U.S. car market

makes it impossible to quickly recover from a large used-car deficit. Small countries like Costa Rica could import a few hundred cars to ease such a crunch, Taylor points out. But the United States is short by some 5 million used cars or more, so it will likely take years to rebuild inventory from future trade-ins.

But, as NADA has said before, don't blame the government's Cash for Clunkers program for this shortage and the resultant high prices of used cars. The typical Clunker trade-in was old and had extremely high mileage and obvious wear or damage.

"Missing high-mileage clunkers is simply not the problem," says Taylor. "The problem is lack of trade-ins coming in because we had dramatically fewer new-car sales in '08 and '09."

NEW-CAR SALES STILL KING

The short supply of used vehicles continues to narrow the spread between new- and used-car prices. So margin-tight new cars may represent a greater share of the sales mix than in previous years. And new-car sales could be hampered if heavy snow or other harsh weather show up, keeping consumers at home and away from car dealerships



But consumer confidence is increasing, and that helps boost new-car sales. So, too, did the surge in consumer sales during the holidays late last year.

And while higher gas prices are never good for the economy, says Taylor, they do increase consumer demand for small cars, diesels, and hybrids—including the more expensive hybrids that typically languish on dealer lots when fuel prices are low.

The automakers also are doing their part to keep this trend going by revving up choices. The debut of dozens of cars and trucks at recent auto shows is a strong indicator that the auto industry is making a comeback and will lead to increased manufacturer production and sales in 2011, says Taylor.

BANKS AND CREDIT UNIONS: SLOW ON THE UPTAKE

The good news is that credit is basically back to normal for customers with good credit ratings. “Credit availability at a time of very low interest rates will drive new-vehicle sales this year,” Taylor says.

The bad news, Taylor adds, is that “normal” is what was offered in 2004 and 2005, not in the heyday of 2007.

But as economic growth increases, look for banks and other financial organizations to offer increased lending possibilities to subprime customers. Just don’t expect that to happen overnight, Taylor says.

Despite two lingering drags on the economy—continued high unemployment and decreased home sales—the stock market seems to be shoring up nicely. Last year, the market closed up some 11 percent from 2009—a very solid performance from the turmoil of 2008 (when the S&P 500 tumbled 38 percent).

The stock market performed well despite two potential threats in 2010: a fiscal crisis in Europe and the possibility of a double-dip recession.

Another bright spot: luxury sales. “Continued stock market gains will boost luxury car sales this year,” says Taylor. Sales of luxury good overall last year were almost on par with their 2007 peak of \$235 billion.

Overall, watch for these sustained improvements in the economy to translate into a healthy increase in 2012 and beyond. ■

Nancy Dunham is a contributing writer of NADA Convention Magazine.

SALES TRENDS

NADA NEWS

Average dealership profile

Light-Duty Vehicle Sales

In millions

	YTD Oct. 2010	% chg.	Full year 2009
Domestic cars	3.2	7.8%	3.6
Import cars	1.5	-2.0%	1.8
Total cars	4.7	4.5%	5.5
Light-duty trucks	4.8	17.4%	4.9
Total light-duty vehicles	9.5	10.6%	10.4

Balance Sheet Ratios (YTD Sep.)

Net debt to equity (Total liabilities less floorplan to net worth + LIFO)	.99
Current ratio (Current assets to current liabilities)	1.40
Service and parts absorption (Service and parts gross profits divided by total fixed overhead expense)	60.2%
Return on equity	28.7%

Source: NADA Industry Analysis Division

	YTD September 2010	YTD September 2009	Percent change
Total sales	\$22,827,321	\$19,645,144	16.2%
Total gross	\$3,373,992	\$3,022,897	11.6%
As % of total sales	14.8%	15.4%	
Total expense	\$2,836,720	\$2,690,816	5.4%
As % of total sales	12.4%	13.7%	
Net profit before taxes	\$537,273	\$332,080	61.8%
As % of total sales	2.4%	1.7%	
New-vehicle sales	\$11,914,293	\$10,233,234	16.4%
As % of total sales	52.2%	52.1%	
Used-vehicle sales	\$7,706,165	\$6,336,717	21.6%
As % of total sales	33.8%	32.3%	
Service and parts	\$3,206,863	3,075,194	4.3%
As % of total sales	14.0%	15.7%	
Advertising expense	\$243,260	214,776	13.3%
As % of total sales	1.07%	1.09%	
Per new vehicle retailed	\$652	\$645	0.9%
Rent and equivalent	\$283,575	300,833	-5.7%
As % of total sales	1.24%	1.53%	
Per new vehicle retailed	\$760	\$904	-16.0%
New-vehicle floor-plan interest	(\$14,557)	21,580	-167.5%
As % of total sales	-0.06%	0.11%	
Per new vehicle retailed	(\$39)	\$65	-160.1%
Average new-vehicle selling price (retail)	\$29,428	28,587	2.9%
Gross as % of selling price	4.60%	4.42%	
Average gross profit	\$1,353	\$1,263	7.1%
Average used-vehicle selling price (retail)	\$16,321	\$14,777	10.5%
Gross as % of selling price	13.85%	11.04%	
Average gross profit	\$2,260	\$1,632	38.5%

Average dealership profile

Light-Duty Vehicle Sales

In millions

	YTD Nov. 2010	% chg.	Full year 2009
Domestic cars	3.5	7.5%	3.6
Import cars	1.7	-0.7%	1.8
Total cars	5.1	4.7%	5.5
Light-duty trucks	5.3	18.1%	4.9
Total light-duty vehicles	10.4	11.1%	10.4

Balance Sheet Ratios (YTD Oct.)

Net debt to equity (Total liabilities less floorplan to net worth + LIFO)	0.98
Current ratio (Current assets to current liabilities)	1.39
Service and parts absorption (Service and parts gross profits divided by total fixed overhead expense)	60.3%
Return on equity	28.5%

Source: NADA Industry Analysis Division

	YTD October 2010	YTD October 2009	Percent change
Total sales	\$25,488,648	\$21,927,963	16.2%
Total gross	\$3,762,336	\$3,370,658	11.6%
As % of total sales	14.8%	15.4%	
Total expense	\$3,164,093	\$2,993,655	5.7%
As % of total sales	12.4%	13.7%	
Net profit before taxes	\$598,243	\$377,003	58.7%
As % of total sales	2.3%	1.7%	
New-vehicle sales	\$13,329,932	\$11,420,511	16.7%
As % of total sales	52.3%	52.1%	
Used-vehicle sales	\$8,576,220	\$7,068,178	21.3%
As % of total sales	33.6%	32.2%	
Service and parts	\$3,582,496	\$3,439,274	4.2%
As % of total sales	14.1%	15.7%	
Advertising expense	\$272,441	\$240,445	13.3%
As % of total sales	1.07%	1.10%	
Per new vehicle retailed	\$654	\$652	0.3%
Rent and equivalent	\$316,772	\$332,486	-4.7%
As % of total sales	1.24%	1.52%	
Per new vehicle retailed	\$760	\$902	-15.7%
New-vehicle floor-plan interest	(\$17,476)	\$18,207	-196.0%
As % of total sales	-0.07%	0.08%	
Per new vehicle retailed	(\$42)	\$49	-185.0%
Average new-vehicle selling price (retail)	\$29,547	\$28,741	2.8%
Gross as % of selling price	4.58%	4.45%	
Average gross profit	\$1,352	\$1,280	5.6%
Average used-vehicle selling price (retail)	\$16,371	\$14,828	10.4%
Gross as % of selling price	13.71%	11.18%	
Average gross profit	\$2,245	\$1,658	35.4%



AUCTION TRANSACTIONS



RETAIL, TRADE-IN & LOAN VALUES



RETAIL TRANSACTIONS



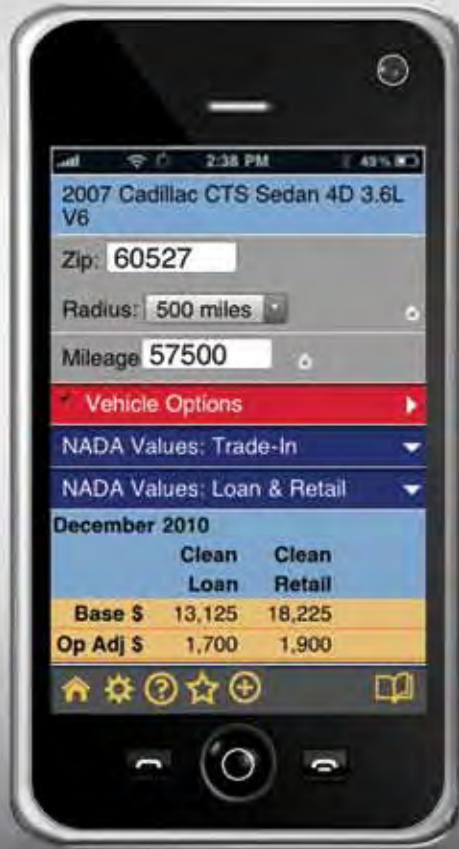
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Century Dealers

For more than 100 years,
dealers have weathered adversity.

BY JOE PHILLIPS

MANY DEALERSHIPS were originally blacksmiths or wagon makers before selling automobiles. The NADA Century Award celebrates those dedicated dealer families that have been in the transportation business for 100 years or more (to apply for the award, visit nada.org/centuryaward). Here is a look at current Century Award winners.



1847 | **W. Hare & Son, Inc.**
Noblesville, Indiana



1859 | **Reynolds' Garage & Marine, Inc.**
Lyme, Connecticut



1875 | **Kemmann Chevrolet, Inc.**
Lowden, Iowa



1885 | **Moser Motor Sales, Inc.**
Berne, Indiana



1895 | **Ferman Motor Car Co.**
Tampa, Florida



1897 | **Hill International Trucks, LLC**
East Liverpool, Ohio



1852 | Schaefer & Bierlein
Frankmuth, Michigan



1898 | Eich Motor Co.
St. Cloud, Minnesota



1900 | Diehl Ford, Inc.
Bellingham, Washington



1901 | King BMW
Freehold, New Jersey



1902 | Suttle Motor Corp.
Newport News, Virginia



1903 | Tenvoorde Ford, Inc.
St. Cloud, Minnesota



1903 | Wentworth Chevrolet, Inc.
Portland, Oregon



1875 | Normandin Chrysler/Jeep
San Jose, California



1904 | Martens Cars
Washington, D.C.



1905 | Claude Nolan Cadillac
Jacksonville, Florida



1906 | Smart Chevrolet Co.
Pine Bluff, Arkansas



1907 | Hulsizer Chevrolet
Montgomery, Pennsylvania



1907 | Butts Motors, Inc.
Seaside, California



1907 | Luck Chevrolet
Ashland, Virginia



1907 | **Wegner Auto Co.**
Pierre, South Dakota



1908 | **Don Drennen Motor Co.**
Hoover, Alabama



1908 | **Goodwin Bros. Auto**
New Castle, Indiana



1908 | **Smart Motors, Inc.**
Madison, Wisconsin



1907 | **Garber Buick**
Saginaw, Michigan



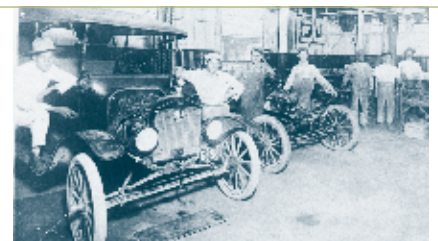
1910 | **Grovert Motor Co.**
Newhall, Iowa



1910 | **The Hersrud Co.**
Sturgis, South Dakota



1910 | **Hight Chevrolet**
Skowhegan, Maine



1910 | **Sames Motor Co.**
Laredo, Texas



1910 | **Tiffany Motor Co.**
Hollister, California

Service and Parts Department

- Clean Air Act
- Clean Water Act
- DOT hazardous-materials-handling procedures
- IRS Core Inventory Valuation
- LIFO/FIFO inventory accounting method
- NHTSA tampering regulations
- NHTSA tire rules
- OSHA asbestos standards
- OSHA Hazard Communication Standard
- OSHA lock-out/tag-out procedures
- OSHA workplace health and safety standards
- RCRA
- Safe Drinking Water Act
- Superfund
- UNICAP

All Departments (Customer)

- Americans With Disabilities Act
- CAN-SPAM Act
- Driver's Privacy Protection Act
- FTC Privacy Rule
- FTC prohibition against deceptive and unfair trade practices
- FTC Safeguards Rule
- FTC Telemarketing Sales Rule
- FTC Written Warranty Rule
- IRS Cash-Reporting Rule
- Magnuson-Moss Act
- OFAC restrictions
- Telephone Consumer Protection Act
- USA PATRIOT Act

New- and Used-Vehicle Sales Departments

- American Automobile Labeling Act
- DOE/EPA gas-mileage guide
- EPA emissions certification
- Federal bankruptcy law
- FTC Door-to-Door Sales Rule
- FTC guidelines for fuel-mileage advertising and alternative-fueled-vehicle advertising and labeling
- FTC Used-Car Rule
- Gray-market vehicles
- IRS treatment of salesperson incentives
- LIFO inventory accounting method
- Motor vehicle tax credits
- Monroney sticker and fuel economy and safety labels
- NHTSA alteration regulation
- NHTSA collision-loss guide
- NHTSA Odometer Rule
- NHTSA recall regulations
- NHTSA regulations on school bus sales
- NHTSA safety belt/airbag regulations
 - NHTSA tire regulations
 - Truck excise tax
 - UNICAP

F&I Department

- Dodd-Frank Financial Reform Law
- Equal Credit Opportunity Act
- Fair Credit Reporting Act
- FACT Act
- FTC Credit Practices Rule
- Gramm-Leach-Bliley Act
- Producer-Owned Reinsurance Companies
- Truth in Lending and Consumer Leasing acts

All Departments (General Management/Personnel)

- Age Discrimination in Employment
- Americans With Disabilities Act
- COBRA
- Electronic deposit of taxes
- Electronic records retention
- Emergency-response planning
- Employee drug testing
- Employee Polygraph Protection Act
- ERISA
- Employee Verification Rules
- Equal Pay Act
- Estate tax
- Family and Medical Leave Act
- Federal child-support enforcement regs
- Federal Civil Rights Act
- Federal Health Care Reform Mandates
- FTC Repossession Rule
- Federal wage-hour and child labor laws
- Genetic Information Nondiscrimination
- Health Insurance Portability and Accountability Act
- IRS treatment of car shuttlers
- IRS treatment of demo vehicles
- IRS treatment of tool plans
- Mandatory workplace posters
- Mental Health Parity Act
- Miscellaneous record-keeping requirements
- Newborns' and Mothers' Health Protection Act
- OSHA Blood-Borne Pathogens Rule
- SBA loan guarantee programs
- Section 89 of the Tax Reform Act
- Section 179 Expensing
- USERRA
- WARN

Body Shop

- Clean Air Act
- EPA hazardous-waste rules
- OSHA Hazard Communication Standard
- OSHA Respiratory Protection Standard
- OSHA workplace health and safety standards
- UNICAP
- VIN and parts marking

THE REGULATORY MAZE

Our annual update on major federal regulations; state laws also apply and sometimes include additional requirements.

IN ADDITION TO THIS GUIDE to laws and regulations, be sure to consult the *NADA & ATD Federal Regulatory Compliance Chart Second Edition* at nada.org/regulations (requires member access). It lists federal laws and regulations by agency, notes to whom they apply, and offers Web addresses for further information.

All Departments (General management/personnel)

- **Age Discrimination in Employment Act:** Protects older individuals against age-based employment discrimination.
- **Americans With Disabilities Act (ADA):** Businesses with 15 or more employees must reasonably accommodate disabled workers and job applicants.
- **Consolidated Omnibus Budget Reconciliation Act (COBRA):** Requires employers with 20 or more employees to continue health-care coverage for ex-employees and their families for 18 to 36 months, depending on circumstances.
- **Electronic deposit of taxes:** For 2010, all employers having more than \$200,000 in aggregate depository taxes must deposit through the Electronic Federal Tax Payment System. Under a proposed rule from Treasury, all businesses with a deposit requirement would need to make deposits electronically as of January 1, 2011.
- **Electronic records retention:** Revenue Procedure 98-25 explains the IRS requirements for retaining computerized accounting records.
- **Emergency-response planning:** Federal, state, and local laws require dealers to have emergency-response plans.

■ **Employee drug testing:** Unionized dealerships must bargain with unions before implementing employer drug policies. Not necessary for preemployment drug testing. The ADA prohibits employers from discriminating against employees or applicants who have completed a drug treatment program or are currently undergoing such a program, as long as they aren't currently abusing drugs.

■ **Employee Polygraph Protection Act:** Prohibits employers from using polygraphs in preemployment screening; allows polygraph use only in limited cases where an employee is reasonably suspected of a workplace incident involving economic loss to the employer.

■ **Employee Retirement Income Security Act (ERISA):** Dealers offering retirement or health plans must, among other things, provide employees with plan info, keep records, abide by fiduciary responsibilities, and set up a grievance process.

■ **Employee Verification Rules:** Must verify the employment eligibility of prospective new employees using I-9 form and proper support documentation. Use of E-verify is optional.

■ **Equal Pay Act:** Prohibits wage discrimination on basis of sex.

■ **Estate tax:** The estate tax temporarily expired in 2010. For 2011, the rate is 35 percent on amounts over \$5 million per spouse.

■ **Family and Medical Leave Act:** Must post a notice informing employees of their right to take this limited, unpaid leave for personal and family medical emergencies and must comply with appropriate requests for such leave. New provisions apply to leave related to military service.

■ **Federal child-support enforcement regs:** Requires states to have procedures under which liens can be put on personal property—including vehicles—for overdue child support. Dealers should check that child-support liens don't exist on used cars, and must place liens on wages of employees who are delinquent on child-support payments.

■ **Federal Civil Rights Act:** Bars employment discrimination on the basis of race, sex, color, religion, or national origin. Prevents employers from asking job applicants certain questions (such as age, marital status, or childbearing plans). Prohibits workplace sexual harassment, including behavior that creates a hostile work environment.

■ **Federal Health Care Reform Mandates:** Extensive health care reform laws enacted in 2010 contain numerous provisions affecting employers and health-care plans. For example, effective generally on January 1, 2011, insurance companies may not drop coverage because of illness; impose lifetime maximums or dollar limits on "essential health benefits"; deny coverage to children (under 19) who have pre-existing conditions; or bar dependent eligibility until the dependent's 26th birthday. More info: www.healthreform.gov, or see the Webinar archive at www.nadauniversity.com.

■ **FTC's Repossession Rule:** Requires formal accounting of

money collected for repossessed vehicles.

■ **Federal wage-hour and child labor laws:** Minimum-wage and overtime pay standards and exemptions. Standards for employing minors, including teen driving restrictions. Federal minimum wage is \$7.25 per hour; state minimum-wage rates may be higher.

■ **Genetic Information Nondiscrimination:** Prohibits discrimination based on health-related employee DNA information.

■ **Health Insurance Portability and Accountability Act:** Generally prohibits health insurers from denying coverage to workers who lose or change jobs and bars insurers from excluding coverage for pre-existing conditions for more than a year.

■ **IRS treatment of car shuttlers:** Although under general IRS rules, shuttlers may be considered employees, versus independent contractors, the IRS may consider prevailing industry practices on a case-by-case basis. It may ask how many days a week someone works at a dealership and whether he or she works for any other dealership.

■ **IRS treatment of demo vehicles:** Revenue Procedure 2001-56 offers dealers alternative methods for determining the value of demo use by qualified salespeople and other dealership employees. It defines what constitutes limited personal use and streamlines record-keeping requirements.

■ **IRS treatment of tool plans:** Tool and equipment plans for service technicians and other employees must comply with the IRS's business connection, substantiation, and return-of-excess-payment requirements.

■ **Mandatory workplace posters:** Notices, such as "Your Rights Under the FMLA," "Equal Employment Opportunity Is the Law," "Federal Minimum Wage," and "Notice: Employee Polygraph Protection Act," must be conspicuously displayed.

■ **Mental Health Parity Act:** Requires insurers and employers to offer mental illness coverage comparable to that for physical illness. Group health plans may not set dollar limits on mental health care lower than limits for general medical and surgical services. Nothing requires employers to provide mental health coverage, and certain exemptions apply.

■ **Miscellaneous record-keeping requirements:** A multitude of requirements governs the length of time records must be maintained. Examples: Personal and corporate income tax records must be kept at least three years; notification forms for underground storage tanks must be kept indefinitely; and copies of Form 8300 cash reports must be kept for five years.

■ **Newborns' and Mothers' Health Protection Act:** Employers and insurers must provide minimum hospital-stay benefits.

■ **OSHA Blood-Borne Pathogens Rule:** Dealerships more than four minutes from an emergency health facility must have a program to respond to employees who suffer cuts. All dealerships should have proper first-aid kits.

■ **SBA loan guarantee programs:** Small-business dealers seeking

working capital, floor-plan, or real estate financing may be eligible for federal loan guarantees on loans up to \$5 million. SBA aims to roll out a new dealer floor plan program in early 2011 with a 100 percent advance rate, five-year term, reduced fees, and guarantees of up to 75 percent. For all SBA loan programs, small-business dealers are those with 200 or fewer employees (100 for truck dealers) or a combined \$15 million net worth and \$5 million in net income.

■ **Section 89 of the Tax Reform Act:**

Employers are prohibited from discriminating against lower-paid employees in their employee benefits packages.

■ **Section 179 Expensing:**

The Small Business Jobs Act (SBJA) of 2010 increases the IRC section 179 limits on expensing of depreciable business assets and expands the definition of qualified property to include certain real property for the 2010 and 2011 tax years. Under SBJA, qualifying businesses can now expense up to \$500,000 of section 179 property for tax years beginning in 2010 and 2011. Without SBJA, the expensing limit for section 179 property would have been \$250,000 for 2010 and \$25,000 for 2011.

The definition of qualified section 179 property includes qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property for tax years beginning in 2010 and 2011.

The total depreciation deduction (including the section 179 expense deduction) you can take for a passenger automobile (that is, not a truck or a van) you use in your business and first placed in service in 2010 is increased to \$3,060. The maximum deduction you can take for a truck or van you use in your business and first placed in service in 2010 is increased to \$3,160. The first-year deduction for passenger automobiles is increased by \$8,000 (to \$11,060 for autos and \$11,160 for light trucks or vans) for vehicles that are qualified property for bonus depreciation purposes (that is, are new and acquired and placed in service in 2010).

■ **Uniformed Services Employment and Reemployment Rights Act (USERRA):** Governs the employment and reemployment rights of members of the U.S. uniformed services.

■ **Worker Adjustment and Retraining Notification Act (WARN):** Requires dealers to give 60 days' notice to workers before termination or store closings under certain circumstances.

All Departments (Customer)

■ **Americans With Disabilities Act (ADA):** Prohibits discrimination against the physically handicapped in areas of public accommodation. Must make reasonable accommodations to make facilities accessible—such as installing ramps, accessible



parking lots, drinking fountains, public toilets, and doors.

■ **CAN-SPAM (Controlling the Assault of Non-Solicited Pornography and Marketing) Act:** E-mailers must identify a commercial message as an advertisement or solicitation and provide their postal addresses and a mechanism to opt out of future commercial e-mails. If recipients opt out, senders must stop sending them commercial e-mail within 10 business days.

The disclosure requirements don't apply to e-mails that relate to transactions or relationships, such as for warranty or recall-repair issues or the completion of transactions requested by the consumer. No one may send commercial e-mails to wireless devices unless recipients provide express prior authorization to receive them. So that senders can recognize wireless addresses, the FCC maintains a list of wireless domain names at www.fcc.gov/cgb/policy/DomainNameDownload.html. Commercial e-mailers must check the list monthly. (Additional provisions prohibit deceptive headers, misleading subject lines, and other spam tactics.)

A text message may also be considered an e-mail and therefore subject to the CAN-SPAM Act if it is sent to an e-mail address—that is, if it has an Internet domain name after the “@” symbol (whether the e-mail address is displayed or not). This means that no commercial text message (deemed to be an e-mail) may be sent to a wireless device without “express prior authorization.” Merely having an “established business relationship” with the recipient is not enough.

■ **Driver's Privacy Protection Act:** Denies access to personal info in state motor vehicle records except for limited purposes, such as driver safety, theft, and recalls. Also restricts the release of personal info for marketing.

■ **FTC Privacy Rule:** Dealers must issue notices of their privacy policies to their finance and lease customers and, in some circumstances, when the dealer discloses nonpublic information about consumers to third parties. Also restricts disclosures of nonpublic personal information. On December 31, 2009, dealers who correctly used a new FTC model privacy notice received safe harbor protection for the language used to describe their privacy policy. Although the use of the model notice is voluntary, dealers whose privacy notices continued to use sample language from the appendix to the 2001 privacy rule lost safe harbor protection for the use of that language after December 31, 2010.

■ **FTC prohibition against deceptive and unfair trade practices:** Prohibits deceptive or unfair practices. For example, merchants must disclose to would-be buyers previous material damage. More than half the states specify a dollar amount

or formula for determining how much damage must have occurred to a new vehicle before disclosure is required.

■ **FTC Safeguards Rule:** Dealers must develop, implement, and maintain—and regularly audit—a comprehensive, written security program to protect customer information.

■ **FTC Telemarketing Sales Rule (TSR):** Imposes many of the TCPA restrictions (below) on dealers who telemarket across state lines. Requires dealers who sell, or obtain payment authorization for, goods or services during interstate phone calls to abide by the prohibition against numerous deceptive and abusive acts and to maintain certain records for 24 months. An amendment to the rule prohibits prerecorded telemarketing calls without a consumer's express written agreement, requires such calls to provide a key-press or voice-activated opt-out mechanism at the outset of the calls, and requires the calls to ring for 15 seconds or four rings before disconnecting.

■ **FTC Written Warranty Rule:** Dealers must display warranties near products or post signs in prominent places telling consumers that copies of the warranties are available for review.

■ **IRS Cash-Reporting Rule:** Dealers receiving more than \$10,000 in cash in one transaction or in two or more related transactions must file IRS/FinCEN Form 8300 with the IRS within 15 calendar days and must provide written notice that the report was filed to the person named on the report by January 31 of the following year. "Cash" includes certain cashier's checks, traveler's checks, money orders, and bank drafts.

■ **Magnuson-Moss Act:** Dealers must give consumers certain required information on warranties and limited warranties.

■ **Office of Foreign Assets Control (OFAC) restrictions:** Dealers may not enter into transactions with certain sanctioned countries, governments, and specially designated organizations and individuals, including those appearing on an electronic list maintained by OFAC.

■ **Telephone Consumer Protection Act (TCPA):** Imposes numerous restrictions on telemarketing, including the national and company-specific do-not-call rules, calling-time restrictions, caller ID requirements, fax advertising rules, and restrictions on the use of autodialers and prerecorded messages. Fax ads may only be sent to authorized recipients and must include a phone number, fax number, and toll-free opt-out mechanism (each available 24/7) on the first page of the fax ad. The FCC considers text messages to be "phone calls" under the TCPA. This means you cannot send a text message "solicitation" to a phone number on your dealership company-specific do-not-call (DNC) list; you cannot send a text message "solicitation" to a phone number on the national DNC list (subject to "established business relationship" and other provisions of the national DNC rules); and you are forbidden from sending any text message to a cellular telephone num-

ber—solicitation or not, whether the number is on a DNC list or not—using an "automated dialer system" unless you have the called consumer's "prior express consent."

■ **USA PATRIOT Act:** Dealers must search their records and provide information about individuals or entities identified by the federal Financial Crimes Enforcement Network with whom they conducted transactions or created accounts. Dealers are temporarily exempt from the law's anti-money-laundering program requirements.

New- and Used-Vehicle Sales Departments

■ **American Automobile Labeling Act:** New cars and light trucks must have a domestic-parts content label showing percentage of U.S. or Canadian parts; countries contributing more than 15 percent of the parts; origin of engine and transmission; and location of vehicle assembly. Dealers must ensure that labels remain on vehicles until sold.

■ **DOE/EPA gas-mileage guide:** Dealers must make this guide available to prospective new-vehicle buyers upon request. Can download the guide from fuelconomy.gov and can also download NADA brochure *Green Checkup: Maintenance Tips to Help You Save Gas*, from nada.org.

■ **EPA emissions certification:** Dealers must provide a form to new-vehicle customers certifying the vehicle's compliance with emissions standards.

■ **Federal bankruptcy law:** A finance company (and the dealership acting on its behalf) should perfect security interests within 30 days after customers take possession of a vehicle, regardless of state law. Otherwise, if a customer files for bankruptcy within 90 days of when the financing agreement is signed, the bankruptcy trustee may avoid the lien. Dealerships failing to perfect liens in a timely manner may be liable for any loss.

■ **FTC Door-to-Door Sales Rule:** Gives consumers a three-day "cooling off" period for sales not consummated at the dealership. Does not apply to auctions, tent sales, or other temporary places of business if sold by a seller with a permanent place of business.

■ **FTC guidelines for fuel-mileage advertising and alternative-fueled-vehicle advertising and labeling:** Dealer and manufacturer fuel-economy advertisements must state that the numbers are estimates and come from EPA; alternative-fueled vehicles must be properly labeled.

■ **FTC Used-Car Rule:** "Buyer's Guides" are required on used-vehicle side windows, disclosing make, model, year, VIN, whether offered "as is" or with a warranty (and, if so, what kind of warranty), and service contract availability. Guides must warn that all promises should be in writing. For sales in Spanish, the "Buyer's Guide" and the required cross-reference in the sales contract must be in Spanish.

■ **Gray-market vehicles:** EPA, the Department of Transporta-

tation, and Customs restrict the importation/sale of vehicles lacking safety or emissions certification.

■ **IRS treatment of salesperson incentives:** Factory incentives paid directly to salespeople are not wages for tax purposes.

■ **LIFO (last-in/first-out) inventory accounting method:** The use of the LIFO inventory method requires compliance with the conformity requirement.

■ **Motor vehicle tax credits:** Buyers of hybrid, fuel-cell, alternative-fuel, and certain clean-burning diesel vehicles qualify for tax credits depending on the vehicle's fuel efficiency (subject to phaseout rules). For sales of vehicles used by tax-exempt entities, the seller is treated as the taxpayer and is able to claim the credit so long as the amount allowable as a credit is clearly disclosed to the user. The Hybrid Tax Credits expire December 31, 2010, so hybrids bought after that date are not eligible.

■ **Monroney sticker (Price Labeling Law):** Requires dealers to keep stickers on new passenger cars showing the manufacturer's suggested retail price, plus other costs, such as options, federal taxes, and handling and freight charges. Stickers also include EPA fuel economy and NHTSA NCAP crash-test star ratings (being revised in 2011). Dealerships that alter covered vehicles must attach a second label adjacent to the Monroney label, stating, "This vehicle has been altered. The stated star ratings on the safety label may no longer be applicable." No size or form of this label is specified, only that it be placed as close as possible to Monroney labels on automobiles that (1) have been altered by the dealership and (2) have test results posted.

■ **National Highway Traffic Safety Administration (NHTSA) alteration regulation:** Dealers who significantly alter new vehicles must affix a label identifying the alteration and stating that the vehicle still meets federal safety and theft standards. Tire-placarding and relabeling rules require a new tire information placard/label whenever parts or equipment are added that may reduce a vehicle's cargo-carrying capacity, or when replacement tires differ in size or inflation pressure from those referred to on the original.

■ **NHTSA collision-loss guide:** Dealers must make this guide available to prospective new-vehicle buyers.

■ **NHTSA Odometer Rule:** Prohibits odometer removal or tampering, as well as misrepresenting a true odometer reading. Forces record keeping to create a "paper trail," and requires odometer disclosures on state titles. Vehicles with a greater-than-16,000-lb. gross vehicle weight rating (GVWR) are exempt, as are vehicles 10 model years old or older.

■ **NHTSA recall regulations:** New vehicles and parts held in dealership inventory that are subject to a safety recall must be brought into compliance before delivery.

■ **NHTSA regulations on school bus sales:** Dealers may not sell, lease, or give away large, new passenger vans with more than 10 seating positions if they know the vehicle will be used

to transport students to or from school or school activities. Schools must purchase or lease a school bus or multifunction school activity bus for such purposes.

■ **NHTSA safety belt/airbag regulations:** At-risk individuals can apply to NHTSA to have airbag switches installed. Dealerships may install switches for consumers with NHTSA authorization letters. Dealerships must be responsive to consumer requests for rear-seat lap/shoulder safety belt retrofits in older vehicles.

■ **NHTSA tire regulations:** Require proper replacement or modification of the tire-info label when replacing tires or adding weight before first sale or lease. Also require that consumers be given a registration card when buying new tires or that tires be registered electronically. Other rules govern handling and disposal of recalled new and used tires.

■ **Truck excise tax:** A 12 percent excise tax generally applies to the first retail sale of: (1) truck chassis and bodies with a GVWR in excess of 33,000 lb. (Class 8); (2) truck trailer and semitrailer bodies with a GVWR in excess of 26,000 lb. (Class 7 and 8); and (3) "highway tractors," unless they have a GVWR of 19,500 lb. or less (Class 5 and under) and a gross combined weight rating of 33,000 lb. or less. Dealers selling Class 5 vehicles with more than 33,000-lb. gross combined weight rating or Classes 6 or 7 vehicles should apply the "primary design" test to determine if a vehicle is a taxable tractor or a nontaxable truck.

■ **Uniform capitalization (UNICAP):** Dealers who (1) "produce" property or (2) acquire it for resale, if their average annual gross receipts over the three preceding tax years exceed \$10 million, must comply with the UNICAP requirements contained in section 263A of the Internal Revenue Code. On November 9, 2010, the IRS issued Revenue Procedure 2010-44, which creates two safe harbor methods of accounting for car and truck dealers. The new methods, which dealers may elect by filing Form 3115 with the IRS, generally permit dealers to expense, instead of capitalize, all handling and storage costs at certain dealership facilities.

F&I Department

■ **Dodd-Frank Financial Reform Law:** Comprehensive legislation enacted in July 2010 creates a new, independent Bureau of Consumer Financial Protection and grants it unprecedented authority to regulate financial products and services. Dealers engaged in three-party financing are excluded from the authority of the new bureau and remain subject to regulation by the Federal Reserve Board, the Federal Trade Commission (which will have streamlined authority to declare dealer practices as unfair or deceptive), and state consumer protection agencies. Finance sources, including dealers who engage in BHPH financing, will be subject to the bureau's jurisdiction. The legislation imposes new duties beginning on the

“Designated Transfer Date” (presently July 21, 2011), such as new collection, reporting, and record-retention requirements related to small-business loan applications (section 1071) and new disclosure requirements for risk-based pricing and adverse action notices under the Fair Credit Reporting Act (section 1100F). Another portion of the legislation empowers the SEC and federal banking agencies to (1) impose risk retention requirements on finance sources that acquire lending funds through the securitization process, and (2) allocate a portion of the retained risk to dealers and other originators.



■ **Equal Credit Opportunity Act (ECOA):**

Regulation B prohibits discrimination in credit transactions based on race, sex, color, marital status, religion, national origin, age, and public-assistance status. The dealer/creditor is required both to notify applicants in a timely fashion of actions taken on—and reasons for denying—applications, and to retain certain records. (See also “Dodd-Frank Financial Reform Law” above for a description of new small-business loan data collection requirements.)

■ **Fair Credit Reporting Act (FCRA):** Dealers are restricted in their use of credit reports for consumers, job applicants, and employees. Consumers’ reports generally may be obtained only pursuant to consumers’ written instructions or if consumers initiate a business transaction (not if they merely talk with salespeople). Dealers must give job applicants and employees a separate document informing them that a credit report may be obtained and must obtain prior, written authorization to access the report. Dealers may not share credit information with affiliates unless they give consumers notice and the opportunity to opt out. If dealers take adverse action based on the report, they must notify consumers and follow additional procedures with job applicants and employees. BHPH dealers have other responsibilities.

■ **The Fair and Accurate Credit Transactions (FACT) Act of 2003:**

Significantly amended FCRA by adding several identity theft prevention and other duties. Duties include requests for records from victims of ID theft; fraud and active-duty alerts on credit reports; disposal requirements for credit report info; opt-out disclosure formatting requirements for prescreened credit solicitations; the Federal Reserve’s Regulation FF restrictions on obtaining, using, and sharing “medical information” in credit transactions; the FTC Red Flags Rule, which requires creditors and financial institutions to develop and implement a written Identity Theft Prevention Program that contains procedures to identify, detect, and respond to “red flags” indicating the possibility of identity theft; the FTC Address Discrepancy Rule, which requires users of credit reports to

develop and implement procedures to verify a customer’s identity when receiving a “Notice of Address Discrepancy” from a consumer reporting agency; the FTC Affiliate Marketing

Rule, which generally requires a business to offer customers the opportunity to opt out of receiving solicitations from the business’s affiliates before affiliates may market to the customers; and the Risk-Based Pricing Rule, which generally requires initial creditors to issue either risk-based pricing notices to consumers to whom credit is granted but on relatively unfavorable terms or credit score disclosure exception notices to all consumer credit applicants.

■ **FTC Credit Practices Rule:** Dealers are required to provide a written disclosure

statement to a cosigner before the cosigner signs an installment sales contract. Dealers cannot “pyramid” late charges (that is, add a late charge onto a payment made in full and on time when the only delinquency was a late charge on a previous installment).

■ **Gramm-Leach-Bliley Act:** See “FTC Privacy Rule” and “FTC Safeguards Rule” under “All Departments (Customer).”

■ **Producer-Owned Reinsurance Companies (PORCs):** IRS Notice 2004-65 removed certain reinsurance arrangements as “listed transactions,” but states that the IRS will continue to scrutinize transactions that shift income from taxpayers to related companies “purported to be insurance companies that are subject to little or no U.S. federal income tax.”

■ **Truth in Lending and Consumer Leasing acts:** Regulations Z and M cover consumer credit and consumer leasing transactions, respectively, specifying information to be disclosed to a consumer before completing the transaction, and information to be disclosed when advertising consumer credit transactions or leases. For example, dealers who advertise a lease down payment or monthly payment amount must disclose in lease ads that the advertised deal is a lease; the total amount due at lease signing; number, amount, and period (for example, monthly) of payments; and whether a security deposit is required.

Service and Parts Department

■ **Clean Air Act:** Dealerships are prohibited from tampering with, replacing, or removing emissions-control equipment, such as catalytic converters. CFC recycling regs require dealership air-conditioning techs to obtain certification and to use certified recycling and recovery equipment to capture spent refrigerant, including HFC-134a and other non-ozone-depleting refrigerants. The act also regulates any fuels dealers store and dispense, as well as the alternative fuels dealers use and sell, including ultra-low-sulfur diesel. It restricts emissions

from solvents and chemicals.

■ **Clean Water Act:** Sets standards for federal, state, and local regulation of wastewater and storm water at dealerships and comprehensive rules governing aboveground oil storage tanks.

■ **Department of Transportation (DOT) hazardous-materials-handling procedures:** Require parts employees who load, unload, and package hazardous products, such as airbags, batteries, and brake fluid, to be trained in safe handling practices.

■ **IRS Core Inventory Valuation:** Revenue Procedure 2003-20 creates an optional method for valuing core inventories for those using Lower of Cost or Market Valuation Method.

■ **LIFO/FIFO inventory accounting method:** Revenue Procedure 2002-17 provides a safe harbor method of accounting that authorizes the use of replacement cost to value year-end parts inventory.

■ **NHTSA tampering regulations:** Prohibit dealers from rendering inoperative safety equipment installed on used vehicles in compliance with federal law.

■ **NHTSA tire rules:** Dealers must report sales of defective tires when the tires are sold separately from vehicles, and must properly manage recalled tires.

■ **OSHA asbestos standards:** Dealerships must use certain procedures during brake and clutch inspections and repairs to minimize workplace exposure. Water, aerosol cleaners, or brake washers may be used to comply with the standard.

■ **OSHA Hazard Communication Standard (Right-to-Know laws):** Dealers must inform employees about chemical hazards they may be exposed to in the workplace; keep chemical product info sheets on-site and accessible; and train staffers to properly handle the hazardous materials they work with. Also, under EPA's Community Right to Know regulations, dealers must list annually with state and local authorities any tank holding more than 1,600 gallons.

■ **OSHA lock-out/tag-out procedures:** Explain what service departments must do to ensure machines, including vehicles, are safely disengaged before being serviced.

■ **OSHA workplace health and safety standards:** Extensive regulations cover a multitude of workplace issues and practices, from hydraulic lift operation to the number of toilets required. One standard requires employers to determine if workplace hazards warrant personal protective equipment, then train employees on its use. Verbal reports must be made within eight hours of any incident involving hospitalization of three or more workers or any death.

■ **Resource Conservation and Recovery Act (RCRA):** Comprehensive environmental law regulating many dealership functions, including underground storage tanks and the storage, management, and disposal of used oil, antifreeze, mercury products, and hazardous wastes. Underground tanks must be monitored, tested, and insured against leaks; leaks and spills

must be reported to federal and local authorities and cleaned up. The law also regulates new-tank installations. Dealers must obtain EPA ID numbers if they generate more than 220 lb. per month (about half of a 55-gallon drum) of certain substances and must use EPA-certified haulers to remove the waste from the site; dealers must keep records of the shipments. Used oil should be burned in space heaters or hauled off-site for recycling. Used oil filters must be punctured and drained for 24 hours before disposal.

■ **Safe Drinking Water Act:** To protect underground drinking water from contamination, dealerships may be barred from discharging waste liquids—such as used oil, antifreeze, and brake fluid—into septic system drain fields, dry wells, cesspools, or pits.

■ **Superfund (Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA]):** As waste generators, many dealerships are subject to Superfund liability. Dealers must be careful when selecting companies to haul waste off-site. Dealers can deduct the cost of cleaning up contaminated soil and water in the year it's done. Dealers may qualify for an exemption from liability at sites involving used oil managed after 1993. The Service Station Dealer Exemption Application (SSDE) requires dealers to properly manage their oil and to accept oil from do-it-yourselfers.

■ **UNICAP:** See "New- and Used-Vehicle Sales Departments."

Body Shop

■ **Clean Air Act:** National paint and hazardous air-pollution rules require reformulated, environmentally safer paints and finishes, special handling procedures, and record keeping.

■ **EPA hazardous-waste rules:** See "RCRA" under "Service and Parts Department."

■ **OSHA Hazard Communication Standard (Right-to-Know laws):** See "Service and Parts Department."

■ **OSHA Respiratory Protection Standard:** Requires written programs describing how to select, fit, and maintain respirators to protect body shop workers from hazardous chemicals.

■ **OSHA workplace health and safety standards:** These extensive regulations affect body shops in many ways, including mandating the use and care of protective equipment such as face masks, gloves, and respirators. Hex chrome standard limits air emissions during sanding and painting. (See also "Service and Parts Department.")

■ **UNICAP:** See "New- and Used-Vehicle Sales Departments."

■ **VIN and parts marking:** Dealers may not alter, destroy, or tamper with vehicle identification numbers or antitheft part-marking ID numbers and should use properly marked replacement parts. ■

Doug Greenhaus, Paul Metrey, and Brad Miller of the NADA Legal and Regulatory Affairs Department contributed to this article.

From Crisis to Resurgence

Dealer Stephen Wade will put recession lessons to good use as NADA's new chairman.

BY LAURA WITHERS

STEPHEN WADE HAS BEEN in the car business for nearly 40 years. And in that time he's seen his fair share of challenges. Tight credit, a lack of consumer confidence, and turmoil on Wall Street—he's been through it all.

Still, nothing could have prepared him for 2009 and 2010—a time Wade says was filled with “many highs” and “many lows” for his business and auto retail in general. Now, as he prepares to take the helm of NADA as its 2011 chairman, Wade says he hopes to help his association benefit from what he learned as a member of its board of directors during the crisis. The most important lesson: “Never give up, no matter the odds.”

BUILDING A BUSINESS

Wade hails from St. George, Utah, a small city north of Las Vegas where he's lived for the last 18 years. He was born and raised in Salt Lake City, where he opened his first store selling Mazdas. The first-generation dealer got his start in the car business when a Sigma Chi fraternity brother at the University of Utah gave him a part-time job selling cars. Since then, he's grown a network of 20 franchises in Utah and northern California, all the while maintaining a thriving home life with his wife of 38 years, Marcia, five children, and 14 grandchildren.

In 2002, Wade got more involved with NADA as a member of the board of directors, where he took leadership roles on the association's Industry and Government Relations committees. During the crisis of 2009 he headed the Industry Relations task force and was part of a team of dealers that participated in numerous meetings at the Treasury Department, White House, and in Congress, in the run-up to the bankruptcies of GM and Chrysler. And as vice-chairman of NADA in 2010, Wade got a front-row seat for the many legislative and regulatory battles NADA and its world-class grassroots network waged on behalf of dealers.

That included NADA's much-publicized fight to keep dealer-assisted financing affordable and available for consumers when indirect lending was threatened under the new Consumer Financial Protection Bureau. Dealers faced opposition on multiple fronts: consumer groups, the president, even the Pentagon. But when the stakes couldn't get any higher, NADA and dealers all over the country stepped up in a big way, says Wade. In the end, “we prevailed because we worked together. That was a huge victory for NADA and the dealers of this country. And it proved that when we're all unified and focused on one goal, we're unstoppable.”



Stephen Wade will become NADA chairman on February 7.

BACK TO THE FUTURE

While 2009 and 2010 were some of the toughest years dealers have ever had to endure, they were also some of the most important for auto retailing, Wade says. And things are starting to look up. “The good news is if you still have a sign out front, you’ve probably weathered the worst of the storm,” he says. Dealers have streamlined their operations and are paying more attention to every penny. And that’s starting to pay dividends as sales pick up. “We’ve learned that we can operate in ways we never thought possible,” Wade says.

Going forward, Wade says he will continue to rely heavily on NADA’s strong grassroots network to tackle emerging legislative and regulatory issues, such as a new fuel economy proposal to hike the corporate average fuel economy (CAFE) standard to 60 mpg by 2025. With a new Congress in Washington, it’s also incumbent upon dealers to make sure lawmakers are focused on boosting the economy, creating jobs, and removing regulatory burdens, says Wade.

And when dealers are all working together toward a common purpose, adds the 2011 NADA chairman, “nothing can get in our way.”

Laura Withers is a writer for NADA Public Affairs.



Wade with, from left, sons C.J. and Adam, who both work with their father in the dealership.



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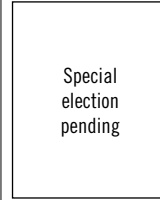
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By Peter Craig

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*Dealers who joined 20 Group in the first quarter of 2010 averaged a 134% improvement in profitability through October YTD.



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Bridgeton, Mo.-based Hunter Engineering's SmartWeight offers a new wheel-balancing technology that provides excellent quality by way of an optimized dynamic wheel balance, minimizes number and visibility of balancing weights to improve wheel appearance, and cuts balancing service wait times. Call 314.731.3020 or visit www.hunter.com. **(Convention booth #1201S)**

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COINdata, Norcross, Ga., and Reynolds and Reynolds, Kettering, Ohio, have joined forces on the docuPAD, an interactive menu-selling device and document-processing system that helps dealerships drive CSI ratings higher, better manage compliance, and minimize human error in the process, ultimately increasing profitability. Call 800.767.7879 or visit www.coindata.com or www.reyrey.com. **(Convention booths #4405N and #607S)**

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PROMOTIONS

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The Dealers Election Action Committee



Pays Special Tribute To:

The DEAC State Chairmen/women & Their Dealer Associations
Who Reached Their Fundraising Goals in 2010.



Bruce Limbaugh
Alabama



Rick Morrison*
Alaska



Danny Ford
Arkansas



Timothy Smith
California South



Denny FitzPatrick
California North



Don Gerbaz
Colorado



Ed DeMarseille
Connecticut



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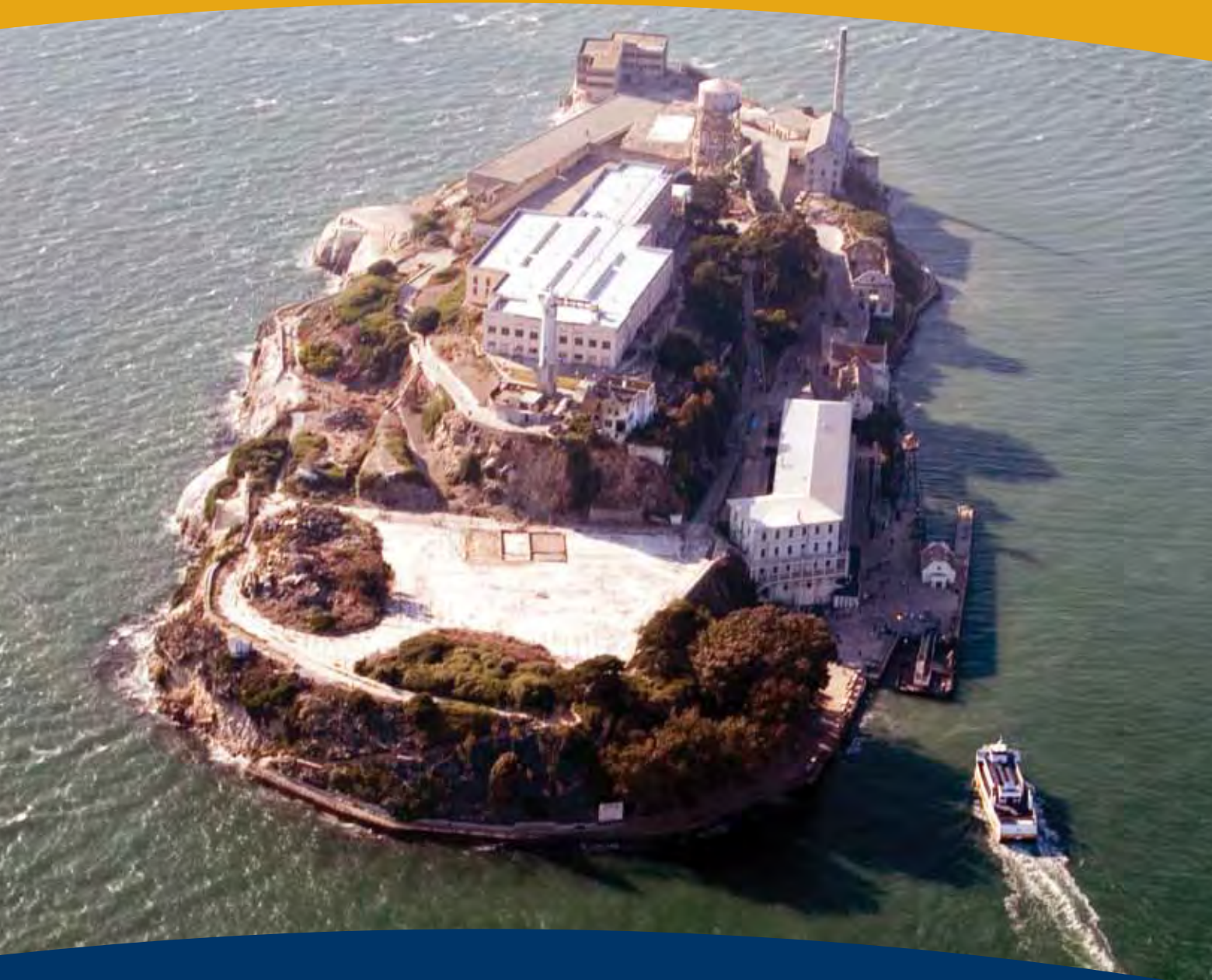
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