

Progressive

April/May 1993

# Rentals

The magazine of the rental-purchase industry

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Legal Aid  
IRS





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PR

# Progressive Rentals

April/May 1993

The magazine of the rental-purchase industry

## Volume 13, Number 2

### Features

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#### Take 'rent-to-own' out of it

Some dealers are considering changing their company names to more accurately reflect today's realities. Bonnie Nitzsche explores why.

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#### Congressional hearing

The U.S. House Banking, Finance and Urban Affairs Committee conducted an oversight hearing on the rental-purchase industry March 31. Ed Winn gives a comprehensive report.

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#### Raffaelli has right moves

APRO's lobbyist on Capitol Hill, John D. Raffaelli, knows the people and he knows how to do the job right. He's also co-owner of some RTO stores, so he's got a vested interest.

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#### Las Vegas, more than ever

APRO's 1993 convention and trade show, "Right on the Money," returns to Las Vegas Aug. 13-17. This year's package looks better than ever.

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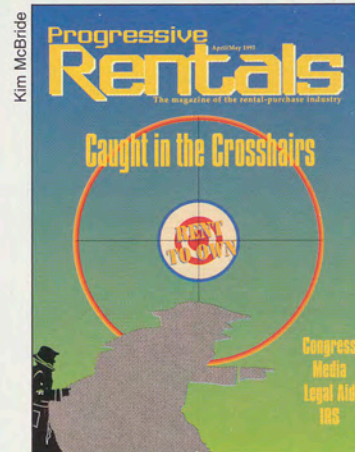
#### Future furniture

With demand for furniture staying quite healthy, the product's future in RTO looks ... well... comfortable.

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After all the legal fees and deliberations were spent, it didn't take long for a Minnesota jury to decide that RTO is not a disguised credit sale.



**ON THE COVER:** The U.S. Congress, the Internal Revenue Service, legal aid's influence in the state legislatures, the media—this confluence of outside pressures on the rental-purchase industry means, unmistakably, that RTO is a target.

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# Dealers share their opinions on timely rental-purchase issues

*(Editor's note: For this issue, we interview Roger Sharp, who fought for five years to get a West Virginia rental-purchase law passed and finally saw it happen this spring. We also go back to someone we interviewed last time, "Tiger" John Cleek, who has some interesting comments on the ramifications of using the phrase "rent-to-own;" see also Bonnie Nitzsche's related article on page 10.)*

...

Roger Sharp

Almost Heaven Rentals & Sales (store openings pending)  
Huntington, W.Va.

**Passage of W.Va. law:** "To my recollection, it's the longest rent-to-own struggle to date." (West Virginia's governor signed the bill into law on Thursday, May 6.)

**Historical parallels:** "We're the 35th state (in the union). We're also the 35th state to get RTO legislation. I told some people the other day, 'If I'd known we were going to be the 35th to get an RTO law, I'd have waited until it got to about 32 before I started doing this.'"

**Importance of being credible:** "We didn't take any shortcuts. Everything that we did was up front. What it all boiled down to, in the end, was credibility. The legal aid attorney—one senator won't allow him back in his office anymore because he lied to him.

"Our credibility really shot up, and I think that's what finally did it."

**Comparisons to federal front:** "As I see the federal thing shaping up, West Virginia was just the federal issue on a small scale. Because what they're bringing up on the federal level is exactly what they brought up here. Exactly. We had the same problems trying to raise money. It started off as very derogatory. We had some friends (in West Virginia), and we do have some friends (in Washington). Those both parallel the federal issue."

**More on federal legislation:** "I think if we play our cards right on the federal level, similar to what we did here in West Virginia, we've got an avenue. Quite frankly, I hear a lot of

people on the federal level talking about how bad the situation is. I think they're saying what they hear, but what they're not seeing is, in times past, we have never been able to create a platform to try and push federal legislation. Well, now we've got a platform. Let's look at the bright side of the issue. We could not come up with enough money to push this thing through on our own."

**Half-full glass:** "I think we can turn this around a little bit and walk away with something that we can all live with. That's where I'm coming from."

...

"Tiger" John Cleek  
Owner/dealer  
Cleeks' Rent-To-Own (3 stores)  
Columbia, Mo.

**Rent-to-own as a name:** "The seminar that's coming up, 'What price do we pay to advertise rent-to-own?' I think that's something we all really have to take a look at. I'm not ashamed of what we do; I'm proud of what we do. But, my goodness, those three words have cost the industry millions of dollars in litigation. We're in the rental-purchase business. Do you want to rent it? Do you want to purchase it? Let's go from there."

**Name changes:** "In our state association, we're changing the name to the Missouri Rental Dealers Association. Less than 25 percent of our customers keep a product the first time out. And yet, rent-to-own is catchy. But I've found in my company that the people who actually rent-to-own items either do it in the first three months or the last three months of their agreement."

**On fact that RTO is about renting:** "It has to do with the phrase 'rent-to-own,' but everybody wants to make that all we do. We only do it 25 percent of the time."

**On future:** "I'm trying to look ahead to where we'll be in 10, 20 years, figuring out what changes we'll need to make. Because I've got a vested interest in this, like most dealers have. This is family and that's what we serve: families." **PR**

## LOW-COST RENTAL AGREEMENT FORMS

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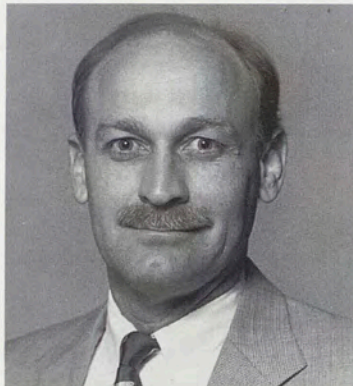
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*Like it or not, we in the rental-purchase industry find ourselves embroiled in a ...*

# Two-front war

THE MARCH 31 CONGRESSIONAL HEARING ON OUR INDUSTRY, BECAUSE IT AMOUNTED TO A SUCKER PUNCH, HAS CAUSED A LOT OF CONCERN AMONG DEALERS. AS WELL IT SHOULD. IN THIS ISSUE OF *PROGRESSIVE RENTALS*, YOU'LL FIND OUT ALL ABOUT IT (AS IF YOU HAVEN'T HEARD ALREADY; EITHER WAY, BE SURE TO READ ED WINN'S ARTICLE, BEGINNING ON PAGE 20).

HOWEVER, THERE'S ANOTHER ISSUE OUT THERE DEMANDING EQUAL ATTENTION. TAXES.

.....

The Technical Advice Memorandum (TAM) request filed on behalf of the rental-purchase industry recently came back from the Internal Revenue Service with a negative ruling—one that, in essence, tries to re-characterize RTO as retail for tax purposes. The financial impact, if this ruling is upheld nationwide, would be economically disastrous for the industry.

Many small dealers would not survive. The potential tax liability for the industry is hundreds of millions of dollars. The per-store dollar hit would likely be in the high tens of thousands.

We cannot ignore this threat. The RTO industry has been thrown—as Bill White, my colleague on the APRO board, has put it—into a “two-front war.”

The Indiana TAM decision may not be used or cited as precedent, therefore this decision will only affect that particular case. However, IRS auditors may refer to the case in making their own decisions on audits of other rental-purchase businesses. The IRS is a somewhat decentralized entity, exerting decisions, policies and procedures on a region-by-region

basis. But, because IRS designated an industry specialist to oversee all audits of rental-purchase companies, information on the Raricks case and its subsequent ramifications will eventually be known throughout all regions. If you or a rental-purchase dealer in your area has been or will be audited, it is imperative to notify the APRO offices immediately.

As for the industry's response, dealers will need to take a proactive role and review their current method of accounting. While the IRS generally is on weak ground in arguing that our agreements are sales, they will be on stronger ground if your tax treatment has some characteristics of retail sales. For instance, if you write off the cost of inventory straight line over a period of months or years—or your advertising stresses the customer is buying the property when in fact the customer is only leasing, etc.

There are certain accounting adjustments dealers can apply to reduce the risk during any potential audits. Please consult the APRO offices for assistance in this matter.

Back to the TAM request, the taxpayer plans to contest the TAM in tax court, and APRO supports its member in this regard. Tax court is an independent venue and will take a fresh look at the taxpayer's transaction and decide whether RTO is indeed selling merchandise for tax purposes rather than leasing it to customers for rent. The tax court route will likely amount to a two- to three-year fight, and cost hundreds of thousands of dollars to defend.

Whether it's the U.S. Congress or the IRS, our industry now faces federal issues which needed to be dealt with sooner or later. A unified strategy now can save us.

It is good to know that, in 1993, the national association in Austin and the current composition of RTO dealers across the country can meet current challenges and ensure the industry's long-term existence.

PR

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BY

WAYNE CHAMBERS

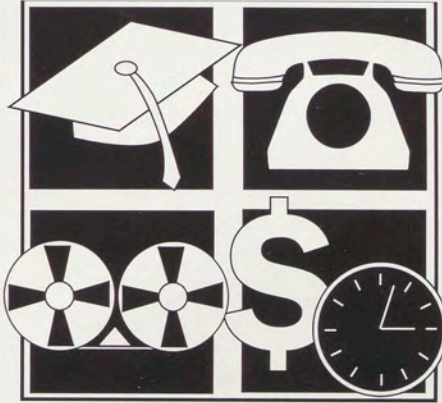
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## MEMBER SERVICES

(UPS) and Express Mail, and are frequently lower than two-day delivery rates from UPS. For more information, call 1-800-466-8143 or see the lead item on page 54—*News & Products*.

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Maternity  Yes  No

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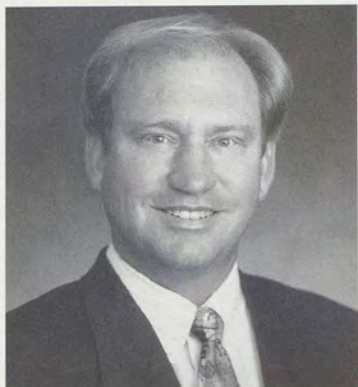
List all employees interested in coverage (including yourself if applicable)	Position Title	Salary	Employee's Birthdate	Sex	Spouse's Birthdate	Dependents to be Covered				
						Yes	No	Spouse	1 Child	2 or More Children
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2.										
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*These days, the rental-purchase industry is faced with challenges like never before*

## *Business has been anything but usual*

MUCH HAS HAPPENED SINCE I WROTE MY LAST COLUMN FOR *PROGRESSIVE RENTALS*. BELIEVE IT OR NOT, THE COVER OF THIS ISSUE EXPRESSES GRAPHICALLY WHERE WE ARE TODAY IN THE RENTAL-PURCHASE INDUSTRY. BOTH CONGRESS AND THE INTERNAL REVENUE SERVICE HAVE US SIGHTED IN THE CROSSHAIRS OF THEIR SCOPES.

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•••••  
BY  
**BILL KEESE**

Now more than ever before, we, as an industry must unite and speak with one purpose, with one voice. We have been preaching this for a long time, and what I see now is very encouraging. The APRO office has been swamped with calls from dealers across the country asking how they can help out. If you haven't already read his letter to APRO, please refer to Larry Sutton's letter (on page 28). This is indicative of the response we are receiving from all over the nation.

In late April and early May, we conducted a three-day seminar where the major topic of discussion was the status of the industry (see separate story on page 53). More than 70 dealers were present and everyone left with a better understanding of our situation.

Since the March 31 hearing before Congress, I have been on the road more than I have been in the APRO office. The APRO staff and the board of directors are crisscrossing the country discussing the industry's position with rental-purchase companies, state associations and vendors who supply the

products to our industry. The effort is paying off. There is a huge ground swell of support, and your association is leading all efforts to resolve the current issues that can, so deeply, affect our industry. Nearly 40 rental-purchase companies have joined your association since the U.S. Congress Committee on Banking, Finance and Urban Affairs held its investigative hearing on our industry.

We continually need your support. If you know of any rental-purchase companies whose people may not be aware of current events, please talk with them or give me a call and I'll visit with them. If they are not APRO members, tell them of the advantages of joining in on this effort to protect their industry.

We have recently mailed our new survey questionnaire to all members. If you haven't received one, give Tulisha Carson on the APRO staff a call. If you have received one, please complete the form and send it in. This statistical information will give us the information we need to properly educate Congress and the IRS on what our industry is really all about.

Plan now to attend the APRO convention and trade show at Bally's in Las Vegas, Aug. 13-17. We anticipate much will happen between now and then, and we need your attendance to share with you the details of what is going on and seek your input on the industry's response to these challenges.

This industry has been good to all of us—our customers, our suppliers and ourselves.

We can feel good about the opportunities we provide to more than three million people a year. Yeah, you heard me right—those of you from Congress, from

state legislatures across the country, from legal aid and from the Internal Revenue Service who are reading this column. For the few customers who have had a problem with our transactions, we can show you tens of thousands of satisfied, grateful customers. In fact, we wanted to provide just one satisfied customer at the hearing, and were not allowed to do so. As one journalist put it, "we only cover crashes, not safe landings."

Our suppliers are stepping up to the table to support the association's efforts on behalf of the industry. Several of them have already contacted their companies' lobbyists in Washington, and we are coordinating efforts with them. These same companies have pledged to do anything in their power to support us.

So, thank you for your overwhelming support of APRO's efforts on behalf of this industry. With a two-front battle going on, we must all be diligent and work together. We, at APRO, work for you. Give me a call at any time and I'll be happy to share with you the latest happenings. **PR**

## ATTENTION OWNERS

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# Let's ask where we're going

(EDITOR'S NOTE: THIS OPINION COLUMN IS REPRINTED FROM THE FEBRUARY ISSUE OF *COMMUNICATION BRIEFINGS*, A MONTHLY IDEA SOURCE FOR DECISION-MAKERS. THE AUTHORS ARE DON BAGIN, THE NEWSLETTER'S PUBLISHER, AND FRANK GRAZIAN, EXECUTIVE EDITOR.)

.....

Considering the pace at which most of us go, we should take some time to get off the merry-go-round and look at where we're heading.

Why not block out a few hours soon and ask yourself and those you work with to come up with answers to some key questions?

For openers, here are a few questions that we like to ask ourselves. Perhaps they'll help you become more productive and your organization more profitable:

- **Are you** spending enough time looking at the things you do right? Or do you worry too much about the things that aren't working—to the detriment of those that are? Often we take certain procedures, approaches and techniques for granted without figuring out ways to do more with those that pay off.

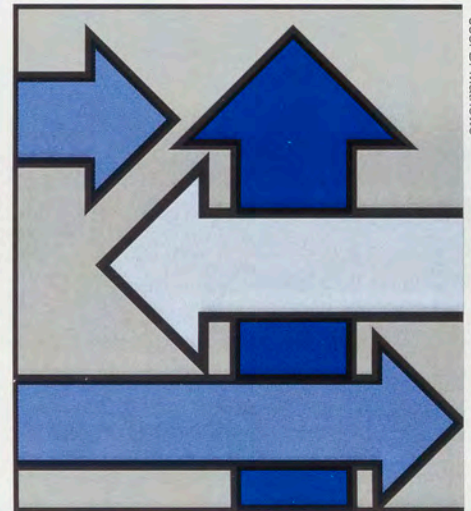
*Suggestion:* List all of the things that are working and see if there are other applications that might prove profitable.

*Example:* Instead of spending excessive time attracting new accounts, why not follow this advice from management consultant Harvey Mackay: Take time to find creative ways to retain and expand business from your current customers.

- **Are you** sure the things you're doing well are those you should be doing?

*Suggestion:* See to it that people aren't just spending a lot of time on things that they enjoy—and are good at. It's more important to do the right things than to do things right.

- **Are the** goals of your department or your part of the operation consis-



*Are you spending enough time looking at the things you do right? Or do you worry too much about the things that aren't working?*

tent with those of the organization?

*Suggestion:* Remind everyone who works with you to keep a log occasionally to see if time is being spent in accord with organizational goals. This will help everyone decide which things to agree to do and which to turn down.

- **Is anyone** looking at trends? Who in your department or organization is responsible for being sure that you'll be able to capitalize on emerging opportunities?

*Example:* President Clinton promises to require companies to make serious investments to train their employees. Does this present an opportunity for your organization?

- **Are you** experimenting enough? Management expert Peter Drucker notes that even the most competent management teams succeed with new ideas only 30 percent of the time. Implication: If you're not failing enough, you're probably not taking enough risks.

*Ask yourself:* Are you establishing a climate that encourages people to take risks and create new ideas?

Chances are that you'll be able to come up with even better questions than the ones suggested here. **PR**

Joel B. Matthews



**RENT  
-TO-  
OWN**

*Don't get the wrong idea here—we're not anti-RTO. Quite the opposite. However, more and more dealers are opting to excise the phrase 'rent-to-own' from their business names and marketing efforts. They find 'rental-purchase' is a better description.*

.....

BY

BONNIE NITZSCHE

*Perhaps it's time to ponder the big picture and how your individual business might benefit from a ...*

# Name change

ANY DEALER WHO HAS "RENT-TO-OWN" AS PART OF HIS OR HER COMPANY NAME, OR PROMINENTLY USES THE PHRASE IN ADVERTISING MESSAGES, SHOULD READ THIS ARTICLE.

RENT-TO-OWN IS A TERM WE'VE PROUDLY USED FOR MANY YEARS TO DESCRIBE OUR INDUSTRY, AND INSIDERS AND EDUCATED ANALYSTS HAVE COME TO USE THE PHRASE AS A WAY TO DIFFERENTIATE THE BUSINESS FROM THE RETAIL AND PURE LEASE CATEGORIES.

While we can and should take great pride in the growth and success of RTO over the years, we also need to be aware of strategic changes that affect today's rental-purchase industry.

Consumer advocates, lawyers and politicians have challenged the meaning and interpretation of the phrase "rent-to-own." Their premise is that we are really in the installment purchase business providing rental merchandise with the intent that the customer will eventually own the merchandise.

Most dealers I've talked with over the years indicate that well less than half, and in many cases less than one quarter, of their customers eventually end up owning the merchandise they rent. Nevertheless, dealers must be aware of the perception many people have about our industry. It's a perception that's perpetuated by continued legal aid challenges to the meaning of the term rent-to-own.

As our industry matures we need to be aware of change. Strategic market planning requires us to be perceptive about our marketplace and look prudently at the forces—social and political—that influence the consumer.

Customers are better educated today, while consumer advocates and legal representatives continue to grow in numbers—all challenging the concept of RTO.

Increasingly these days, negative publicity on the rental-purchase transaction is generated through unbalanced media coverage and unfairly represented political hearings. This will continue to hurt our industry as long as we perpetuate the promotional usage of the term rent-to-own.

Francis Bacon once said: "He that will not apply new remedies must expect new evils." Perhaps it is prudent for us to change our signage if needed and de-emphasize the term rent-to-own in promotions and thus eliminate from public view the phrase that has continually caused our industry trouble.

If you do have "rent-to-own" as part of your company name it will be costly to change. You'll need a new logo, which will affect all printed material—letterhead, envelopes, agreements, custom-designed point-of-rental materials. It will also mean new store signs and some repainting on delivery vehicles. It might even necessitate changes to your radio and television jingle.

You probably have concerns about losing market share by giving up a name you have carefully established over many years of advertising and promotion. However, countless companies in many industries change their names to more

CONTINUED ON NEXT PAGE

Continued from previous page

truly reflect current market positioning. If you need to change your company name look on it as an opportunity to revitalize your business. Make it a publicity event. "We've changed our name, but we haven't changed our service!" Talk to your accountant about amortizing the costs of your name change. You want the costs associated with your name change to be as painless as possible.

I sincerely hope I've caused you to think about a key factor that is impacting our industry. And, I hope you'll continue to have great pride in being a part of a dynamic industry that provides outstanding customer service for growing segments of the American public. However, I also hope you will be prudent in your planning. It's logical to assume that attacks from the outside will not go away. We can help blunt the effectiveness of these attacks by emphasizing we are primarily in the rental business. The

option of merchandise ownership is always there and is similar to most lease agreements.

Many small dealers have had the good fortune of being in business for many years without the hassle of news media intrusions or public scrutiny through legal challenges to their businesses. The media usually goes after the big operators in any given industry. But times are changing and investigative reporting is becoming more important to the media as a way of increasing viewer ratings. We live in an age of increasing litigation and self-serving righteousness.

Rent-to-own—the term and, by extension, the industry—has become controversial. For years it's been the slogan of an industry, the rally cry, the proudest three-letter acronym an entrepreneur could utter. Today it is a liability, a focus of misunderstanding and false interpretation. Accordingly, we should realize the folly of some well-intended but misguided consumer advocates—who do not understand the industry that serves

the very people they champion—and eliminate the slogan that feeds their fires.

By dropping the term rent-to-own from your company name and de-emphasizing it in your promotions you are virtually eliminating the chance that one day a zealous reporter will show up at your store, with camera crew ready, to do a "hatchet job" on your business. Do you want to risk this type of publicity? What effect would this leave on your share of the market?

You may have been quite lucky in the past. But you might not be so lucky in the future. Let me close with one more quote: "Prudence is an attitude that keeps life safe, but does not often make it happy." **PR**

*Bonnie Nitzsche is owner-operator of Bonnie "The Flyer Specialist," providing design and production of direct-mail pieces. Her last article was in the October/November 1992 issue, and she says her son, Tom, deserves co-author's credit for that one. They both can be reached at 1-800-83-PRINT.*

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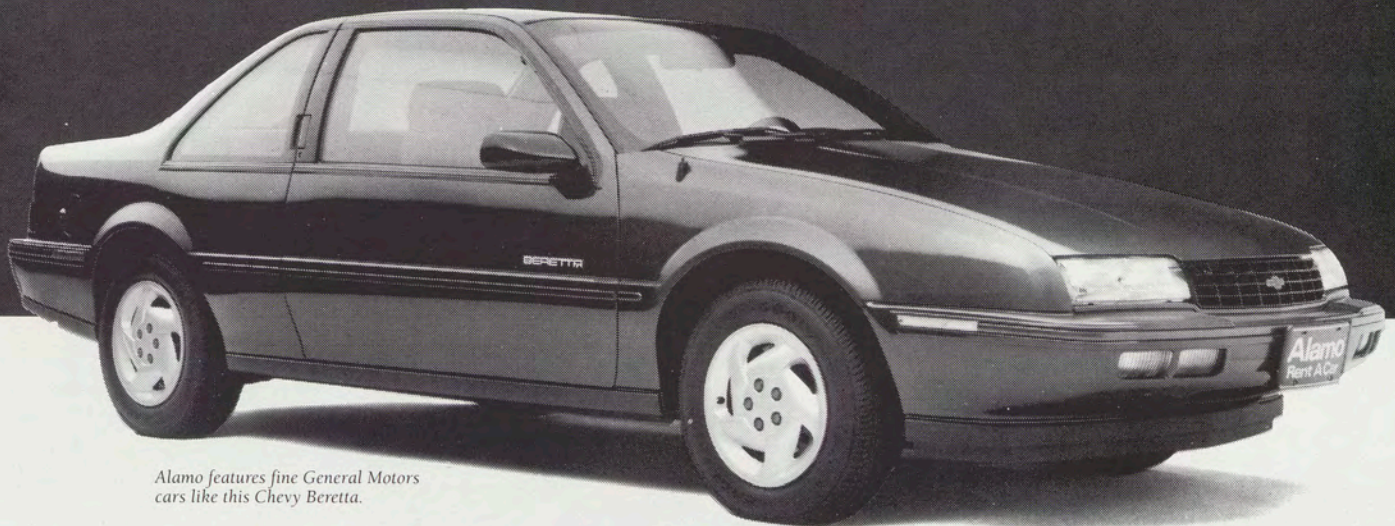
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# *Cost of doing business is higher than it looks*

*Taxes are taxes, and taxing on entrepreneurs, even when they're labeled as something else*

IS A TAX A TAX IF IT'S CALLED BY ANOTHER NAME? WHO WILL PROTEST WHEN A TAX IS INCREASED AND NO ONE IS EVEN AWARE THAT THE INCREASE WILL AFFECT THEIR BOTTOM LINE?

TAXES ARE EVERYWHERE—FREQUENTLY OVERLOOKED, OFTEN IGNORED AND RARELY LABELED AS “TAXES.”

Every rental-purchase business or operation pays income taxes, either directly or indirectly. A sole proprietor or partner pays personal income taxes on the business operation's profits. Most incorporated rental dealers are considered as separate entities for income tax purposes and pay taxes on their profits. The owners or shareholders then pay another tax on the “dividends” paid by that incorporated business.

Although rarely mentioned, not only does a shareholder in an incorporated home electronics, appliance or furniture rental business pay taxes on dividend distributions, but a sole proprietor also pays a self-employment tax that is equal to the Social Security taxes withheld from the salary or draw of a dealer employed by the rental-purchase business combined with the operation's contribution. And, don't forget the state and local tax assessments.

There is often a sales tax imposed on the purchase of business supplies and a use tax levied on equipment purchased outside the state and used in the RTO business. And, then there are hundreds of hidden taxes labeled as excise taxes, registration fees, license fees or, in some cases, even as penalties.

Look at just a few of the taxes that have an impact on the routine costs of doing

business. Taxes that few of us are even aware of, let alone how expensive they make doing business. There's currently a 14.1-cents-per-gallon excise tax on the fuel used to drive to and from work—and for the gas needed to fuel business vehicles. The price of purchased—and leased—luxury cars includes a 10 percent excise tax. Truck chassis, bodies and semi-trailers are also subject to taxes at the manufacturing stage as well as for sales, use and registration.

We're not done yet. There is also a so-called “gas guzzler” tax imposed on car manufacturers to encourage them to produce more fuel-efficient vehicles and another tax on vehicles weighing more than 55,000 pounds.

Few even notice that there's a tax on telephone bills which presently amounts to 3 percent of the total billed. For those who believe that it's cheaper to visit than phone, there's a 10 percent tax on domestic passenger airline tickets. Further driving up the cost of doing business, goods shipped by air are subject to a 6.25 percent excise tax.

On the state level, we have more taxes based on income, those insidious sales taxes as well as a number of other, less noticeable taxes. Local gross income or

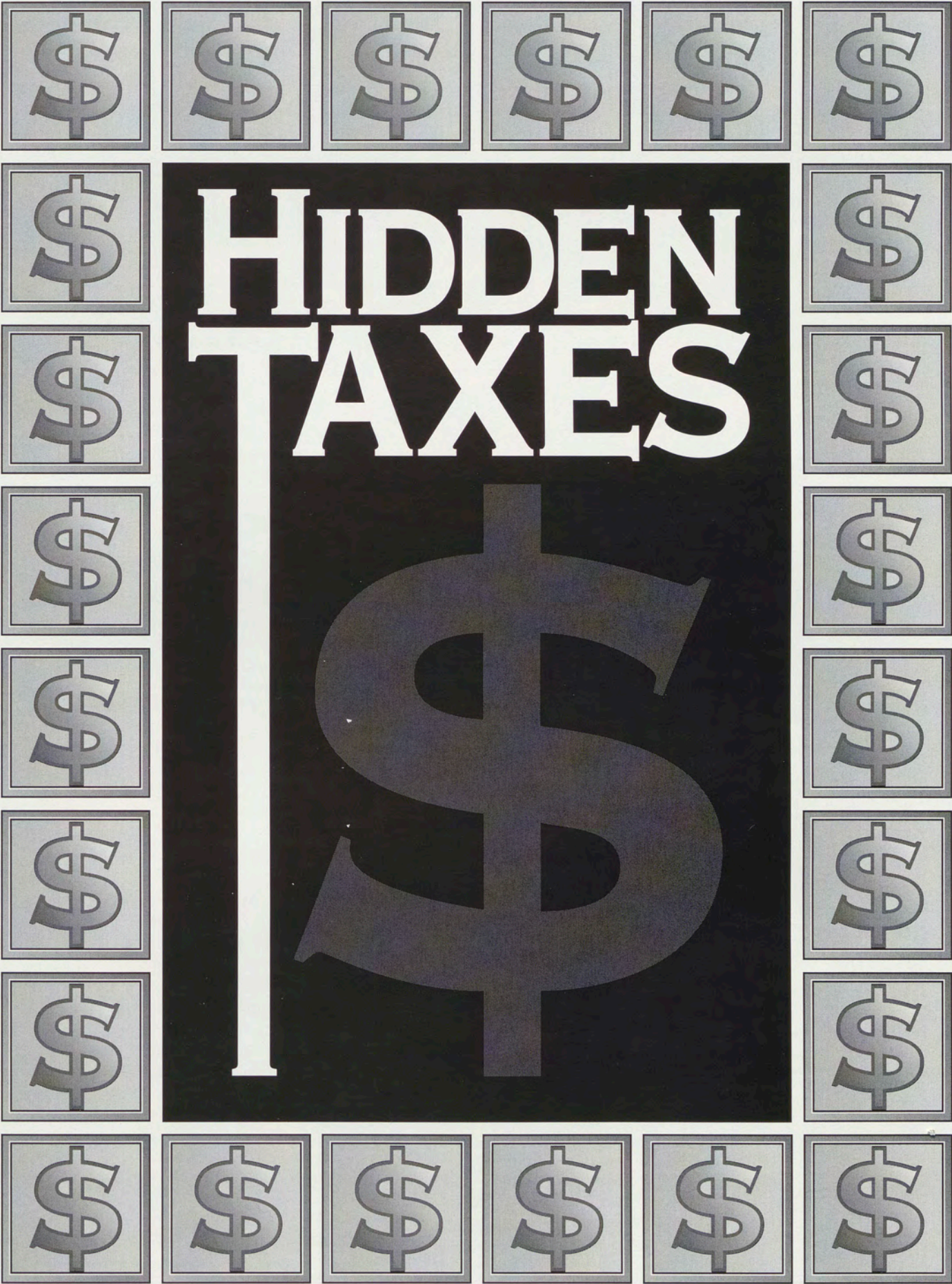
CONTINUED ON PAGE 16

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BY

MARK E.

**BATTERSBY**



Joel B. Mathews

Continued from page 14

business privilege taxes usually apply equally to profitable and unprofitable rental dealers, while the common property tax affects everyone—property owner and tenant alike.

Taxes come in many forms. It is no longer popular to raise taxes as President Clinton is rapidly discovering. His solution is to raise the so-called “sin” taxes on tobacco, alcohol and gasoline. The bulk of other “hidden” taxes are an equally tempting target for any politician seeking additional revenue to find his or her budget “deficit.”

How can any rental dealer hope to keep those hidden taxes under control, let alone fight a battle to reduce them when few dealers are even aware that those hidden taxes exist in the first place?

While few can hope to keep abreast of all of the hidden taxes faced in the normal course of business, many are beginning to let their lawmakers know that those hidden taxes can have

a far-reaching impact on their businesses. Expressing an opinion to a lawmaker remains a tax-deductible expense for at least the remainder of 1993 for every rental-purchase operation. (*Editor's note: This includes making your opinion known on federal rental-purchase legislation.*)

No deduction for lobbying expenses is available, however, for a dealer attempting to alert the public about the tremendous number of taxes that we all suffer from. There's also no deduction for any efforts to sway public opinion or to get the public to contact legislators. That is non-deductible “grassroots” lobbying.

Hidden taxes take many forms. A study undertaken by Chicago-based Real Estate Research Corporation, a consulting and valuation firm, reveals that a majority of communities surveyed nationally have either proposed or actually implemented so-called “impact” or developer fees on real estate projects.

The dealer who wishes to remodel a showroom or rental store may be required to provide off-street parking

as a condition of enlarging a store, while a manufacturer often must guarantee to hire local residents in exchange for permission to modernize an existing plant. All are hidden taxes that affect the bottom line of every rental-purchase business.

For the most part, excise taxes, state assessments, levies and local nuisance taxes can rarely be reduced. Local property taxes, however, are frequently shot through with errors and can easily be appealed—by any rental dealer who takes the trouble to see how local property tax officials have computed the assessment on the property the RTO business owns or leases.

Consider another of those hidden taxes, this time one that can often be avoided—legally. That is the federal tax on accumulated earnings.

For the uninitiated, a rental dealer conducting business as a corporation is treated as a separate entity for tax purposes. That means that the RTO operation receives income and claims deductible expenses to arrive at its own tax bill. Should the incorporated dealer wish to reward shareholders, he uses the funds available after taxes have been paid to pay a dividend.

Unfortunately, when the operation's after-tax profits are paid out in the form of a dividend, they are not treated as a deduction by the incorporated rental dealer. Plus, those dividends will be added to the shareholder's taxable income when made available to him. This double taxation has resulted in more than one dealer leaving money in the rental operation merely to avoid having it taxed twice. Enter the unusual hidden tax on accumulated earnings.

That's right, our lawmakers have created a tax on any earnings left in the business beyond what they have labeled the “reasonable needs of the business.” This additional levy is assessed in addition to regular taxes on accumulated earnings in excess of \$250,000.

Although the accumulated earnings tax is frequently classed as one of those “hidden” taxes, it is easily avoided. Our tax rules clearly spell out the purposes for which earnings may legitimately be retained in the rental-purchase business instead of



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*Hidden taxes have become an increasingly more popular method of raising money to finance ambitious government spending programs. Few are labeled as taxes.*

being paid to the shareholders. Any amount retained in excess of the \$250,000 exemption which is not clearly earmarked for the reasonable needs of the rental business is socked with a 28 percent hidden tax.

Frequently overlooked is a tax which may be imposed in addition to the regular income tax. This alternative minimum tax may be imposed, generally, when an incorporated rental business has tax preference items. There's also an additional environmental tax, equal to .12 percent of the amount for which a corporation's alternative minimum taxable income exceeds \$2,000,000. In fact, the environmental tax is often imposed even if an incorporated rental dealer does not have to pay the alternative minimum tax.

The basic alternative minimum tax rules have been devised to ensure that at least a minimum amount of income tax is paid by corporate and high-income, non-corporate taxpayers. In essence, the AMT functions as a recapture or payback mechanism, reclaiming some of the tax breaks primarily available to high income taxpayers. The AMT represents an attempt to maintain tax equity—and can be avoided by most dealers.

Hidden taxes have become an increasingly more popular method of raising money to finance ambitious government spending programs—at every level of government. Few are labeled as taxes. But what else is a

levy that raises money for use by government? They could be labeled as "contributions," but since the majority of taxes are so well concealed from the business owner who must pay them, it hardly seems fair to call them contributions.

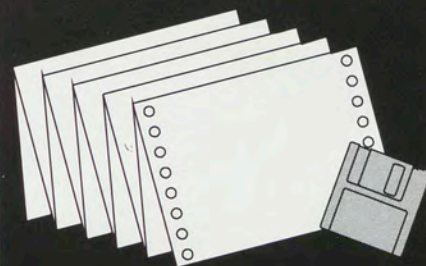
Every successful rental dealer engages in tax planning. But who can plan a strategy to reduce or legally reduce a tax that defies planning? The operator of a business vehicle has little choice but to pay the hidden taxes related to its cost and use. Similarly, license fees and building fees can't be avoided by relocating or expanding a rental business. Local property taxes can often be reduced merely by reviewing and appealing the accuracy of the assessment.

The avoidance or reduction of excise taxes on the federal level can only be accomplished with tax deductible lobbying. However, to legally avoid hidden taxes—or any taxes—requires planning. The first step for any dealer must be a review of all hidden taxes likely to be encountered in the normal course of business.

With that knowledge, some degree of control can be established over your final amount of taxes.

PR

*Mark E. Battersby is an Ardmore, Pa.-based financial and tax consultant who writes columns and feature-length articles for a number of business publications.*



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*If you missed the March 31 congressional hearing, you should probably feel relieved*

# The Big Lynching

.....  
BY  
ED WINN III

RENTAL DEALERS WHO MISSED THE PUBLIC LYNCHING OF THEIR INDUSTRY IN WASHINGTON ON MARCH 31 SHOULD COUNT THEIR BLESSINGS.

IT WAS AN ALTOGETHER DEPRESSING AFFAIR, AND THEY WERE SPARED SOME HEARTACHE. IT IS NOT AS IF THE INDUSTRY HAS NOT BEEN ATTACKED BEFORE BY THE LIKES OF DAVID RAMP, LEGAL AID LAWYER, OR ED MIERZWINSKI, U.S. PIRG REPRESENTATIVE. THEY ARE PAID, AFTER ALL, TO CHAMPION CAUSES.

.....

However, fundamental fairness demands that you ought to at least visit a store or two in a business you proudly announce you are going to try to shut down.

But this show was not about fairness. Critics brought nothing new to the debate during their 3-½ hours of public, and unsworn, testimony. What was more distressing by far than what the anti-rental-

purchase witnesses had to say, was what some legislators had to say about an industry they obviously know nothing about and which they ostensibly had gathered to learn.

For those of us immersed in the political process, there is little naiveté left, and we, all of us, should know what to expect when the cameras are rolling and a legislator has a chance to do a little grandstanding. But it still hurts every time it happens. It hurts the industry, of course, because the very forum allows the media to spread misrepresentations even more widely than usual. But it also hurts the process because observers become a little more cynical about how government in Washington works.

There really was no good news that sprung from the Gonzalez hearing itself. There are, however, some post-hearing opportunities and, to be sure, some obligations on the part of industry members. What we all know by now is that when we are given a chance to explain the industry fully and completely to unbiased listeners, we are recognized for what we are—merchants of a unique transaction in the marketplace with widespread appeal to lots of different people for lots of different reasons.

This happens every time, regardless of the forum. It has happened in 35 state legislatures and it happens in court. It happened most recently in a Minnesota courtroom where David Ramp and Rent-A-Center took three weeks to debate the rental-purchase issue in front of a jury. It took those people two hours to conclude that rental agreements are not sales. That has been the conclusion everywhere so far, and that will continue to be the conclusion as long as the industry gets a chance to tell its story and as long as the decision-maker has an open mind.

The obligation thrust upon industry members now is to make sure that the Congress listens to the industry's side of the rental-purchase story. And some legislators have apparently already made up their minds without hearing from the industry. Politics is such that they will work with industry opponents and try to keep our story from being heard, and they will feel proud and successful if they can accomplish that. The industry must

*The obligation thrust upon industry members now is to make sure Congress listens to the industry's side of the rental-purchase story. Some legislators have apparently made up their minds without hearing from the industry. Politics is such that they'll work with industry opponents.*

work hard to keep that from happening. It is going to take a lot of time and effort and money.

I once was certain that the Congress could never finally put this industry out of business. Now, suddenly, I am no longer sure. They are powerful people, those men and women who are the Congress and who pass the laws that govern us. Some are driven by powerful ideological motives. They have run people out of business before and they will certainly do it again. Probably very soon to segments of the health care industry. I told dealers at the Palm Springs seminars that industry opponents, if they once did not, now know how to write laws that will not deny us the right to rent

TVs but that will make the transaction unprofitable. I believe that to be the case.

This industry has tried on and off for 10 years to get fair and reasonable federal rental-purchase legislation. The decision was made late in 1992 to give the effort a rest in the face of remarkable legislative success at the state level.

Now, suddenly, the industry is on the defensive in Washington, listening to critics ask the Congress to pass a law and overrule the 35 state statutes. What is scary is that they might do it.

*PR*

*Ed Winn is APRO's legal counsel and a veteran writer on RTO issues.*

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# RENT TO OWN



## PROVIDING OPPORTUNITIES OR GOUGING CONSUMERS?

Joel B. Mathews

*The U.S. House Banking, Finance and Urban Affairs Committee holds rental-purchase hearing*

# *When Congress calls, beware*

IN MID-MARCH, APRO GOT A LETTER FROM REP. HENRY B. GONZALEZ, D-TEXAS, REQUESTING THE ASSOCIATION'S APPEARANCE AT AN OVERSIGHT HEARING BEFORE HIS FULL HOUSE BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE. THE OMINOUS TITLE OF GONZALEZ'S HEARING? "RENT TO OWN: PROVIDING OPPORTUNITIES OR GOUGING CONSUMERS?"

.....

BY

ED WINN III

The association was surprised at Gonzalez's sudden interest in the issue, since he had not shown any interest in the past, despite some association efforts to solicit his support. The Gonzalez move was unusual, coming as it did so soon after the House subcommittee hearing on a rental-purchase bill sponsored by Rep. Larry LaRocco, D-Idaho, last June.

The LaRocco bill died in the subcommittee when the 102nd Congress adjourned last November. The new 103rd Congress had only recently convened. Ordinarily, the industry might have supposed that LaRocco would have had to reintroduce a bill of his own before any significant activity would occur in the House.

The purpose of the hearing became clear as soon as it began. Ad-libbing from a written statement, Gonzalez announced that his committee was going to examine the "so-called rent-to-own industry." He described it as an industry which "routinely charges the equivalent of 100 percent, 200 percent or 300 percent interest in their contracts."

For the next 3-½ hours, the industry was subjected to carefully orchestrated and

unrelenting criticism from a series of witnesses hand-picked to portray the industry in the worst possible light. During the proceeding, 21 different committee members either heard or participated in the industry lambasting. During the final 10 minutes before Gonzalez adjourned the debacle, the industry was given a chance to respond. By then, most of the media representatives had left. Only three House members, including the chairman, remained in the room.

Among the several legislators who gave opening statements, Rep. Joe Kennedy Jr., D-Mass., identified the rental-purchase industry as operating in the "shadowy area of consumer finance." He maintained that rental dealers have the ability to gouge consumers and are really "sharks upon the minnows." Kennedy went on to contend that the rental-purchase industry was really just part of a larger problem of businesses, generally, preying upon the poor, which included insurance, check-cashing, and second mortgage loan companies. He explained how low-income consumers are

CONTINUED ON NEXT PAGE

Continued from previous page

at a disadvantage in the marketplace, and how he, as chairman of the subcommittee on consumer affairs, wants

to correct some of the worst abuses.

Rep. LaRocco reminded the committee how he had introduced rental-purchase legislation during the last session, which had been patterned after model legislation suggested by

## Which came first? Congress or the media?

THE MEDIA EXUDES AN ENORMOUS AND PROFOUND IMPACT ON NATIONAL POLICY MAKING, INCLUDING POLICIES THAT AFFECT THE RENTAL-PURCHASE INDUSTRY.

.....

In fact, U.S. congressman and chair of the banking committee, Henry B. Gonzalez, said his newfound interest in the rental-purchase industry was generated through a negative media story about RTO. Subsequently, Rep. Gonzalez's approach and perception of RTO has also been negative.

Therefore, the media's influential role cannot be discounted. The media's influence is not tangible nor measurable, and its product can only be seen through public reaction. Although difficult to measure, APRO fortunately grasps a better understanding of the media through the expertise and resources of its public relations firm, Aker Narsavage Partners.

Located in Washington, D.C., Aker Narsavage Partners focuses on media affairs related to congressional activity. Despite its brief exposure to a complicated industry that suffers from an undeserved negative image, Aker Narsavage already has demonstrated its ability to correctly formulate media and public relations approaches.

The intent is to communicate factual, truthful and complete information about rental-purchase to the public. By better understanding the business, the public will begin to appreciate the benefits RTO offers to its customers and communities in which RTO stores operate.

One of Aker Narsavage's many resources is to track and record

national and local media coverage. Here's a look at the approximate number and type of media coverage generated since the March 31 congressional hearing:

- 35 print stories.
- 18 television stories.
- 80 percent of stories were local media vs. national.
- 18 of those stories had interviews with APRO Executive Director Bill Keese.

The two partners, Dave Narsavage and Colburne Aker, have extensive media experience regarding congressional activity and are quite aware of the uphill battle they face in trying to educate the media about rental-purchase.

"Our role is pretty clear," says Narsavage. "We will continue to pursue an aggressive posture with the media to convey our side of the story so coverage will be balanced."

Aker adds: "Another very important role we will continue to foster is to locate and work with local coverage. Local media reflects real life. By working the local media, we can tap into the grassroots efforts in building public opinion for the industry."

As for the future of the media, Congress and rental-purchase, Narsavage wisely predicts similar coverage with each and every congressional step.

"Very little is done by Congress in a media vacuum," says Aker. He goes on to predict the extensive media coverage will act as a motivator for Congress to pursue this issue. Narsavage concludes with a similar thought.

"Henry (B. Gonzalez) quickly learned this issue attracts local and national media attention. If it's an issue to the media then it's an issue."

—Richard May

the Council on State Governments. His bill mandated contractual, advertising and price-tag disclosures. He explained that the subcommittee chaired by Rep. Joe Torres, D-Calif., had held hearings last June and that LaRocco learned then that the Federal Trade Commission and the Federal Reserve Board were against any federal regulation of this industry.

LaRocco explained also that consumer advocates had said disclosures alone were not enough, and they insisted upon price controls. He explained that he had worked on a compromise with the consumer groups but, unable to budge them from the price control issue, finally dropped his efforts on the bill during the previous session. LaRocco announced that he would be listening closely to see if the consumer groups had anything new to offer this time around.

Rep. Ron Klink, D-Pa., offered brief remarks to the effect that he found the total charges in rental-purchase transactions to be often unconscionable. Rep. Nydia Velázquez, D-N.Y., said the rental-purchase industry advertises that no credit is needed and that consumers can obtain products for just \$12 per week, but that the total cost for the product may be three times its value.

Rep. Louis Gutierrez, D-Ill., said that after reading the written testimony he was convinced the industry was full of fraud and abuse. He was of the opinion that the rental-purchase industry is taking advantage of low-income people and is reaping profits off of the backs of low- and moderate-income people.

After committee members had a chance to deliver opening statements, the chairman called the first of three panels to be heard by the committee—two dissatisfied consumers, Rosalind Dublin, a rental customer from North Carolina, and Irene Muldrow, a rental customer from Milwaukee, Wis. Both are involved in class action litigation against rental companies.

Muldrow explained that she began doing business with a rental company in 1988, and that she had been treated badly. She explained that she couldn't read very well and had not been told the total cost of the transaction or shown any paperwork about it. One of her chief complaints was

that she kept asking for a pay-off amount and, even though she kept making regular monthly rental payments, the quoted pay-off amount was always \$500. She testified that collectors from the company called her at 7 a.m. and at midnight, and also called her several times at work. In her words, "RTO made me feel less than human."

Dublin testified that she wanted a home entertainment center and had enough money to pay cash, but two of her friends were working in the rental-purchase store, and she decided to do business with them. She explained that the company did not have the home entertainment center she wanted, and she agreed to accept a television, stereo and VCR package for a brief period until a new home entertainment center came in. She testified that she told the store employee she wanted a new one because she intended to own it. She testified further that she could not get a VCR from the company and, after three months, quit paying because she could not get the home entertainment center or even the VCR which had been promised her.

Apparently dissatisfied with the first two witnesses' brief testimony, Rep. Gonzalez invited the two legal aid lawyers accompanying the witnesses, David Ramp from Minneapolis and Len Green from Smithfield, N.C., to come to the microphones and flesh out the consumers' stories for committee members.

Gonzalez took the opportunity to explain how he had supported the Legal Services Corporation for many, many years and that it was good to see hard-working legal aid lawyers representing their clients so ably.

In response to the question, "Why did you go to an RTO store?" Muldrow told committee members she thought it was cheaper. In response to the question, "Did you think that you didn't have credit?" Muldrow said she knew she did have credit because she had a Dayton's credit card. Dublin likewise responded that she thought she had credit and, in fact, could have paid cash for the merchandise.

Muldrow said the value of her merchandise was worth less than \$1,000, and she had paid \$2,500 and still had no bill of sale. Dublin testified that her

CONTINUED ON PAGE 47



Marshall H. Cohen

*APRO's Washington, D.C.-based lobbyist, John D. Raffaelli, with longtime friend and fellow Arkansan Bill Clinton during recent White House gathering.*

## APRO's lobbyist Raffaelli knows all the right moves

IT TAKES MORE THAN GOOD INTENTIONS TO LOBBY CONGRESS. IT TAKES A MANY-FACETED PERSON WITH A POWERFUL WIT AND CONVINCING ATTITUDE TO INFLUENCE LEGISLATION.

.....

Expert knowledge, political savvy, and years of experience are prerequisites for the job. And it takes someone like John D. Raffaelli, APRO's lobbyist in Washington, D.C., to do the job right.

Certainly no stranger to the legislative process, Raffaelli's political career spans much of a lifetime. After receiving his undergraduate degree from American University in Washington, D.C., Raffaelli began his career working in the U.S. Congress Joint Economic Committee, gaining valuable insight into the intricacies of the banking committee.

He then attended the University of Arkansas Law School, where he studied under law professor and fellow Arkansan Bill Clinton. Cultivating a longtime friendship, Raffaelli helped

BY

KELLI MONTGOMERY

.....

Clinton found the Democratic Leadership Council in the mid-80s, and has been instrumental in Clinton's political campaigns ever since.

After receiving a master's degree in tax law from New York University, Raffaelli spent four years as tax and trade counsel for then Senator, now Secretary of Treasury, Lloyd Bentsen. In 1984, Raffaelli entered the world of lobbying.

After nine years in the field, Raffaelli couldn't be in a better political position than he is today. With his mentor in the Cabinet and his former law professor in the White House, Raffaelli admits it's exciting working inside the beltway these days.

"It's fun to see so many people you know now running government. Whether it be the secretaries of Commerce, Treasury or Defense, the President of the United States, or the chief staff of the White House, they're all people I've known for a long time."

CONTINUED ON NEXT PAGE

*Continued from previous page*

With many of his friends in powerful positions now, business is pretty good for Raffaelli. Partner in the well-known firm of McAuliffe, Kelly & Raffaelli, his clients range from the governments of Turkey and Puerto Rico to McDonnell Douglas, Dean Witter and Dole foods, as well as the National Realty Committee, Kaiser Aluminum, and several Texas development projects.

And as the list of impressive clients continues to grow, so does Raffaelli's popularity. In the April issue of *Washingtonian* magazine, Raffaelli was listed as one of the top 50 lobbyists in D.C. Selected for his legislative influence and knowledge of the process, he was chosen from more than 4,000 lobbyists currently working in the nation's capital.

But what makes Raffaelli unique as APRO's lobbyist is his personal interest in the rental-purchase industry. As co-owner in several Imagination stores throughout Texas, Arkansas and Louisiana, Raffaelli brings first-hand experience to industry lobbying.

"Whatever happens affects me personally. I know what kind of relationships we have with our customers, and I know what our business is. The portrayal that consumer and legal services seem to want to put on us is the exception, not the rule."

It is this practical knowledge and insight into the rental-purchase business that enables Raffaelli to speak to legislators about the intricacies of the industry.

Raffaelli says the oversight hearing on March 31 called by the chairman of the U.S. House of Representatives Banking, Finance and Urban Affairs Committee, Henry B. Gonzalez, D-Texas, was particularly frustrating.

"I find it disturbing that the chairman of a full committee took the time to call a hearing at the full committee level." Raffaelli says Gonzalez presided over a very negative—and misleading—portrayal of the industry.

"We've got a major problem in that the hearing was not designed to allow the industry to put its best foot forward. It was designed to beat up on the industry. In a three-and-a-half hour hearing, three hours and fifteen min-

*What makes Raffaelli unique as APRO's lobbyist is his personal interest in the rental-purchase industry. As co-owner in several Imagination stores, Raffaelli brings first-hand experience to industry lobbying.*

utes were devoted to dumping on the industry and to negative comments about rent-to-own. And the only positive side to come out of it was the five-minute testimony by two APRO members and the subsequent five minutes of questioning."

A major education effort is currently under way in the House, according to Raffaelli. "So if Gonzalez does proceed, these congressmen have a better understanding of what the impact of that legislation would have on their district. We're making sure they do hear a positive side."

Behind the scenes, Raffaelli is visiting the offices of all the members and staff who attended the meeting. He's providing them with information about the rental-purchase industry in their state so they get a better sense of the jobs and services at stake.

Raffaelli thinks the worst-case scenario for the industry would be if Gonzalez passed out of his committee legislation that would declare the transaction a sale and not a lease, combined with price controls.

"We need to find out how much energy consumer groups put into working against us and how much interest the chairman has versus what other issues might come along to absorb him," says Raffaelli, who considers the hearings to be a secondary issue for a full banking committee. "One reason the issue has gone this far is because the committee has nothing else major to work on right now."

According to Raffaelli, the right strategy to avoid harmful legislation in the future is to work closely with friends of the industry who are on the committee and who understand what the proper treatment of the rental-purchase business should be.

Raffaelli advocates legislation introduced by Larry LaRocco, D-Idaho, last year—or a similar version for the industry. "I think congressman LaRocco will take a lead again in pursuing legislation that is balanced in the sense of protecting consumers in the states that don't have any kind of

legislation, but also to recognize the transaction for what it is—a rental."

Unsure at this point what the outcome on Capitol Hill will be, Raffaelli says if the industry responds to Congress and works with its members, rental-purchase interests will be as successful at the congressional level as at the state level.

"They've (APRO) got a good legislative team. Ron Waters and Bill Keese do a good job of marshaling the resources and people, and making them aware of what needs to be done. Wayne Chambers is a very active president, a planner-type rather than a crisis-management type."

With that type of leadership, the association is well positioned, according to Raffaelli. "We've got good friends and the industry is growing. The small operators who don't think they can affect the process really need to get involved. The commitment to make your money ought to also be that you don't lose your business by governmental action."

Raffaelli says the next step is the chairman's. "We're going to try to convince the chairman that he should work with Mr. LaRocco's approach, and not come up with his own."

Raffaelli has been working very closely with LaRocco to formulate strategy and legislation. As soon as the new LaRocco bill is drafted, Raffaelli will lobby for majority support of the banking committee.

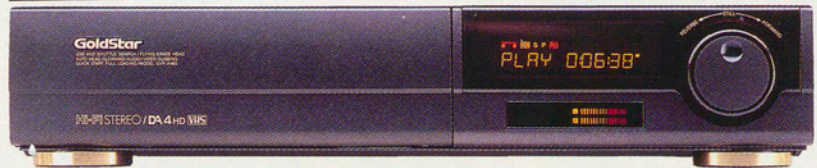
Until then, Raffaelli will continue to lead the fight in Washington to educate lawmakers about a business that generates \$3.6 billion per year and employs nearly 27,000 people nationwide. Constantly on the watch, Raffaelli lobbies to ensure the rental-purchase industry is protected.

"You wouldn't leave doors unlocked at night, and you wouldn't leave the Congress unobserved at night or day. There are folks up here who would like to come after you." **PR**

*Kelli Montgomery is a recent graduate in magazine journalism at the University of Texas.*

How  
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building  
a profitable  
line  
of  
VCR's.

step.



by



step



it



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*Here's how to tell the veterans from the virgins when it comes to APRO in Vegas*

# Ah, convention!

EACH YEAR ABOUT THIS TIME, RENTAL-PURCHASE BOOKKEEPERS BREAK INTO COLD SWEATS, EXECUTIVE SECRETARIES SPEND AFTERNOONS HAVING LUNCH WITH HUNKY YOUNG TRAVEL AGENTS, AND THE NEWEST MANAGER TRAINEES COME UP WITH WHOLE LISTS OF REASONS WHY THEY SHOULD BE INCLUDED IN THAT SMALL, SELECT GROUP THAT WILL REPRESENT THE COMPANY AT THIS YEAR'S APRO CONVENTION IN LAS VEGAS.

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Never mind the fact that nobody's going who won't be missed, and that everybody knows the old guy back in accounting really runs the company, anyway. APRO is approaching, and what every company really needs more than a good travel agent (or an uncle named Rocky with a condo in Vegas) is a guide to who should go and what they should see when they get there. Because *PR* looks out for you, here is the only show guide you'll ever need.

Education is the real reason for convention. Sure, you can drink, gamble and stay out all night. But chances are you did all those things in school and still didn't get an education. So this is your big chance. You'll want to take advantage by signing up for as many seminars as possible, even those you may think have little to do with your job back home. After all, few conventions have seminars on office supply and coffee maintenance.

Next, find somebody to attend all these for you. Surely you can't be expected to show up at a dozen or so workshops

and then fit in six rounds of golf and the Wayne Newton Museum & Gift Shop tour during the same week. If you really think you should make a few seminars in person—just in case they take photographs—try to sit on an inside row and don't volunteer for anything. Otherwise you could end up passing out the handouts or something and people will later expect you to know something about what you just sat through. That complicates the whole thing and leaves less time for golf, blackjack and other management stuff.

Most seminars fall into one of three categories and you'll want to choose carefully when deciding which ones are right for you: "Hands-On," where you pick up good pointers from people with real rent-to-own experience (some of it was even successful); "Motivational," where former Amway dealers share secret telemarketing and biomedical theories with you; and finally, "Strategic." This is the one where guys with suits and tans better than yours tell you how to plan your company's future using three-ring binders and colored tabs. They never explain the part about the tan. If you had to drag along the guy from accounting, park him here.

But not all seminars and classes are that easily defined. Every year there's at least one guy in the exhibit hall demonstrating his newest revolutionary gadget from a booth that looks like Gomer should be selling fruit there.

Last year it was some electronic gizmo that turned TV sets off from afar once a few payments were missed. Never mind that garage doors went up and down all over the neighborhood and several people had their pacemakers rev up to near fatal levels.

That same guy sold enough to come back this year. Now he's hawking a fancy kit full of toxic substances that

.....

BY

BUD HOLLADAY

you're supposed to smear on furniture to remove bloodstains, cement, and anything else your employees have managed to spill on all that inventory you bought here last year. Don't miss this one.

The exhibit hall should take up about 80 percent of your time in Las Vegas. If it does, you won't lose nearly as much as you did last time when it only took up 20 percent. Vendors spend lots of money on these exhibits and first-time attendees are usually overwhelmed by the glitz, the glamour, and the vast array of product right out of tomorrow's trade journal. That's on the first row. Nearer the back, you'll find the stuff your company wants to buy. It's cheap and there's plenty of it.

Be sure to take time during your exhibit hall tours to introduce your key people to the suppliers; this could be their only chance to learn about trips, prizes and other product features. And it could be your chance to see how many vendors already know your buyer. You'll want to pursue any winks, nods and secret handshakes they might exchange. If you don't have a buyer, convention affords a great opportunity to hire buyers district managers and even vice presidents. Just drop a few business cards on the floor near the coffee stand and jump back. And don't worry about experience: hire one of these guys and you'll get experience fast (another advantage to this method is that you get only people who can bend ad lift—and read, too).

The social side of convention demands that you send only your most presentable employees. Certainly there might be a deserving D.M. somewhere out there who could benefit from seminars and product demos, but if the jerk doesn't know a Jamaica from a Mulligan, what good is he really?

Of course, if you're reading this and don't know the difference yourself, you'll want to attend ROS—Remedial Ownership School. It's held each year just prior to the convention. You can recognize graduates by the way they throw around terms like "P&L" and "Multiple," and wear tassel loafers with dress pants.

What to wear to those evening functions can be a real problem unless you

*Of course, there are some social functions in Las Vegas that successfully combine business with pleasure, but those are mostly downtown and can be costly in the event of a police raid. My advice is to stay away. Or send the guy from accounting.*

understand the code used by all convention planners. The rules for daytime are easy enough, but those for evening functions all seem to fall somewhere between "casual" and "sort of casual but elegant, too, with nothing real fancy." What this really means is that women should wear whatever they paid the most money for and men shouldn't wear golf cleats with business suits. And if the program says "cocktails, hors d'oeuvres and light music," it means there's a sales pitch in there somewhere. Your job is to find it.

Of course, there are some social functions in Las Vegas that successfully combine business with pleasure, but those are mostly downtown and can be costly in the event of a police raid. My advice is to stay away. Or

send the guy from accounting.

Before you pack up and head out, be sure to let everybody at home office know who'll be in charge while you're gone. Odds are they already know, but it doesn't hurt to see who you had in mind. One thoughtful dealer a few years back surveyed her employees to learn what they most wanted her to bring back from convention. Ninety percent said a new attitude, while 10 percent said it was okay not to come back at all. So much for employee surveys.

Good luck and happy convention-eering!

**PR**

*Bud Holladay is vice president of marketing for Alrenco. He is a former RTO dealer and founder of APRO. His humor/opinion column appears in Progressive Rentals every issue.*

## RTO Managers

**Are you worried about your future  
in the rent to own industry?**



Does your supervisor demand more BOR, but you haven't had any new product in six months? Every company has been affected by the lack of credit availability that is facing our industry. Not National Rentals. 1993 will be another record year for both profits and new growth. Our acquisition department has never been so busy. Good deals are everywhere and the only thing that will slow us down is the lack of quality store management. We are looking for store managers and regional managers who haven't forgotten that the way to financial success is through leadership and hard work. We want people who will have a direct impact on the success of our company. For the right people we offer the best bonus potential in the industry today. If you would like to be a part of our winning organization, you need to talk with us. All replies strictly confidential. Please submit your resume to:

Steve Scoggins  
C/O National Rentals  
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Cleveland, TN 37323

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since 1983

# Dealers write to APRO ...

(EDITOR'S NOTE: THESE OPINIONS ARE FROM LETTERS WRITTEN BY APRO-MEMBER DEALERS TO BILL KEESE, APRO EXECUTIVE DIRECTOR. EXCERPTS ARE PRINTED HERE WITH THE AUTHORS' PERMISSION.)

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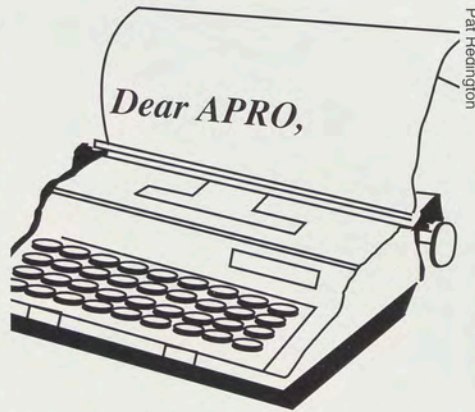
Dear Bill:

Like so many others, I was shocked and extremely disappointed to learn that our industry has once again come under attack, this time at a full hearing of the U.S. House of Representatives Committee on Banking, Finance and Urban Affairs. I almost couldn't believe that our harshest critics were being allowed almost three hours of testimony, while our industry was allowed a little over 10 minutes in response! I suppose I was naive to believe that in the house of our elected representatives, surely there would be balance and fair treatment. After reviewing the written and oral testimonies that occurred during that hearing, I must admit that my faith in the fairness of our system was a little shaken!

The misinformation and outright character assassination of all of us participating in this wonderful industry was nothing short of appalling! At one point, a U.S. congressman actually stated, "I don't care if operators go out of business, our job is to protect the consumer." I wonder how many RTO employees live and operate in that congressman's district!

Bill, it is clear to me that there are several misinformed individuals that have taken it upon themselves to redefine the definition of interest, use misleading numbers in regard to our industry, and use complete distortion of the facts in trying to bring down the "RTO" industry. For whatever reason, those individuals have consistently chosen to ignore the real truth about "rent to own," while pursuing unsuccessful court cases across the land. Now they have chosen to misrepresent those same untruths in the U.S. House of Representatives!

I will not go into the numerous lies that were perpetuated against us, as



I am sure you will inform our people as to what occurred.

It is obvious to me, and I hope to all of those participating in this noble industry, that we must not allow these self-proclaimed consumer defenders to be successful in their ill-conceived campaign to legislate us out of business. We owe it to our millions of customers to put up a fight in their behalf!

Obviously, it will be the role of our national association to lead in this effort! Knowing that our misinformed critics are well funded and organized, I challenge all rental dealers everywhere to join with APRO now in spirit, in action and financially, so that we might preserve "RTO" as a choice for our most valued asset, "the customer."

I have enclosed a check for \$2,300, which represents \$100 per store for my company, and I hope that RTO dealers everywhere will do the same!

I call on all manufacturers and all support businesses of the RTO industry to consider generous and immediate contributions to APRO for the purpose of establishing federal RTO legislation that not only protects our customers from abuse, but maintains their rights as Americans to choose.

In closing, I want you and the APRO staff to know that my prayers and thoughts are with you. I am completely confident that you will be able to make the truth known about "RTO," and that we will finally be recognized by balanced federal legislation for what we all know to be a unique new choice in the acquisition of goods and services.

Sincerely,

Larry Sutton, president

B&L Concepts d/b/a  
Champion Rent to Own

...

Dear Bill:

With the new administration, income taxes of APRO members will likely increase. Estimates range from 5 percent to 7 percent. Since we are paying 31 percent to begin with, it is an effective increase of 16 percent to 22.5 percent over the basic rate.

If business owners don't address the issues of concern that tax away the benefits of owning a business, who will?

It has been said that as long as the government "robs Peter to pay Paul" it will always have the vote of Paul.

Last October, I shut down one of my businesses (not RTO) that had approximately 40 sales representatives and \$4 million in annual sales because of the Tax Reform Act of 1986 and the substantial punitive aspects of that tax law as it affected the installment method of accounting.

I did not make any money in that business since 1986. Because of the change in the tax law, my income declined significantly. I had to borrow more and, finally, 40 sales representatives lost their jobs.

In addition to the income tax increase, there is also the probability of a reduction in the exemption in the estate tax from \$600,000 to \$200,000. Both of these issues need to be opposed or it will cost us dearly.

It has been said: "All that is needed for evil to triumph is for good men to do nothing." I believe APRO is made up of good men and women. I also believe we will probably do nothing unless we are called upon as a group to oppose this demotivating additional confiscation of our hard-earned dollars.

We need to begin a letter-writing campaign and personal contact program without delay.

I know full well that some may say that this does not exactly fall under the charter or the mission statement of APRO. However, since most of us are sub chapter "S" corporations, the impact for each of us is far greater.

Yours truly,

Bill Wendell, owner  
Blue Ribbon Rentals  
Cuyahoga Falls, Ohio

PR



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with every aspect of store operations, you'll keep moving to the top with financial data you can count on.

If you get lost trying to get all the numbers to match, let High Touch help you find your way.

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*This time, it could turn out to be more than you've ever imagined—the other ...*

# Las Vegas

IS FRIDAY THE 13TH YOUR LUCKY DAY? HERE'S YOUR CHANCE TO FIND OUT! APRO'S 1993 CONVENTION AND TRADE SHOW, "RIGHT ON THE MONEY," BEGINS ON FRIDAY, AUG. 13, AND WRAPS UP ON TUESDAY, AUG. 17.

TEE OFF ON FRIDAY AT THE LEGACY GOLF CLUB AT GREEN VALLEY AND TRY YOUR LUCK AT ONE OF LAS VEGAS' PREMIER GOLF COURSES. NATIVE SURROUNDINGS, INCLUDING LOVE GRASS AND LAVA ROCK, ENHANCE THIS COURSE, DESIGNED BY AWARD-WINNING GOLF COURSE ARCHITECT ARTHUR HILLS.

.....

BY

BARBARA

STOOKSBERRY

The Legacy has all the expected amenities and makes graciousness its byword. The penncross bent grass greens are hand-mowed daily to provide the best putting surfaces available. Several Legacy holes are rated top notch, so challenge yourself at the Devil's Triangle, or play the Suits or Love Grass holes. One word of caution from the pros: take plenty of stick on the par 3s, which play longer than they look. For last minute brush-ups, there are putting and chipping greens and a driving range.

## Mixing pleasure with business

Ready for more Friday the 13th fun? It's the APRO Black Cat Party, as APRO's professional party planners create Halloween in August. You'll have to duck to miss the cobwebs as you enter the ballroom through a tomb that's been there long enough for the spiders to do their handiwork. Green lighting, black cats and spooky sounds

bring Freddie Kruger to mind, and ghouls and witches hover near a 3-D castle deciding what—or whom—to have for dinner. Is there a cauldron in your future?

It's all fun with a purpose. As those who've made the convention scene before know, networking is a big part of any convention, so take this opportunity to enjoy old friends in the rental-purchase business and meet new ones in a casual and fun setting.

Saturday is devoted to APRO business affairs. On the agenda for the general session and business meeting, 9:30 a.m. to noon, is a keynote address by Dr. Nate Booth on "Change, Challenge and Choice: Thriving in Our Rapidly Changing World." Walter E. (Bud) Gates, chairman and CEO of THORN EMI Rental Americas (Rent-A-Center), will be special guest speaker. His topic is the future of renting in America.

A special presentation on government relations will be included. With both the



*Las Vegas is more than stereotypical neon. For nature lovers, places like Redrock Canyon are only a short drive from the city.*

federal and state governments taking an increasingly hard look at the rental-purchase industry, this is an important session. APRO Director of Government Affairs Ron Waters will have a lot of information to share on what's happening around the country in RTO legislation.

The day's just getting under way, though, because the champagne ribbon cutting on APRO's '93 trade show is at noon in Bally's Events Center. You can spend all afternoon (and Sunday afternoon and Monday morning) visiting vendors, seeing what's new and improved on the market, talking shop with manufacturers' reps and generally keeping abreast of the industry. With a cash lunch available on site each day, there's no reason to leave. Think of this as a giant shopping mall, with everything you need under one roof. It's a great opportunity for connecting with both dealers and vendors, hearing what they have to say and making your views known.

But wait—before you know it, "It's Saturday Niiiiight!" This party will

feature all the fun of the perennial late night favorite, including "Wayne's World" and "Weekend Update News." Father Guido Sarducci emcees the evening's entertainment, which includes a cast of wild and crazy guys and gals—the Delta girls, Hanz and Franz, The Church Lady, Coneheads, The Samurai and more. The Blues Brothers are musical guests, and applause will go to costume contest favorites—so have fun with this one, as you try to outdo the masters of mirth. Stewart Smalley and Pat will be there, but Toonses (the cat) is driving himself that night and may not make it.

### Readin,' Ritin,' and (Mostly) 'Rithmetic

As at other APRO conventions of recent years, casual is the order of the day at this year's Las Vegas convention. With the exception of the closing awards banquet, come as you are wherever you go, from parties to seminars to the trade show. The relaxed ambiance makes the temper-

ature more tolerable and the convention in general more enjoyable. So, get comfortable, because on Sunday morning and Monday afternoon, it's back to school.

APRO seminars may well be the leading attraction of our conventions, because the information gathered here, as well as the business contacts made and reinforced, can make or break an RTO business. APRO puts particular effort into drawing top speakers from every corner of the industry—as well as tapping into top business talent from outside the industry.

Here's the lineup of speakers and topics at press time:

Kent Sutherland, director of human resource development for Action TV & Appliance Rental, Mesquite, Texas, will help in "Creating a Customer-Friendly Culture." Using data collected from a year of interviewing 5,000 RTO customers, Sutherland will help you understand what the customer wants and how you can pro-

CONTINUED ON PAGE 40

# Brand Power

25" Stereo TV

27" Stereo  
Console TV

27" Stereo TV



Portable Stereo/  
Cassette Player



20" Stereo TV



25" Stereo Console TV



Hi-Fi VCR

Nipper

Chipper



**RCA**

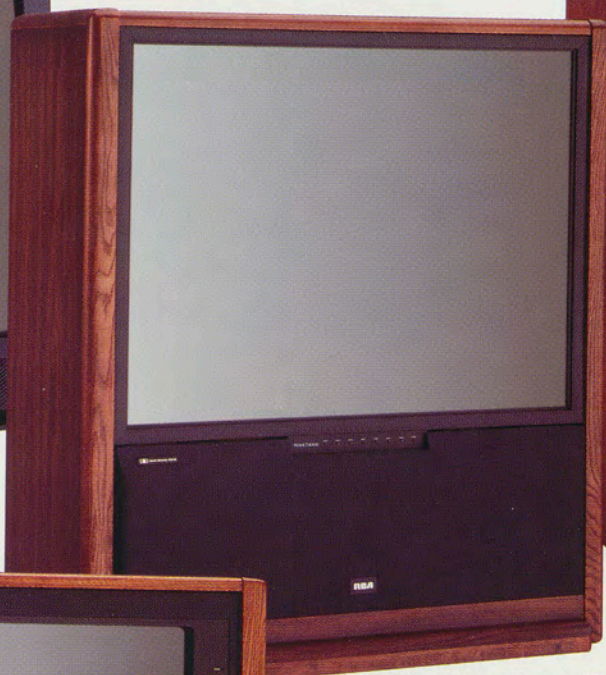
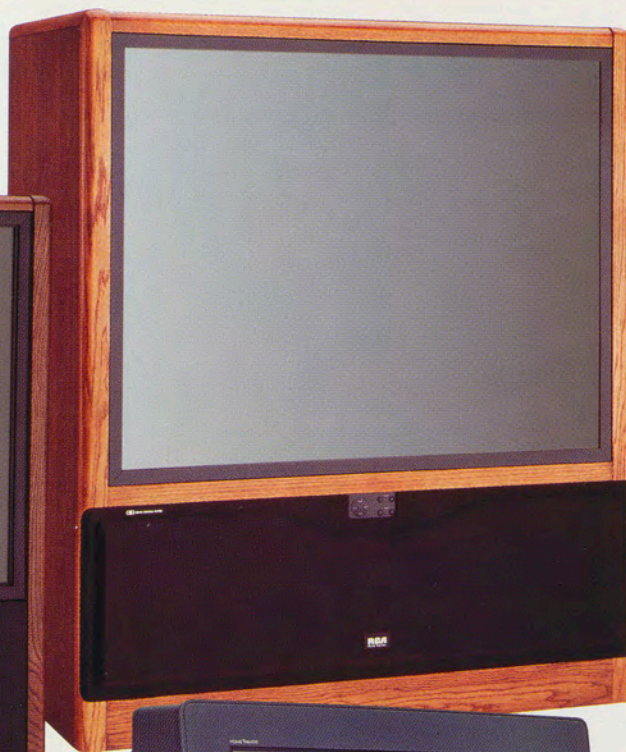
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31" Stereo TV



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31" Stereo Console TV



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- **RCA Brand Power**—More consumers come back to RCA than any other brand.
- **RCA Brand Power**—Renters' demands in home electronics are clear: More choice. More product. More features. Better performance. And in enough sizes, shapes and prices to satisfy the largest and most sophisticated rental market—ever!
- **RCA Brand Power**—And there's more! With our long standing quality reputation you can rely on our dependable service and timely, efficient distribution.

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 RCA Consumer Electronics Rental Services  
 Thomson Consumer Electronics, Inc.  
 P.O. Box 24459  
 Louisville, KY 40224-0459  
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TV screens are measured diagonally.



Kim McBride

*It's been an established part of RTO for some time now, yet it hasn't gotten stale:*

# Future Furniture

SOMETIMES IT'S A NEW HOUSE OR APARTMENT, A MARRIAGE, AN ADDITION TO THE FAMILY—OR SOMETHING AS BASIC AS A VISIT TO A FRIEND'S HOUSE OR A REAL ZINGER OF A RETAIL FURNITURE AD. WHATEVER THE TRIGGER, THE NEED—OR JUST THE DESIRE—FOR NEW FURNITURE CAN MEAN MONEY IN YOUR POCKET.

JUST BECAUSE A BODY DEVELOPS A HANKERING FOR NEW FURNITURE, HOWEVER, DOESN'T MEAN IT'S WITHIN HIS OR HER FINANCIAL REACH.

The consumer can't always come up with the big up-front payment demanded in retail furniture purchases. But because furniture is a necessity, not a luxury, the person with little or no credit must find a way to fulfill that need, and that way is often rental-purchase.

Furniture is a good RTO product for many reasons: It is hard to comparison shop because it comes in a hundred different styles and a thousand different fabric coverings, so buyers find themselves comparing apples and oranges. Furniture manufacturers tend to serve narrowly defined geographic areas, so there's little national marketing. And finally, retail markup is considerably higher on furniture than on other consumer goods, so the perceived value on RTO furniture compares favorably with retail.

Furniture provides 28 percent of the rental-purchase business in today's market—that's 1,175,775 units of furniture out on rental. That is an important segment of RTO business—up to 60 percent for some dealers. In a business climate where you have to make the most of every dollar you invest in inventory, furniture is pretty much a sure bet.

## When can I get it?

The phenomenal growth of this market segment has led to greatly increased cooperation between dealer and manufacturer. A few years back, furniture manufacturers saw retail furniture stores closing right and left, and an increased demand for furniture in rental-purchase. The message was not wasted on them. Many geared up to answer the needs peculiar to rental-purchase—greater durability, quick-ship programs, video training for salespeople, sales catalogues, quality construction that guarantees durability, price points at which the dealer can make a profit, knock-down capability.

To address the availability issue, manufacturers sit down with dealers to select furniture styles and fabric selections on which they can assure immediate delivery and often create a customized catalogue, complete with fabric swatches, for that dealer. Dealers without warehousing facilities to stockpile a complete selection often choose to deal with distributors—many dealers swear by theirs—who essentially fulfill the warehousing function as

CONTINUED ON NEXT PAGE

•••••

BY

BARBARA

STOOKSBERRY

*Continued from previous page*

well as serving as liaison with the manufacturer.

"Quick ship is very important to rental-purchase dealers, but more so for the smaller dealers," says independent manufacturer representative Alan Dobzinski. "And that's why the smaller dealer is more attracted to distributors—he doesn't have the buying power of the bigger guys, and he can't store the merchandise. Thus, he's in a position to pay more money for it and just get it whenever he wants it.

"The bigger rental-purchase dealers project out their buying power over the longer period of time. They do their buying ... on a quarterly basis. They buy on a schedule," adds Dobzinski.

Gregg Daum, president of Ace Rentals, with one store in South-Central Los Angeles, does 40 percent of his business in furniture. He is in an enviable position where availability is concerned: "There are so many manufacturers around here that we can get just about anything we want within a matter of a few days. We do a lot of customizing of our orders. If people want a particular dinette with a certain fabric on the chairs, we can get that in the next day."

Many of his customers order from a catalogue. "We try to paint pictures in people's minds as to what it's going to look like when it's put out there."

Right now Ace Rentals is doing a lot of business in black contemporary furniture. "We get a lot of wall units out, dining room sets—even sofas with black in it," Daum reports.

Orleans, which manufactures a variety of major furniture products, including dining and bedroom furniture and curios, direct ships to RTO dealers using Orleans-owned trucks. Because of the range of products they offer, they can fill a whole truck with a variety in one shipment, which can be cost effective for the dealer.

This is one solution to the gotta-have-it-now dilemma. Some dealers like to use a manufacturer like Orleans that can answer many of their needs; others prefer to rely on a distributor.

BenchCraft, says Tom Schmidt,



Photos courtesy of Aaron's Rent-To-Own

**Dealers report that contemporary styles and fabrics are fast becoming the most popular choices in upholstered goods among rental-purchase customers.**



**Quality construction, both for customers and dealers, is a must in today's still-growing RTO furniture market.**

senior vice president for sales and merchandising, offers a seven-piece collection that includes a sofa and love seat, two end tables, a cocktail table and two lamps, all scaled to fit with larger furniture, in what they call room packages. These packages, in eight styles, run the gamut from lacquer to cherry—and delivery is made in three weeks. "We offer a wide variety that can address any style needs," says Schmidt. The fact that the coordinating is already done for the customer, Schmidt believes, is a big advantage. "They don't even have to think about it."

With six stores in Virginia and West Virginia, Richard Eichlin of STAR Rentals chooses to deal primarily with distributor Philip M. Bell Co. "They are a full-line distributor, and I can order as little furniture as I need—there are no minimum quantities," says Eichlin. "I do not have to wait for weeks on end to get the product that I need, which is important to me because I do not have a central warehouse or very large storage facility."

Bell also takes back any damaged goods, but at STAR they do minor repairs themselves to prevent loss of time in shipping and reshipping.

Independent representative Dobzinski concedes that a distributor can often speed up delivery, but thinks the usually lower cost of cutting out the middle man and dealing directly with the manufacturer, through the rep, offsets that advantage.

"I try to take on lines that fulfill the needs of rent-to-own dealers to give them relatively quick shipment with good quality and service to back it up, which is another consideration," says Dobzinski. "The reliability of the rep in doing what he says he'll do is also a consideration."

River Oaks Furniture is setting up a warehouse in Tupelo to inventory upholstered goods for the rental-purchase industry, according to CEO

CONTINUED ON PAGE 38



# The Leading Manufacturer of Motion Furniture and Reclining Chairs



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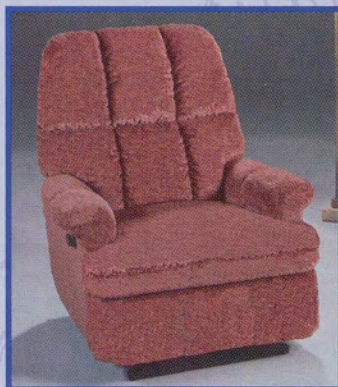
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# BERKLINE®



Stephen Simons, to give them a quickship delivery program. "We have a whole customized rental-purchase program. (The furniture) is specifically merchandised and designed—quality-wise, packaging-wise—for rent-to-own."

Bushline's Walt Scruggs takes care

of his RTO dealers by checking in with them early each week, after they've had a chance to inventory weekend sales, to see what they'll need to replenish their inventory. He says, "I've had good relationships with my rent-to-own customers. It's service-oriented."

Scruggs' customers often call needing a five-piece or a seven-piece dining room, as examples, and he'll pick

a style and cover he feels will work for them. "I've got a good idea of what they need. And they know that if they let me pick it, and something goes in that they totally don't want, I will pick it back up."

What is Bushline's delivery time? "Usually in two weeks," says Scruggs. "We keep a lot of upholstery in stock, and that's the advantage if they let me pick styles and covers. I'll find some-

## Who's Who in rental-purchase furniture

*Furniture is a mainstay of most rental-purchase stores' product mix, and its percentage of total BOR is on the increase—some stores report as much as 60 percent. The following list includes manufacturers and distributors working with the RTO industry. All are either APRO Associate Members (\*), advertisers (+) in APRO publications, or APRO convention exhibitors (Y).*

**Y+ Aleco Furniture Mfg., Inc.**  
4700 E. 50th St.  
Vernon, CA 90058  
(213)581-3551  
Furniture

**+ Amarillo Hardware**  
501 S. Grant St.  
Amarillo, TX 79172  
(806)376-5311  
Furniture

**Y\* Artmaster Studios**  
250 Parkside Dr.  
San Fernando, CA 91340  
(818)365-7188  
Furniture accessories

**Y\* B & D Sales**  
P.O. Box 2192  
Tacoma, WA 98402  
(206)922-1400  
Distributor

**Y\* Beekman**  
2040 Polk St., #327  
San Francisco, CA 94109  
(415)885-6620  
Furniture—tables

**Y+ Belloggetti International Ltd.**  
711 Ginesi Dr.  
Morganville, NJ 07751  
(908)972-1333  
Furniture

**Y+ Benchcraft, Inc.**  
P.O. Box 86; Hwy. 15 N.  
Blue Mountain, MS 38610  
(601)685-4711  
Furniture

**Y\*+ Berkline Corp.**  
157 Lynnwood Dr.  
Longmeadow, MA 01106  
(413)567-9645  
Furniture

**Y\* Boyd Flotation, Inc.**  
2440 Adie Rd.  
Maryland Heights, MO 63043  
(314)997-5222  
Furniture—waterbeds

**Y\*+ Bushline**  
P.O. Box 527

New Tazewell, TN 37825  
(615)626-5246  
Furniture

**Y Daystrom Dinettes**  
1485 Clearview Dr.  
Acworth, GA 30101  
(404)419-8900  
Furniture—dinettes

**\* Douglas Furniture of CA, Inc.**  
5020 W. 73rd St.  
Bedford Park, IL 60499  
(708)458-1505  
Furniture

**\* Eastman House**  
401 S. Roosevelt  
Burlington, IA 52601  
(319)753-2811  
Distributor and bedding mfg.

**Y Fab-U-Gard**  
P.O. Box 39430  
Phoenix, AR 85069  
(602)944-8862  
Furniture protective product

**\* Flair Designs Ltd.**  
P.O. Box 606  
Kokomo, IN 46903-0606  
(317)452-6000  
Furniture

**\* Fraenkel Co.**  
P.O. Box 15385  
Baton Rouge, LA 70895  
(800)847-2580  
Wholesaler, manufacturer

**Y Gaines Manufacturing Co.**  
P.O. Box 550  
McKenzie, TN 38201  
(901)352-3376  
Furniture manufacturer

**\* Goldberg Company, Inc.**  
4377 Carolina Ave.  
Richmond, VA 23222  
(804)228-5732  
Furniture

**Y\*+ Hart Furniture Co.**  
141 Eastley St.  
Collierville, TN 38017  
(901)853-8595

### Furniture

**Y\*+ Home Line Industries**  
3400 N. 6th St.  
Philadelphia, PA 19140  
(800)523-3310  
Furniture

**Y Howard Miller Clock Co.**  
860 E. Main Ave.  
Zeeland, MI 49464-0301  
(616)772-9131  
Furniture accessories—clocks, curios

**Y International Silk Plants**  
11233-A Southwest Freeway  
Houston, TX 77031  
(713)568-1455  
Decorative, accessories

**\* LeFort Wholesale Furn.**  
3070-A Olympic Industrial  
Smyrna, GA 30080  
(404)352-8600  
Furniture

**\*Y+ Lea Industries/LADD Furn. Inc.**  
P.O. Box HP-3  
High Point, NC 27261  
(919)889-0333  
Furniture

**Y+ Omega Furniture Industries**  
P.O. Box 408  
Cartersville, GA 30120  
(404)382-8070  
Furniture

**\* Orleans Furniture Co.**  
P.O. Box 867  
Columbia, MS 39429  
(601)736-9002  
Furniture

**Y\*+ Philip M. Bell Co.**  
118 Northeast Dr.  
Loveland, OH 45140  
(800)686-0102  
Furniture

**Y Quality Dinettes**  
P.O. Box 197  
Arley, AL 35541  
(800)223-4041  
Furniture

**Y Rental Concepts**  
P.O. Box 25  
Mt. Vernon, TX 75457  
(903)537-2215  
Furniture

**\*+ Riverside Furniture Corp.**  
1400 S. 6th St.  
Fort Smith, AR 72903  
(501)785-8100  
Furniture

**Y\* Soundesign Corp.**  
400 Plaza Two—Harborside  
Financial Ctr.  
Jersey City, NJ 07311  
(201)434-1050  
Home entertainment furniture

**Y Southern Enterprises, Inc.**  
P.O. Box 59996  
Dallas, TX 75229  
(800)633-5096  
Furniture manufacturer

**Y Stratolounger**  
311 Stonebridge Dr.  
Longwood, FL 32779  
(407)788-2477  
Furniture

**Y The Laurel Street Art Club**  
1961 International Way  
Hebron, KY 41048  
(606)689-5100  
Furniture accessories

**\* The Pilliod Cabinet Co.**  
1403 Eastchester Dr.  
High Point, NC 27260  
(919)884-3929  
Furniture

**Y The Tree Factory Inc.**  
2108 South Blvd.  
Charlotte, NC 28203  
(704)332-8733  
Furniture accessories—silk plants

**Y Welton/Techwood**  
2109 Luna Rd. #100  
Carrollton, TX 75006  
(214)243-5602  
Home entertainment furniture

thing in stock that we can get to them faster."

### Do-it-yourself availability

Aaron's Rent-To-Own answered the availability question by setting up its own furniture factories for its franchisees and company stores. "From the franchise side of the fence, that knockdown feature on a lot of our upholstered items is saving some of our franchises some money ... and it's saving some of our company-owned stores some money" because there is little down time for repairs, says Todd Evans, director of franchise development.

"If there's a cigarette burn on an arm, you can pop that arm off, put a new arm on, put that thing back on your showroom floor and command premium dollars for it as opposed to marking it down as a damaged piece."

### Sit on it, jump on it

The RTO customer of 1993 is better educated and more savvy than his predecessors. With furniture, much of the value is hidden, and what the customer sees is largely cosmetic—fabric, primarily, and the styling. The quality of the construction is hidden, and it all looks good new!

Emphasis on the cosmetics may work up to a point. But these days, customers are literally turning the furniture over and taking a look for them-

CONTINUED ON PAGE 52



Some furniture manufacturers go the extra mile to get to know rental dealers and their unique set of needs.

## Independent reps can be dealers' best bet

IT'S A GIVEN THAT MOST RENTAL-PURCHASE DEALERS THESE DAYS INCLUDE FURNITURE AS PART OF THEIR PRODUCT MIX. FURNITURE REPRESENTS 20 PERCENT OR MORE OF MANY COMPANIES' REVENUES.

•••••

Furniture has helped change the RTO business, including the size and look of store showrooms. Conversely, many furniture manufacturers have been changing the way they do business to accommodate rental-purchase companies.

Price, quick-ship availability and variety of styles form the basic triangle RTO dealers look for in furniture.

Independent furniture manufacturers' representatives offer factory-direct prices and, depending on how many lines they represent, a whole spectrum of products. Some can also provide a high level of service and in-depth RTO knowledge.

"An independent manufacturers' rep is a person who is an independent contractor, in business for themselves, representing one or more manufacturers of furniture," says Alan Dobzinski. "What's not understood by rent-to-own dealers all the time is that we're on our own. We pay all our own expenses; we are not salaried. We work strictly on commission."

Dobzinski is an ex-RTO dealer and former member of the APRO Board of Directors (he served the most consecutive years: 10). So is Glenn Davis, who also holds the distinctions of past APRO president (1985-86) and association secretary for six years. In addition, Dobzinski was longtime president and founding member of the Connecticut dealers' association.

Today, both are independent furniture reps. A big part of their worth



Glenn Davis



Alan Dobzinski

to dealers is their experience as veterans in the RTO industry.

"In our case, we have furniture lines tailored to the rent-to-own business," Davis says. "We have a rent-to-own program for every line that I rep, and I am the national rep for those lines. With every line I handle, they (manufacturers) know how to ship to RTO dealers, how to bill to them—everything."

Dobzinski adds: "Often, retail reps may not understand the (RTO) jargon or language. We do, because we've bought furniture ourselves as dealers."

Davis says independent reps are cost competitive since they can offer factory-direct prices, but Dobzinski believes the service they provide is perhaps their strong point.

"I think a manufacturer's rep will give you service that you need and a relationship as a mediator between the manufacturer and dealer. That's what's important."

Among the furniture lines Davis currently represents are River Oaks, Paramount Home Theater Products, Johnston/Tombigbee, Gentry, Largo (metal bunk beds) and Unique Dinettes.

Davis can be reached at 1-800-362-0507. His fax number is (817)354-1443.

Dobzinski represents Worboys Upholstery, Carrozza Upholstery, Orleans, Gold Bond Bedding and Futons, Landmark Imports and National Rug Wholesalers.

Dobzinski can be reached at (203)469-7713 (voice and fax).

—John Gormley

vide it. Why do customers choose RTO? What do they want from you? Sutherland has the info to help you create a customer-friendly environment.

If you want to know "How RTO Companies Can Raise Capital," ask Larry Levine, vice president of the Corporate Finance Department at AM&G Financial Services, Chicago. Levine will cover what lenders look for in lending to RTO and what you should look for in shopping for a lender. Levine is a CPA with an MBA from the Wharton School and more than 12 years in corporate finance. Come hear what he has to say about the advantages and disadvantages of the three most common senior loan facilities, the structure and requirement of subordinated debt, equity, and the valuation of RTO companies in both public and private capital markets.

Collection headaches? Don't you hate 'em? Cathy Holladay covers this topic like the pro she is. In addition to being married to the infamous Bud Holladay of Alreco, Cathy has done consulting for a number of clients over the years and specializes in collections and revenue improvement. She managed 10 stores for Bud in Texas and Missouri, then ran 10 stores in Los Angeles for Transamerica. Cathy worked with a 20-store Eastern chain, reducing delinquencies by half while improving BOR by 4,000 units. She did the same for a group of eight stores in the Midwest, plus improved BOR by one-third and added \$35,000 monthly revenue to a single-store 3,000 BOR operation in Utah.

In "Planning Your Corporate Vision," Larry Sutton of B&L Concepts, an affiliate of Champion Rent to Own, Tampa, Fla., helps you with strategic planning for your business future, including putting your planning team together, creating a corporate mission statement and committing to writing a growth plan that will map your company's future. Sutton, nicknamed "The Reverend of RTO," brings passion and humor to his presentation. Heck, it's Sunday morning anyway and a great time for church.



Las Vegas News Bureau

*This is the kind of scene most people conjure up when thinking about Las Vegas, and rental dealers will get to make their visions come true during APRO's Aug. 13-17 convention and trade show at Bally's.*

Larry Randolph of Triad Learning Systems, Garland, Texas, draws on 25 years of experience in the retail and RTO industries in directing two seminars, "Enhancing Employee Productivity" and "Motivation." He'll explain how to set performance goals for your employees, evaluate their performance, and help motivate employees to reach higher levels of performance, while avoiding unwarranted claims. His seminar on motivation will help managers identify and build on what they're doing right to promote high employee performance. Triad, under Randolph's leadership, has developed a comprehensive set of training and consulting services for RTO.

In "Industry Media Relations," APRO Executive Director Bill Keese will be joined by Nancy Johnson, director of public affairs for THORN EMI Rental Americas (Rent-A-Center). They will discuss the relationship of the industry with the ever-critical media. Keese, a former Texas state legislator, has been APRO's executive director since 1989 and has had experience with corporate-level marketing, advertising and franchising. Johnson is responsible for directing the media relations, public relations and communications of a rental-purchase conglomerate of more than 1,200 stores, as well as strategic business units of RAC USA, RAC Canada, RAC

Entertainment and Remco America.

Learn how to "Cover Your ASSETS" by using objective management techniques, in a seminar conducted by former APRO President Ted Wilson. Wilson will suggest common-sense approaches to avoiding costly legal entanglements over employee matters—discrimination charges, unlawful termination, etc. Wilson has been vice president of finance and administration for Alreco since 1984.

In a separate, but no less important, seminar, Wilson and Keese will review the 1993 APRO statistical survey. Anyone who participated in the survey receives his or her own copy of the results. This is a sure-fire way to get the RTO picture in the proverbial nutshell.

Jeff Conley, of the Zig Zigar Corporation, will leave you with a step-by-step plan for turning motivation and desire into business success. His seminar, "Developing Quality People to Reduce Turnover," can help you design an individualized program to suit the needs of your company.

Ed Winn, who has been APRO general counsel since its inception, updates the legal picture in rental-purchase. Winn, who has also served as APRO executive director, was on the adjunct faculty at the University of Texas Law School and is a full partner in the Austin, Texas, law firm of

CONTINUED ON PAGE 61

# ASSOCIATION OF PROGRESSIVE RENTAL ORGANIZATIONS

## APRO '93: RIGHT ON THE MONEY!

### ANNUAL CONVENTION & TRADE SHOW

AUGUST 13-17

BALLY'S  
LAS VEGAS



### Registration Form

Please print or type, one form per registrant & spouse/guest. (Please note: Personal guest is defined as "significant other" or immediate family member.) You may photocopy this form. A written confirmation will be sent to you from the APRO office prior to convention. If your registration is received in our office after Aug. 4, it will be treated as an on-site registration, and no confirmation will be sent.

Last name: \_\_\_\_\_ First name (for badge): \_\_\_\_\_  
 Spouse/Guest—Last name: \_\_\_\_\_ First name (for badge): \_\_\_\_\_  
 Company name: \_\_\_\_\_  
 Company mailing address: \_\_\_\_\_  
 City/State/Zip: \_\_\_\_\_  
 Business phone: \_\_\_\_\_ FAX: \_\_\_\_\_ First-time attendee?  yes  no

#### Registration

Non-family members of the same firm must complete a separate registration form.

#### Badges

Only individuals registered and badged may attend convention events or meetings. Your name and company will appear on your badge exactly as you indicate on this form.

#### Fees

Save by signing up for full registration and take advantage of early registration for additional savings. Fees must accompany completed registration form. Credit card registrations will be accepted by phone or fax until Aug. 4, 1993. No phone or fax reservations will be accepted after Aug. 4. If mailing your registration, please allow time for form to be received in the APRO office by Aug. 4. REGISTRATIONS WILL BE TAKEN ON SITE.

#### Inquiries

Any questions, call (512)794-0095; fax registrations to (512)794-0097.

#### Cancellations

All cancellations or changes must be received in writing in the APRO office, postmarked by July 13, 1993. A processing fee of 20 percent of the total registration will be charged for all cancellations. After July 13, no fees will be refunded.

#### Hotel Reservations

**DEADLINE, JULY 12!** Make your reservations by mailing enclosed card or by calling 1-800-833-3308. PLEASE NOTE: Hotel reservations must be received by Bally's by July 12, 1993, to guarantee the special APRO rate of \$78 single/double. Be sure to mention you are with APRO to get the special convention room rate.

#### Airline/Auto Reservations

APRO is offering discounted rates to Las Vegas. Call, or have your travel agent call, Conventions In America at 1-800-929-4242. Refer to APRO #680, or call Delta at 1-800-241-6760 and refer to File#P0457. Auto rental: Alamo Rent-A-Car, 1-800-732-3232; ID #77274, Rate Code GR.

#### FOR OFFICE USE ONLY:

MID# \_\_\_\_\_  
 Date rec. \_\_\_\_\_ Date ent \_\_\_\_\_  
 Ck.# \_\_\_\_\_ Amt. Pd. \_\_\_\_\_  
 Pre \_\_\_\_\_ On site \_\_\_\_\_

#### Full Registration

(Includes seminars, general session, meal functions and complimentary entrance to Exhibit Hall)

- APRO Member  
 Non-Member  
 Spouse/Guest

#### Postmarked

	By 7/13	After 7/13
APRO Member	\$275	\$325
Non-Member	\$375	\$425
Spouse/Guest	\$175	\$225

#### Daily Registration

	Member	Non-member
Friday Only (Welcome Reception)	\$25	\$25
Saturday Only (General Session, Gala Cocktail Reception & complimentary entrance to Exhibit Hall)	\$125	\$150
Sunday Only (Seminars and complimentary entrance to Exhibit Hall)	\$75	\$100
Monday Only (Seminars, Awards Banquet & Dance and complimentary entrance to Exhibit Hall)	\$150	\$175
Seminars Only (Entrance to Seminars Only, Sunday & Monday, and complimentary entrance to Exhibit Hall; this badge will not allow entrance into social functions)	\$175	\$200
Exhibit Hall Only (complimentary entrance to exhibit hall Saturday, Sunday, Monday; this badge will not allow entrance into seminars or social functions)	N/C	N/C

#### Meal Functions

If you or your spouse/guest do not sign up for full, spouse/guest registration but wish to attend a meal function, individual tickets must be purchased for admission. ONLY THOSE WITH FULL REGISTRATION BADGES, SPOUSE/GUESTS REGISTRATION BADGES, DAILY BADGES FOR DATE OF FUNCTION, OR TICKETS WILL BE ADMITTED TO MEAL FUNCTIONS.

Welcome Reception, Friday	\$25
Gala Cocktail Reception, Saturday	\$40
Reception & Awards Banquet, Monday	\$70

#### Spouse/Guest Programs

IMPORTANT: If spouse has purchased Spouse/Guest Registration, the cost of these programs are included, but we need a count on those planning to participate. You must pre-register to participate!

#### SPOUSE PROGRAM No. 1

Please check here if you are attending Las Vegas Gaming Session/Lunch on Saturday and are purchasing Spouse/Guest Full Registration.

Check here and enclose \$55 if you plan to attend Las Vegas Gaming Session/Lunch and are NOT purchasing Spouse/Guest Full Registration.

#### SPOUSE PROGRAM No. 2

Check here you plan to attend Mt. Charleston Tour on Monday and are purchasing Spouse/Guest Full Registration.

Check here and enclose \$55 if you plan to attend Mt. Charleston Tour and are NOT purchasing Spouse/Guest Full Registration.

#### GOLF TOURNAMENT

\$55 per player. (Please note: Each player must fill out APRO Convention Registration Form.) Golf Tournament is NOT included in Full Registration.

Name of Player: \_\_\_\_\_ Handicap or Average Score \_\_\_\_\_

Requested Team Pairing (if possible): \_\_\_\_\_

Add all fees due and enter total here ... Total \$ \_\_\_\_\_

My check is enclosed and made payable to APRO

Charge my  VISA  MasterCard  American Express

Acct. # \_\_\_\_\_ Exp. date \_\_\_\_\_

Signature \_\_\_\_\_

Print name as it appears on card \_\_\_\_\_

Mail, with payment, to:  
 APRO, 6300 Bridgepoint Pkwy.,  
 Suite 305, Austin, TX 78730-5016  
 Phone (512)794-0095; FAX (512)794-0097

*Jury verdict reaffirms notion  
that the unbiased accept RTO*

# *RAC wins big court battle in Minnesota*

IN JUNE 1989, BARBARA STARKS AND IRENE MULDROW FILED A LAWSUIT IN STATE COURT IN MINNEAPOLIS, MINN., AGAINST RENT-A-CENTER AND RELATED PARTIES. THUS BEGAN THE LARGEST, MOST EXPENSIVE AND, TO DATE, LONGEST-RUNNING LAWSUIT EVER FILED AGAINST A RENTAL COMPANY.

PLAINTIFFS WERE ASKING FOR MORE THAN \$30 MILLION IN DAMAGES, COSTS AND ATTORNEYS' FEES.

This February, after years of legal wrangling and maneuvering, the parties were finally ready to have their day in court. Their day turned into three weeks, and the case was finally resolved March 1, when a federal court jury, after deliberating less than two hours, returned a verdict completely exonerating the rental company of any wrongdoing. Plaintiffs and the three law firms which were representing them got nothing for their labors of three-and-one-half years. The rental company won, but still had to pay its considerable legal expenses incurred to defend the suit.

The road from the initial filing of the suit by the two original plaintiffs in state court to the massive class action suit which was heard by the jury in federal court was a tortured one. The paper generated in the lawsuit fills not filing cabinets, but rooms of filing cabinets. Early on, the Minnesota attorney general jumped into the lawsuit on the side of the plaintiffs as a "friend of the court," offering via written briefs additional information generally condemning rental-purchase practices in the state.

The details of the legal maneuvering both sides took are of little lasting general interest. It was a major lawsuit with big money at stake and vast political implications for the entire rental industry. Neither side could afford to spare any expense to ensure a favorable outcome.

The genesis of the Starks suit occurred in 1981 when the Minnesota legislature amended the definition of consumer credit sale to include terminable leases which permitted eventual ownership by lessees for "no or nominal consideration." These historical details have been previously chronicled in these pages, "Madness In Minnesota," *Progressive Rentals*, December 1992/January 1993, page 26.

Some time after the change in the law, David Ramp went to work for the Legal Aid Society of Minneapolis and some time after that sunk his teeth into the rental-purchase issue. One of the first things he did, once he became convinced rental-purchase companies were sneaking around the Minnesota law with their balloon payment contracts, was to sue Rent-A-Center in state court during the summer of 1989.

Ramp associated with two private law firms in Minneapolis to pursue his claims against Rent-A-Center, fielding in Ramp's words, "a six-attorney team." In response, Rent-A-Center hired the venerable law firm of Shook, Hardy & Bacon, a Kansas City firm with the impressive record of having defended tobacco companies in more than 300 lawsuits without a loss.

The initial lawsuit against Rent-A-Center contained a host of allegations, centering on the proposition that the rental transactions, even with the balloon payment

.....

BY

ED WINN III

option requirements, were disguised credit sales. The allegations were that the rental agreements violated the state consumer credit sales statute, the consumer fraud statute, the usury statute, the unconscionability statute, and the federal Truth-In-Lending Act.

In addition, plaintiffs alleged that all of the contracts were illegal on public policy grounds and that the defendants violated the federal Racketeering Influenced and Corrupt Organizations Act (RICO) by attempting, among other things, to collect unlawful debts. The RICO statute, originally aimed at organized crime and guys who break the kneecaps of debtors who cannot repay loan sharks on time, has become a terrorist tool in the hands of plaintiff's lawyers all over the country as they urge its reach to include ordinary, legitimate businesses whose conduct is alleged to have fallen within the act's broad language.

The case was originally filed in state court with two named plaintiffs. It was not long, however, before plaintiffs decided that they wanted it to be a class action lawsuit with a class of more than 10,000 current and former rental customers all with the same form contract. Defendants argued heatedly against certification of the class, but were not successful. To date, no rental company has been successful in defeating class certification when the allegations involved characterization of a standard rental agreement. By the time the alleged damages were added up for all of the plaintiffs in the putative class, defendants were looking down the barrel of a \$35 million lawsuit.

As a part of the discovery process, plaintiffs sought detailed records of the inner workings of Rent-A-Center, which the company, by then privately held, was not at all anxious to have make part of a public record, not because company business practices in Minnesota or elsewhere were faulty in any way, but rather because rental-purchase is a competitive business and Rent-A-Center's operational details are proprietary, properly viewed as trade secrets by the company. Rent-A-Center is the largest company in the industry and, not surprisingly, intends to stay that way.

Largely on in the litigation, plain-

## In separate Minn. case, judge rules against Rent-A-Center

In the midst of the *Starks* litigation and soon after passage of Minnesota's rental-purchase law, David Ramp and his team of six attorneys filed another lawsuit against Rent-A-Center on behalf of all customers who had signed rental agreements after Aug. 1, 1990, the effective date of the act. *Starks* included all customers before the act was passed.)

The complaint alleged violations of the Minnesota Consumer Credit Sales Act, the deceptive trade practices statute, various provisions of the Commercial Credit Code, the usury statute, the unconscionability statute, the federal Truth-In-Lending Act, and the federal RICO statute.

In September, 1992, plaintiffs moved for summary judgment on the issue of whether all of the rental-purchase transactions are also credit sales under state law. In a March ruling on the motion, the judge concluded that the Rent-A-Center rental-purchase agreements are consumer credit sales, the identical conclusion previously reached by the state court trial judge in the *Miller* case (see "Madness in Minnesota,"

December 1992/January 1993, *Progressive Rentals*, page 26).

The judge reasoned that, by the language in the rental-purchase statute, the legislature must have "envisioned circumstances where there would be no conflict and both (statutes) would apply." The judge rejected every instance where defendants argued that there was a conflict between the two statutes and ruled that there was no conflict at all—the defendant's contracts can be, and, according to the judge, are both regulated rental-purchase agreements and credit sales.

The judge did order that the case proceed on a test-case basis to prevent plaintiffs from notifying all class members, including all of the company's current customers, with the possibility of irreparably disrupting the business.

In a related case, the parties in *Miller* agreed to appeal the judge's decision concerning the applicability of the credit sale act to rental-purchase agreements. Oral arguments were scheduled to be held before the Minnesota Court of Appeals on May 12.

—Ed Winn

tiffs' attorneys obtained a mailing list of Rent-A-Center rental-purchase customers from mysterious sources and mailed a personal letter to each one. Here's the text from that letter:

The Legal Aid Society of Minnesota has begun a class action lawsuit against Rent-A-Center. The suit challenges certain practices of Rent-A-Center. We would like to confirm that these practices affect other customers.

If you have complaints about Rent-A-Center, we would greatly appreciate hearing from you. My telephone number is ...

Sincerely,  
David Ramp

In addition, the legal aid office sprinkled leaflets around a public

housing project where rental-purchase customers resided, informing the public of the existence of the lawsuit and inviting people to call legal aid. Plaintiffs' attorneys argued that they were looking for witnesses, even though the documents implied more active participation in the suit than as mere witnesses.

Ordinarily, contact of potential class members in complex litigation is done under court supervision. There used to be hard and fast ethical rules against attorneys actively soliciting clients, but those rules have eroded in recent years, as all watchers of lawyer ads on late night TV now know.

Rent-A-Center argued that the information disseminated to the public was misleading, since the court had not yet ruled that a class action was

CONTINUED ON NEXT PAGE

required to resolve the disputes, and that the communication interfered substantially with Rent-A-Center's contractual relations with all of its customers. Rent-A-Center wanted the court to prevent plaintiffs' lawyers from originating contact with Rent-A-Center customers without court supervision.

Legal aid's lawyers maintained that they needed freedom to talk to people to investigate the facts of his case. Plaintiffs' attorneys, when their turn came, lobbed a few ethical complaints against some of the defense attorneys. First, the state court judge and later the federal judge tended to ignore the attorney contentiousness, which ran understandably high throughout the suit, and tried to keep the focus of the lawsuit on the law and the facts of the case.

These and other similar issues peripheral to the central issue of how to characterize the rental agreements arose repeatedly during the earliest stages of this litigation and continued unabated up to and throughout the trial itself. During the trial, there was far more time spent with lawyers arguing quietly before the judge in the corner of the room out of the jury's hearing than there was time spent on the actual examination and cross-examination of witnesses.

The pivotal issue in the Starks case, and the one finally considered by the jury was whether "the option price in the rent-to-own contracts between (RAC) and Barbara Starks, Irene Muldrow, and plaintiff class members was a nominal price."

This was the first of 60 questions that went to the jury in the case. But nearly all of the questions hinged on the jury's answer to this first one. A finding that the purchase options were not nominal meant that the transactions were not credit sales and destroyed all of the plaintiffs' legal arguments for damages. A contrary finding opened up the company to liability under a variety of legal theories.

When they finally got the case, the jury made the deliberative process easy by quickly finding that the rental company's purchase options were not

nominal. The effect of that finding was a complete victory for the defendants.

The judge's instruction to the jury on this important issue of nominality is useful to an understanding of how the jury reached its conclusion:

"You must first determine whether the agreement entered into between a defendant and plaintiffs is a sale rather than a rental. Therefore, you must decide whether at the time that the rental agreement was signed the option-to-purchase price to be charged by a defendant was nominal consideration. It is clearly nominal consideration where the lessee (customer) may purchase the property for one dollar at the end of the rental. On the other hand, if you find the option-to-purchase price equal to or greater than the fair market value of the property, then you must find that the option-to-purchase is not nominal consideration.

However, there is a range of values above one dollar and below the fair market value that may or may not be considered nominal consideration. That is, an option-to-purchase price which is "less than fair market value" is not necessarily nominal. If you find that the option provision has no economic substance or is for an amount that was so small as to bear no relationship to the real value of the property, that is a mere token, then the option-to-purchase price is nominal. If, on the other hand, the option-to-purchase price is a "reasonable prediction" of what the fair market value of the property will be at the time the option is exercised then the option-to-purchase price is not nominal."

This case had another legal twist because the Minnesota Consumer Credit Sales Act, unlike similar statutes in other states, is not a comprehensive retail installment sales act. The Minnesota act defines certain terms, prohibits certain clauses in sales contracts, and then states, somewhat vaguely: "any lease or bailment of goods which constitutes a consumer credit sale shall be deemed a sale for all purposes."

There is no interest rate limit in the credit sales act, although elsewhere in the Minnesota code, credit card rates, open-end credit rates, automobile sales rates, etc. are regulated.

The Starks lawyers argued throughout that the state's general usury rate of 8 percent ought to apply to the defendants' disguised credit sales, even though state law permitted up to 23.25 percent interest on car loans, up to 36 percent on small loans, and up to 19 percent interest on credit card and most general loans.

However, vendor credit, as opposed to lender credit, has traditionally not had the usury laws applied to it. This distinction is known in the law as the time-price doctrine and has been recognized in English law for hundreds of years. The doctrine holds that a seller may have two prices for his property, a cash price and a "time price" and, further, there is no necessary relation between the two except as the parties may agree.

The doctrine came to the U.S. in 1861 in a U.S. Supreme Court case involving the sale of land. The Supreme Court distinguished a land sale and a loan of money. "Such a contract (for the sale of land) has none of the characteristics of usury; it is not for the loan of money, or forbearance of a debt." *Hogg v. Ruffner*, 66 U.S. 115(1861).

There are some formalities to the application of the time-price doctrine, the disclosure of the two prices, for example, which presumably gives the buyer the choice of paying the lower price immediately. Such formalities have caused courts to refuse to apply the doctrine to department store revolving charge accounts. As a practical matter, the time-price doctrine has little legal usefulness today because most states have finance charge limits in their retail installment sales contract, which limits are made specifically applicable to the sale of goods.

Crucial to the Starks case, however, is the fact that the Minnesota statute does not contain any finance charge limit. If the usury statute applies only the loan of money, then the Starks rental-purchase transactions could have been characterized as credit sales without any adverse consequences accruing to the company. This is so because there are no disclosure requirements in the sales act, and there are no statutory damages provisions. Plaintiffs would have had to prove some fundamental unfairness or

deception occurred that damaged plaintiffs in specific amounts to recover any money, and those recoveries would have occurred because of operation of the state deceptive practices statute, not the consumer credit sales act.

In an early ruling, literally years before the jury heard the case, Judge Magnuson ruled that the state usury statute did, indeed, apply to rental agreements if they constituted credit sales under the consumer credit sales act. He could not resolve the credit sale issue because it depended upon whether the balloon payment options were large enough, and that was a fact question for the jury, which the judge could not answer on a motion for summary judgment.

Judge Magnuson, after he heard three weeks of testimony concerning the innermost workings of the largest rental chain in the country, apparently reconsidered his earlier conclusion concerning the applicability of the usury statute to leases which are also sales, because he gave this question to the jury. This surprised

and disappointed plaintiffs because they thought they had won this point in May of 1990 when the judge held that, if the transactions were credit sales, they are "sales for all purposes," and, therefore, are regulated by the usury statute.

Jury members never got to this question because they found that the rental-purchase agreements were not sales, since the balloons were not nominal. The issue, however, remains one of considerable importance in the state. There are several other lawsuits pending in the state where this issue is crucial to the outcome.

Both a state court judge and a federal court judge have ruled in two separate cases that rental-purchase transactions entered into after passage of the state rental-purchase statute are also credit sales under the consumer credit sales act. What remains to be determined in each case is the implication of the sale ruling, including whether the transactions are regulated by the usury statute.

The jury sat impassively, 10 jurors

and an alternate, doing whatever the judge told them and listening to the witnesses. Some took copious notes of what they were hearing; some merely sat, eyes wandering to every stray movement in the room.

And so, after countless days in February of this year, both sides appeared in the large wood-paneled courtroom on the seventh floor of the Federal Building in St. Paul to begin the jury trial in Starks.

After a few hours of legal wrangling, the judge picked 10 jurors and a couple of alternates, then the testimony began.

Plaintiffs led off with Starks and Muldrow. After a couple of hours, they were through. Thereafter, except for sufficient operation people from Rent-A-Center to explain fully and carefully the nature of the business and how rental agreement with purchase options transactions really work in Minnesota, most testimony came from experts on both sides. Plaintiffs and defendants both presented economists and CPAs as experts on the economics

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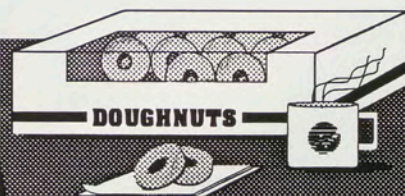


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Continued from previous page

of the transaction, the meaning of nominality, the value of used goods, and the value of leased services.

A cynic might argue that RAC merely hired better experts. Indeed, one important expert witness for RAC was an economist and professor of accounting from the University of Chicago, who told the jury with the straightest of faces that he was billing his time at \$700 per hour. Predictably, the plaintiffs' experts testified that, economically, there was no difference for the customers between renting property and buying property. They testified that the rental services, like delivery and repair, had little value compared with the price paid overall, and that the right to terminate had no value.

Plaintiffs' experts also testified that the value of the merchandise rented by the plaintiffs was higher than the price Rent-A-Center was charging the customers to purchase, putting plaintiffs in the anomalous position of having to argue that the Rent-A-Center purchase option was not really high enough, and that the merchandise rented by Rent-A-Center was high-quality merchandise.

The Rent-A-Center experts testified that, from an economic point of view, there are important differences between renting and leasing. They also testified that the value of the used merchandise was less than or equal to the purchase option price. Finally, and importantly, a CPA hired by Rent-A-Center testified about a market survey his firm had conducted to determine the value of terminability.

The survey excluded TVs, appliances and furniture so it would not be tainted by the dominance of the rental-purchase industry for those products. Instead, the CPA firm investigated automobiles and various kinds of office equipment—copiers, phones and telefax machines, which can be leased on a long-term basis and on a short-term basis. The results of the survey were that the premium for being able to terminate a lease at any time was 75 percent. By way of example, to explain this finding carefully to the jury, the witness stated that if an item were leased on a long-term

basis for \$10 per week, that same item would rent for \$17.50 per week, if the lessee had the right to return the item at any time with no further obligation.

Testimony was peppered with colored charts offered by both sides. Prepared in advance, and intended to advance the cause of one side or the other, the charts were the cause of a lot of legal fighting among the lawyers. Occasionally, one side would get the judge's permission to cover up portions of one of the other side's charts lest the jury get an inaccurate impression of the evidence being presented.

Plaintiffs' lawyers made, perhaps, their greatest strategic error by trying to prove that the no-obligation feature of a rental agreement has absolutely no value. Common sense demands a distinction be made between being in debt and not being in debt, and Rent-A-Center lost no opportunity to ensure that the jury understood this difference.

When plaintiffs failed to persuade the jury to ignore this difference, the logic of their case fell apart. Despite their best efforts, thereafter, plaintiffs were not able to persuade the jury that the rental company was the "bad guy" in the courtroom.

The jury did not see Rent-A-Center as a company trying to squeeze through a legal loophole to squeeze obscene profits from poor people. Rather, it was seen as a company in the business of renting products to customers at reasonable prices forced into court through no choice of its own to defend itself and its way of doing business.

It was a nervous three weeks for Rent-A-Center. A lot was at stake. Once again, however, a rental company, when given an opportunity to explain its business, persuaded a judge and a jury that it is in a different business from retail credit sellers, which has been the debate for 30 years now.

It was the first federal jury to hear the issue, and the jurors figured it out, which should give everyone confidence in the legal system. Our American legal system is not fast, and it costs a lot of money, but it works.

**PR**

*Ed Winn is APRO's legal counsel and veteran writer on RTO issues.*

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merchandise was just under \$1,000 and that the contract called for her to pay just under \$2,000.

LSC attorney Green testified that the state rental-purchase statutes were not working and, by way of example, cited the North Carolina statute in particular which did not work, since it was so easily evaded. Green explained the 10-percent-of-cash-price definition of nominality in North Carolina and how dealers avoided regulation by drafting contracts with 11-percent balloon purchase options.

Ramp told committee members he got three to four complaints about rental companies per week in his office, with only a staff of five lawyers. He went on to say rental-purchase transactions are credit sales and that everyone should understand that. He said Minnesota's legislators understand people do not rent wedding rings.

Ramp urged rental-purchase cash prices be pegged to actual cash prices in local markets. He further contended just about everybody has credit, although many people may not know it. He testified that a lot more credit cards and other creditors are moving into low-income areas and that there is no reason to allow the rental-purchase industry to charge the exorbitant interest rates that it does.

He also said: "I find ample evidence of racism in the rental-purchase industry, but I have not had time to pursue it. I think RTO is heavily a women's issue. I think RTO is heavily a race issue."

Ramp went on to say rental-purchase statutes allowed rental companies to charge penalties for terminating, and he implied that rental companies regularly charge such fees.

Ramp explained that the terminability feature in a rental-purchase agreement has no value to rental customers. He said rental customers pay a lot of money in late charges so as not to be terminated. Ramp said he suspected that in as many as 20 states there were anti-deficiency statutes associated with retail installment sales acts, and so the results of termination of a retail installment sale in those

states was exactly the same as with a rental-purchase transaction.

Finally, after a long two hours, the consumer witnesses were excused. The second panel of witnesses, the consumer advocate panel, included: David Medine, associate director for credit practices, Federal Trade Commission; Ernest Preate Jr., attorney general of Pennsylvania; and William Leibovici, assistant attorney general/chief of consumer protection division, Maryland.

Preate said the rental-purchase industry was an unconscionably costly consumer problem and that it was the "biggest consumer ripoff in Pennsylvania and across the nation." He testified that the industry has incredible profits, and that the victims of the industry are low-income people and minorities, the most vulnerable elements of society. He testified that his state had just completed an undercover investigation of rental companies in his state and had found, by way of example, a television set with a retail price of \$297 and an RTO price of \$1,709, which was an effective interest rate of 238 percent.

Leibovici acknowledged Maryland's rental-purchase statute, but explained that the statute does not require the companies to disclose the true cost of the transaction. He testified that the rental-purchase industry has created an apartheid system of credit between regular credit customers and rental-purchase customers.

Next, Medine testified that the FTC had, at the hearing in June, 1992, taken no position on the need for federal legislation for the industry and still maintained that position. He went on to note that it might be a good idea to call the transactions sales under the federal law for the sake of uniformity of transactions across the country or, alternatively, it might be a good idea to call them leases under federal law but noted that then there would be no APR (annual percentage rate) disclosure. He went on to explain that the FTC was sensitive to small-business concerns and that he did not want to run small businesses away with over regulation.

In response to a representative's question whether rental-purchase companies are in competition with retailers, Leibovici responded that he

often heard from mom and pop retailers doing business in low-income areas who complain that the RTO companies put them at a competitive disadvantage.

Rep. Gonzalez took the presence of Medine as an opportunity to attack the Federal Trade Commission for its lack of activity. He then criticized the Nixon, Reagan and Bush administrations for deflating the authority of the Federal Trade Commission, which, in his words, "has brought distress and tragedy to this country."

Gonzalez wondered whether current rental-purchase practices were not unfair and deceptive under the FTC's existing authority and asked Medine why the agency was not acting against these companies. He accused the FTC of not being aggressive against sharp practices in the marketplace. He then went on to criticize the Federal Reserve Board, which had not been invited to the hearing, and the FRB's reluctance to, in his words, "implement the will of the Congress," presumably on the RTO issue by not defining credit sales to include the rental-purchase transactions and, also, for the generally pro-business attitude of the Federal Reserve Board.

In defense of the FTC, Medine explained that last year the agency had received in excess of 40,000 complaints, 87 of which involved leasing and, perhaps, one or two of which involved rental-purchase.

During the hearing, Rep. LaRocco periodically attempted to divert the constant barrage of criticism leveled at the industry by explaining that the industry is unique and that the committee needed to move ahead with some bill language and some action, rather than just to rehash troubles in the industry.

LaRocco asked this panel whether APR was a fair disclosure when the consumers can terminate at any time. Preate testified that he saw no need to have a separate category for rental-purchase transactions, and that they should be called what they are—credit sales. Rep. Cal Dooley, D-Calif., asked Preate about industry keep rates, and Preate responded that he disbelieved the industry's report of a 25 percent keep rate and thought that at least 75 percent of the people rented

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to term.

Preate testified that the rental concept is useful to people in transit only. Otherwise, these transactions ought to be sales, he said. Rep. Gonzalez then announced the third panel consisting of: Mamie Sasarak, a rental dealer from El Paso, Texas; Bill Keese, APRO executive director; Ed Mierzwinski, U.S. PIRG and other consumer protection groups; and David Ramp, Minnesota Legal Aid Society attorney.

Sasarak and Keese were given five minutes each to offer their testimony. Then, Ramp was allowed, in effect, to testify a second time after his appearance with Muldrow on the first panel. Ramp made these points:

1. The Kansas Supreme Court now has before it a case where a rental company is attempting to characterize itself as a sale for tax purposes. He explained that the industry wants it both ways, to be a rental company when it suits and to be a sales company when it suits.

2. By the industry's own statistics, its customers are poor. Sixty percent of rental-purchase customers have incomes of \$20,000 or less and only 4 percent make \$40,000 or more.

3. The industry and the banks are borrowing and lending money based on accounts receivable in violation of generally accepted accounting principals.

4. Industry profits are hidden and do not show up on the bottom line

because rental companies do not like to pay taxes. By way of example, he testified about the sale of the Minnesota franchise stores back to Rent-A-Center and the Rent-A-Center sale to Thorn EMI for nearly \$600 million with less than \$100 million in assets showing on the balance sheet.

5. He explained that losses in the industry are 2 percent or less, which is less than credit card companies.

6. The industry is misrepresenting keep rate, and the APRO statistics are simply not true. The industry rewrites lots of contracts to pad the keep rate.

7. The rental-purchase concept is an old concept and was developed under English law which regulates the transactions as sales and, additionally, require a mandatory refundable down payment as a percentage of the cash price, which would have the effect of creating a real cash price.

8. Other charges in rental-purchase agreements should be eliminated or limited at the state level.

Ramp testified that he's been a legal aid lawyer for 17 years and that RTO was the most serious consumer protection

issue for low-income people in the United States. He testified that RTO companies were pariahs on low-income consumers.

Mierzwinski testified that RTO was a "lawless, pirate industry" and the 34 state laws the industry had gotten enacted were not together worth "a bucket of warm spit." He testified that PIRG had recently conducted a five-state survey, which was not comprehensive, but which was enough to find that rental-purchase rates were still very high. He found that some chains had different cash prices in different stores, suggesting even higher prices in particularly low-income areas. He testified that PIRG is of the opinion that the total difference between the cash price and the rental-purchase price is interest and should be regulated as such.

What's more, Mierzwinski said he wanted Congress to preempt all state law. He further wanted Congress to limit cash prices, prohibit abusive practices, and implement a strong enforcement provision into the law, which would give the Federal Trade

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Rep. LaRocco again told the committee he was weary of the emotionism surrounding the hearing. He found the repetitive use of such terms as "pariahs" and "business scams" were not furthering the discussion. He asked the committee: If the situation was really so bad, why hadn't the states acted? He went on to suggest Congress should not get in the business of setting prices and, at most, should use the manufacturer's suggested retail price.

LaRocco went on to say he wished some of the consumer groups represented at the hearing would've been more helpful to him last June. Had they helped him more with his legislation the previous year, LaRocco said, they could be celebrating with the scalps of some bad operators, instead of continuing to debate the question.

Rep. Dooley then asked sharp questions of the consumer advocate witnesses about the differences between car leases and rental-purchase transactions. Mierzwinski testified the real difference is one of customer intent—that in a car lease, the intent is to lease, and in a rental-purchase the intent is to own. He went on to say, however, that rental-purchase agreements are so long and so expensive, that they are almost impossible to complete.

Because the full House was scheduled to convene, Gonzalez adjourned the hearing promising additional written questions to the last panel of witnesses.

Shortly after the hearing, Congress adjourned for a two-week Easter recess. Since then, there has been no further official action on the issue.


Fallout from the hearing remains unclear. What is clear is that the industry, through the association—whatever its plans were originally—will have to maintain a vigorous presence in Washington because the rental-purchase issue suddenly has been given a higher profile than ever before.

That will continue at least until this Congress adjourns in the fall of 1994.

**PR**

*Ed Winn is APRO's legal counsel and veteran writer on RTO issues.*

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35th rental-purchase statute different from the rest

# W.Va. law sheds light on fed effort

MANY APRO MEMBERS ARE CURRENTLY CONCERNED ABOUT THE DIRECTION FEDERAL RENTAL-PURCHASE LEGISLATION MAY TAKE NOW THAT HENRY B. GONZALEZ, BANKING COMMITTEE CHAIRMAN IN THE U.S. HOUSE, HAS TAKEN AN INTEREST IN THE SUBJECT. GONZALEZ RECENTLY HELD AN OVERSIGHT HEARING ON THE SUBJECT, WHICH HIS OFFICE TITLED "RENT TO OWN: PROVIDING OPPORTUNITIES OR GOUGING CONSUMERS?"

.....

The title left no doubt to anyone attending the hearing that Gonzalez has serious concerns about our industry.

During four hours of testimony by legal-aid lawyers, consumer group representatives, two different state attorney general's offices and a couple of unhappy customers, only 10 minutes of response from the industry under investigation was allowed. So APRO members do have reason to be concerned, and APRO leaders are fully engaged in an effort to turn sour lemons into lemonade.

APRO board member Roger Sharp has been recently telling people that the federal legislative situation has many parallels to the recently resolved West Virginia legislative effort, and I agree. (*Editor's note: See related interview, page 5.*) The federal legislative process is not that similar to the average state legislative process and the final legislative product may not look much like the so-called "model bill."

If you want to know what kind of process and product to expect once the dust clears in the federal arena, you might review the road to state RTO legislation followed in West Virginia. If we are lucky

and get some breaks and don't make any mistakes we might even come out of this federal process with a federal law similar to the West Virginia law. Which, by the way, is different from all the other 34 states with RTO statutes, but appears to be something the RTO industry in that state can live with.

First, some facts about the West Virginia RTO statute. After a five-year struggle that saw RTO legislation raised in profile to one of the top 10 issues of each subsequent session, the state legislature finally passed a law regulating the RTO transaction as a lease but with several unusual features. Those include a "price cap" restricting RTO dealers to only charging 2.4 times the fair market or retail value. The West Virginia law says fair market value "for any single item which is the subject of a rent-to-own agreement may not be more than \$10,000."

No other state in the nation places this kind of restriction on an RTO transaction. (Most RTO legal experts believe this provision to have no practical application to RTO dealers since no one is currently offering an item that would exceed this cap.) Retail value or fair market value is defined as "the price at which goods of like type, quality and quantity would change hands between a willing seller and a willing buyer, at retail, for cash, in the particular market area at the time of the rent-to-own rental agreement."

Obviously, this can lead to some disagreements between an individual RTO dealer and some consumer lawyer who doesn't think his prices reflect the "actual retail value in the marketplace."

This provision alone could lead to later litigation.

Fortunately, the West Virginia statute does not leave any interpretation room over the core issue of "lease versus sale" as did the Minnesota statute. So we shouldn't see any litigation in West

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BY

RON WATERS

Virginia over that live-or-die issue, as we did in Minnesota.

The West Virginia statute also creates new state law on expressed and implied warranties for *lessors*, establishes comprehensive debt collection practices similar to federal law for collection agencies, and requires advertising and price tag disclosures to be the same as the required contract disclosures. The bill also establishes "perpetual" reinstatement rights until or unless legal action is initiated.

Finally, West Virginia's new RTO statute limits "late charges" to 5 percent of the payment due or \$15, whichever is less.

I want to emphasize the above summary is not inclusive and is subject to a different interpretation, depending on what lawyer you question. A more comprehensive explanation should be obtained from a lawyer but I wanted to provide *Progressive Rentals* readers with a "first draft" review.

The point I want to make by singling out some of the more unusual aspects of the West Virginia statute is this: A federal law will probably also have some very unusual requirements not seen in most of the state RTO laws. And, the federal process of passing legislation will most likely seem similar to the West Virginia process.

There are other parallels between the federal legislative situation and the five-year struggle in West Virginia.

West Virginia RTO dealers had a relatively small pool of dealers from whom financial support could be solicited. Nationally, we have a similar situation. We must raise a substantial amount of money from a relatively small number of mom-and-pop businesses. West Virginia RTO dealers had a few legislative friends when they started in 1988 but had not previously cultivated political support before asking the legislature to support their legislative agenda. APRO and the RTO industry have a few powerful friends in Congress, but we have not sustained a sophisticated political fundraising or grassroots contact effort during the last 10 years. We must make a lot of legislative friends quickly.

In short, we are in for a roller coaster ride that will be scary at times and never very smooth. The best analogy I have heard so far comes from our colorful Washington lobbyist, John

Raffaelli, who compares the federal legislative process to a baseball game and the state legislative process to a basketball game. The latter is much faster paced and generally shorter lived. The federal legislative process is more akin to a nine-inning baseball game. Slow, methodical, not nearly so fast paced but with much more strategy involved, some switch hitting and even a seventh-inning stretch before play is resumed. There are few home runs hit in the federal legislative process, and you will not be able to tell who is going to win from the early inning score.

One positive point to remember during this legislative game: Congress plays by invitation only. We have been trying to get ourselves invited into the federal legislative game for more than 10 years without much success. By ourselves, as an industry, we probably could not raise enough PAC money or focus enough energy to have Congress address our agenda (which has always included passage of a federal RTO statute until recently) as we wanted.

Chairman Gonzalez has given us the forum and opportunity to accomplish something that has been on our national agenda for more than a decade. Even if we only succeed in stopping a bad RTO law from passing we will have strengthened our federal political network and built a firewall of protection in Congress that could come in handy down the road.

APRO members need to temper their desire for immediate action and conclusions with a larger desire to survive the federal process with a law we can live with. We need to give our federal legislative negotiators as much room as necessary to save the RTO transaction from being classified as a sale at the federal level.

We need to be prepared to accept changes mandated by any federal statute that we have not been required to accept in any previous state legislation. The bottom line must remain the bottom line: If we can still do business with our customers and make a livable profit we will have won a great victory, considering the potential for real harm that could be inflicted upon us by Congress. All else is just extra points or runs not necessary to win the game. **PR**



*Ron Waters is APRO's director of government affairs.*

selves, and they had better like what they see. When they can't see "inside," they're asking the tough questions—how much of the piece is hardwood, how are the joints constructed? Today's sales force needs answers, and manufacturer-supplied videos often help educate the sales personnel.

Eichlin of STAR Rentals says, "From the very beginning we've stressed the quality of the furniture. And because our stores are small we have a full-service catalog that we keep on hand at all times to show those customers additional furniture that can be had. It works very well. We require a two weeks' deposit on anything the customer would like to order and we do get that very frequently."

Pretty junk is rentable, but it will come back to you again and again. Even though sofas or dinettes of very different quality can look equal to the customer, when the cheaply constructed one is put to the durability test, it almost always fails. RTO figures show that the last rental-purchase item to be returned is furniture, and the better quality that furniture is to start out with, the better chance it will go to the end of the agreement.

Renting furniture requires some different merchandising approaches than renting electronics or other goods. It has pushed the trend toward larger showrooms to accommodate vignettes that look like home. Some dealers are able to make this adjustment and carry full lines of furniture—living rooms, bedrooms, dining rooms. Their showrooms are large enough to display a full range of merchandise in room-like settings, complete with accessory items like plants, lamps, and pictures on the wall.

### What else have you got?

Providing a good product mix is another RTO objective. Orleans believes it is answering a need by offering not only living room, dining room and bedroom furniture, but youth furniture. They concentrate on what people want for their kids.

"They want a place for them to sleep, they want a place for them to

study, and they want storage for their clothes," says Orleans' Ed Marshall. "We keep the concept limited to a dresser, mirror, a study desk and five-door chest for storage, and a bunk bed or commander's bed. And we keep it at a good price point."

Bushline offers a child recliner and a video chair in addition to the usual furniture fare. It delivers from two plants, one in Tennessee and one in Texas, so it can ship nationwide.

Charles Ramsey, sales manager for Landmark Imports, does well with the brass knockdown furniture and gift items they offer RTO dealers, and with accessory lines. "Lamps, the rental companies do quite well with those. In furniture lines, they use our bunk beds ... (and) some of the dinettes."

Independent manufacturer's rep Glenn Davis is seeing demand for home entertainment systems, with the emphasis on the cabinetry. Cabinets with speaker systems have "been selling like crazy. And Paramount Motion Pictures is getting behind the advertising, so that's exciting," says Davis. What Paramount is offering for RTO is a home entertainment system with surround-sound speakers with a sub-woofer in it with a cabinet to accommodate a 25- to 31-inch TV. The addition of the speakers provides the set-up for a home-theater experience.

Finally, on the merchandising end, dealers are finding the addition of silk and plastic plants can help create the homey atmosphere that makes the sale.

"I think greenery is an addition to any store. People are going to rent furniture because they have to have it to sit on. The greenery makes it look like ... they live there and it belongs," says Evelyn Garland, co-owner of International Silk Plants. When you offer plants and accessories, you're creating an add-on opportunity.

"It's something that can be changed. They're not going to change furniture all the time, but they may come back in to change the accessories. Trees, plants, florals—they want the whole thing. Each piece is so much, and they add it on."

With both industry enthusiasm and demand in healthy supply, furniture's future looks—uh—comfortable. **PR**

*Barbara Stooksberry is a freelance writer and veteran contributor to Progressive Rentals.*

# Quality RTO Reading

Network News brings you information on legislative and legal developments impacting the rental-purchase industry. The News' sister publication, *Progressive Rentals*, is a full-color magazine offering more in-depth articles on industry issues and profiles on the entrepreneurs—both past and present—who help make the RTO business interesting.

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# Dealers meet in Palm Springs seeking information

APRO staff photo

THE APRO 1993 MID-YEAR CONFERENCE, APRIL 29-MAY 1 IN PALM SPRINGS, CALIF., FOCUSED ON CURRENT THREATS TO THE RENTAL-PURCHASE BUSINESS.

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Eighty-two attended the three-day conference, according to APRO Director of Education Shelley Martinek.

The first day was devoted to advertising. Gary Beals, president of Gary Beals Advertising & Public Relations, presented the all-day seminar.

On the third day, from 9 a.m. until noon, association president Wayne Chambers and legal counsel Ed Winn shared the presentation of APRO's annual tax and accounting/legal update.

But the second-day roundtable attracted the most interest.

"People don't want to just go for an educational program," Martinek believes. "They want to go for an update on the industry. That's the most important thing to them—what's happening in the industry today."

Chambers moderated the roundtable discussion, which covered the March 31 anti-RTO congressional hearing, an even more recent Internal Revenue Service (IRS) ruling that could mean "hundreds of millions in additional taxes on the industry" and the association's strategy for countermeasures.

Says APRO Executive Director Bill Keese: "I think the reason why it attracted so much interest is because it was the first report that the task force has made to the general membership on the severity of the issues we face with Congress and the IRS."

Formed by the association president with board approval, the task force includes Chambers; Keese; Chris Korst, current chair of the



*Chris Korst, chair of the APRO Government Relations Committee, presents report.*

APRO Government Relations Committee; Allen Lewis, the committee's former chairman; Ron Waters, APRO director of government affairs; and Winn.

Paramount Home Theater Products sponsored Friday's luncheon for dealers attending the roundtable. Whirlpool and Zenith cosponsored Friday night's hospitality suite. High Touch kicked things off with its sponsorship of the hospitality suite Thursday night.

Larry Tinney, a North Carolina dealer who witnessed the March 31 congressional hearing in Washington, D.C., described the debacle for roundtable attendees Friday.

Winn followed Tinney with additional comments on the hearing. Waters reported on APRO's legislative strategy. Korst, meanwhile, outlined the industry's grassroots effort. Keese discussed APRO's public relations firm, Aker Narsavage Partners, which helped coordinate media interviews and track coverage of the rental-purchase issue after the hearing.

Chambers spoke next. He said the Internal Revenue Service (IRS) recently issued a negative ruling on the Technical Advice Memorandum (TAM) request the industry had filed. In this particular case, he said, the IRS ruled rental-purchase agreements are sales and not leases. He briefly went over what that means to the

industry, if the position is upheld nationwide.

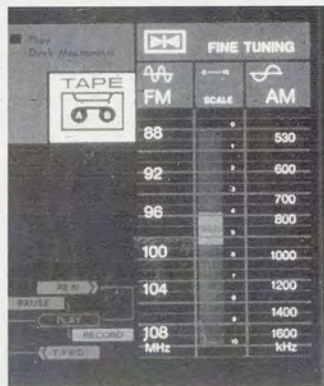
"There's the question of whether the smaller dealer will survive if we lose the tax battle," Chambers reports, adding that the potential per-store IRS assessments could be "economically disastrous."

APRO board member Bill White described the "two-front war" RTO is now faced with. He said the industry is being attacked both by Congress and the IRS. "And although APRO has been funding our efforts to date, because of the severity of the attacks and (the IRS) re-characterizing us, and what that would cost the industry, we need to raise additional funds to support the lobbying effort, the public relations effort, the grassroots effort, and the tax effort."

White asked rental dealers to contribute a set amount per store this year and, if needed, to support another assessment for next year.

"Everyone there seemed sufficiently concerned about the issues," Keese says.

On the tax issue, Keese believes "they (the IRS) don't have any legal grounds to stand on but we will have to take this to tax court. We believe in a fair and impartial setting like the tax court that we will prevail. But that's probably going to be a three- to six-year effort." **PR**



### New APRO 'alliance' saves members money

APRO and American Business Alliance have teamed up to provide discounts of up to 30 percent off retail rates on Federal Express and Airborne Express deliveries.

"These low rates are available to all APRO members, regardless of company size or frequency of use," said APRO Executive Director Bill Keese. "Now, smaller dealers can enjoy the same discounts on overnight package delivery that the big companies are able to negotiate."

American Business Alliance is a rapidly growing organization that represents small, independent businesses in their efforts to reduce overhead expenses. Formed in 1990, it currently numbers 2,500 members across the country. American Business Alliance's programs are structured for relatively small dealers who otherwise have little negotiating leverage with vendors. It regularly adds newly negotiated services to its total package and will offer each new service to APRO for evaluation.

Membership fees normally required of American Business Alliance members will be permanently waived for APRO members as part of the agreement reached between the two organizations. There are no initial or ongoing costs for APRO members, and the paperwork to sign up is minimal.

To find out the low overnight package delivery

rates, turn to page 7 this issue. For more information on American Business Alliance, call 1-800-466-8143.

### Philip M. Bell Co. provides service

The Philip M. Bell Co. has announced that with the recent move of its Houston, Pa., branch to Northumberland, Pa., it is now able to offer weekly service into eastern New York. The company has been supplying dealers in western New York since 1985.

The Philip M. Bell Co. has its home office in Loveland, Ohio. Along with the branch in Pennsylvania, the company is one of the largest furniture, electronics and appliance suppliers in the country. More than 40 lines of furniture, representing virtually every category and price point, are available on a weekly basis from a 130,000-square-foot warehouse in Northumberland.

In addition to providing this distribution function, The Philip M. Bell Co. is also a manufacturer and importer. The Corolla Classics line of dining room, occasional tables, metal bunk beds and daybeds is available on a factory-direct basis. A California branch also makes Corolla Classics available nationwide.

The Philip M. Bell Company has been a supporter and supplier to the rental industry for several years. Its weekly service and wide variety of goods available are important to many rental dealers. The company created a rental division seven years ago. By joining APRO and the various state organizations, an effort was made to learn the industry, so company representatives could better understand the needs of the rental dealer.

These Philip M. Bell Company personnel can be reached by calling (800)589-6309: Gil Sturtzel, branch manager; Gary Mosher, Buffalo region; Jim Bays,

Syracuse region; and Hal Wasserman, Albany region.

### ColorTyme touts top management team

ColorTyme, Inc., the second largest rental-purchase chain in the U.S., recently announced the culmination of the company's management team with specialists in the rental-purchase and franchise industries.

ColorTyme, a 15-year old privately held company, was founded by Willie Talley. Talley is one of the original founders of the rent-to-own industry. Today, Talley oversees ColorTyme, which is headquartered in Athens, Texas, as chairman of the board.

Mitch Fadel, president and chief executive officer, directs ColorTyme's daily operations, including management, administration and business development. With more than 10 years' experience at Rent-A-Center, Fadel has developed operating standards, directed 60 retail stores generating more than \$30 million in sales annually, and coordinated expansion programs in the RTO business.

ColorTyme is a major supplier for home electronics, furniture and major appliances through a rental-purchase plan.

### Family and Medical Leave Act a reality

On Feb. 6, President Clinton signed the Family and Medical Leave Act, effective six months after signing of the federal law. The measure applies to employers of 50 or more employees.

To be eligible for the leave benefit, an employee must have worked for the employer for at least one year prior to the leave; and in that year, must have worked at least 1,250 hours (an average of 25 hours per week). The employer may require medical evidence of the condition which occasions the leave request.

The Wage and Hour

Division of the U.S. Department of Labor will enforce the bill.

It is estimated that only 5 percent of the businesses are covered, but anywhere from 40 percent to 50 percent of American workers will be affected.

Source: Harry Weisbrod Associates, (214)373-0435.

### White, Outlaw team up on audio program

Wayne Outlaw, president of The OUTLAW Group, a speaking and consulting firm located in Mt. Pleasant, S.C., recently published an audio-cassette course titled: "Total Customer Service: a Revolutionary Way to Increase Sales, Success and Profits."

The course consists of 16 one-half hour modules and is designed to assist managers and organizations in improving their overall level of service to all areas.

Joining Outlaw on the cassettes is Somers White, president of the Somers White Company and a 25-year veteran of management consulting and professional speaking. (**Editor's note: Both White and Outlaw have presented APRO seminars.**)

For more information, call 1-800-347-9361.

### Globe buys GranTree

Globe Furniture Rentals announced earlier this year the purchase of GranTree Corporation, a furniture rental company headquartered in Portland, Ore.

Globe Furniture Rentals is a privately held company. The purchase price of the new acquisition was not disclosed.

GranTree, with operations in 10 major markets in the states of Washington, Oregon, California, Colorado, Nevada, Arizona and Texas, was formerly owned by First Interstate Bank of Oregon.

Blair D. Neller, president of Globe Furniture Rentals, was elected president of GranTree. David D. Hoguet, Globe's chairman, was elected GranTree chairman. **PR**

# A year later: Lessons learned from the L.A. riots

THEY SAY LIGHTNING NEVER STRIKES THE SAME PLACE TWICE. BUT IF YOU ESCAPE GETTING JOLTED THE FIRST TIME AROUND, YOU COULD STILL BE IN FOR A SHOCK.

•••••

Ask Gregg Daum, president of Ace Rentals. Miraculously, his rental-purchase store in South Central Los Angeles went untouched during the riots of late April, 1992; riots that saw many area businesses—including an RTO store where Daum had once worked—looted and burned to the ground.

"We were untouched," says Daum. "We were very lucky. I watched a lot of my friends in the business around here burn down. In fact, I worked for another fella before I started here; I worked for him for at least six, maybe seven, years. And on TV I watched two of his outlets burn down—two out of four. The one I had worked in burned down. A very good friend of mine had a two-store chain; both of his burned to the ground."

The worst riots in modern American history followed the much-publicized jury trial and acquittal of four white police officers accused of brutally assaulting a black man, Rodney King, after a car chase March 3, 1991. A videotape of the 81-second beating, recorded by a bystander and released to the media, was seen by millions on national television for weeks preceding the trial.

The graphic footage fed a national uproar, and tensions in South Central L.A. exploded into destructive violence once the not guilty verdicts were made public. Fifty-three people lost their lives in the riots. South Central L.A., home to mostly poor minorities, absorbed \$500 million in property damage.

A year later, Daum awaited the outcome of what *Time* magazine



Photo courtesy of Ace Rentals

**Gregg Daum's RTO store in L.A. was untouched during the spring of '92 riots.**

called "Rodney King II, the civil rights trial." Daum worried he might not be so lucky the second time around. He was concerned about his store and his customers.

Early morning Saturday, April 17, word hit the streets: two officers found guilty. This time, no civil unrest.

"The tension was in the air," Daum recalls, "but it turned into a big ... non-event. The verdict was finally justifiable. Tensions eased very quickly and you could hear, literally, a collective sigh of relief."

Daum says area business owners, including RTO dealers, got a wake-up call with the riots of 1992.

"It's definitely wised a lot of people up. You become a lot more security-conscious, insurance-conscious. Some people really got burned; they weren't prepared. They had offshore insurance—trying to save a buck here and there. It really woke them up."

Ace Rentals had renewed its insurance about a month before the riots of '92, according to Daum. However, when the policy came up for renewal this year "we were canceled. For no reason. We were untouched in the riot. And yet they canceled us. We just went out and paid about one-and-a-half times our premium to get the same coverage. Hopefully if these tensions die down again in the next year we'll get a reasonable rate again."

But tensions in South Central L.A. could reach flash point again, Daum concedes. The outcome of the Denny trial, expected sometime this summer, is key. Reginald Denny is the white truck driver who was attacked,

also captured on videotape—this time from a TV news helicopter, following the original not-guilty verdicts in the King case. Three black men are accused of assaulting him.

Says Daum: "There's word on the street that it's not over yet—we still haven't had the Denny trial. Unless something absolutely insane happens ... obviously everybody can justify that they're guilty and deserve some punishment. But if they give them life in prison while they give these LAPD (Los Angeles Police Department) guys six months' probation ..."

Sentencing was set for Aug. 4 for the two police officers found guilty in the second King trial.

Experiencing the riots and their year-long aftermath has taught Gregg Daum a few lessons—about business and people.

"I watched two good friends who owned companies—I watched their stores burn to the ground," Daum remembers. "In talking with them afterwards and finding out about their rebuilding efforts ... I realized some of the problems they were contending with. We just kind of made sure that we had those same bases covered."

Rebuilding your business after a disaster is a daunting task, and Daum is obviously glad he didn't have to go through that. He says he feels lucky, especially when he remembers how concerned his customers were after the riots of '92.

"We came into work the following Monday and everybody's nervous," Daum recalls. "There were still some shootings going on; there was a lot of tension in the air. All morning long that first morning the phone was ringing and it was customers asking us are we okay. And it wasn't just, 'Is the store there?' It was, 'How are you?' And we were doing the same thing. We were calling everybody up saying, 'How are you doing? Is your family okay?' Just letting them know ..."

"It was a real neat feeling."

—John Gormley

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## Tele-Track helps dealers ring up profits by hanging up bad risks

IT'S HARD TO BELIEVE THAT ONE SIMPLE CALL COULD BE WORTH THOUSANDS OF DOLLARS IN PREVENTATIVE AND RECOVERY MEASURES. BUT TELE-TRACK TURNS INFORMATION INTO GOLD BY OFFERING NEW SOLUTIONS TO THE COSTLY SKIP-TRACE PROBLEMS FACING THE RENTAL-PURCHASE INDUSTRY.

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By compiling the names of individuals who have skipped on rental agreements or stolen merchandise in the past into a central database, Tele-Track provides a valuable method of eliminating unnecessary risk to its subscribers.

One call with a touch-tone telephone and a merchant access code immediately determines if a prospective customer should be considered a bad risk. If a denial code is issued, a Tele-Track representative calls the store and retrieves the current information on the customer.

The Tele-Track subscriber will provide a list with the person's name, last known address, and the current location of the skip. From there, a representative will notify all other stores to which the skip is indebted about the new information.

This process provides rental dealers with a quick source of information that allows them to determine whether an applicant has skipped on previous rental agreements, stolen merchandise, or written uncollectible checks to other RTO stores.

"Our goal is to help people add points to their bottom line, help them be more profitable, and to minimize their losses," says Dana Webster, president of Tele-Track.

Webster, an original stockholder in the company, says the benefits of the Tele-Track system far outweigh the costs. "We receive on average about \$75 a month, or \$900 a year, from each store subscribing to us. This



Joel B. Matthews

means that even if the merchant only recovers one piece of merchandise, then the service has paid for itself."

And this often seems to be the case, according to Tele-Track subscriber Larry Sutton, who uses the service in all 23 of his Florida RTO stores.

"It has paid for itself every year. There are lots of people we would have rented to that are known skips and make it a habit. Tele-Track protects you from people who make a living stealing from rental companies, and is designed to protect your from those individuals who know how the best way to rip off rental companies," says Sutton, president of B & L Concepts, Inc., dba Champion TV & Appliance Rentals.

Sutton says Tele-Track has been extremely cost-effective for his business, and estimates a savings of anywhere from \$25,000 to \$40,000 in preventative and recovery measures. He also thinks Tele-Track would become more effective if more companies subscribed to the system.

"If Rent-A-Center used Tele-Track, it would help every other dealer throughout the country who's on the system. It would make the system three times more valuable than it is today because of the input that would be available," Sutton believes.

But Tele-Track is expanding at a very fast rate anyway. The company currently serves about 1,000 stores in 37 markets nationwide and is growing at a rate of about 50 to 75 a month. And within the last year, three new

*Sutton says Tele-Track has been extremely cost-effective for his business, and estimates savings anywhere from \$25,000 to \$40,000.*

services have been added.

These include four preventative and two recovery services: SocialGuard, SkipGuard, CheckGuard, FrontHit, MergeHit and BackHit.

FrontHit inputs the social security numbers of all the known skip/stolens into a national database.

BackHit and CheckGuard track social security numbers reported as unpaid accounts or stolen merchandise.

MergeHit takes information on skip/stolen accounts and uncollectible checks and compares it with all other inquiries within the past 90 days on that person.

SkipGuard initiates an investigation on a person Tele-Tracked three or more times by three different stores in the past 60 days.

And Social Guard contains a Death Master File from the Social Security Administration on the listings of all issued and unissued social security numbers.

"You wouldn't believe how often we receive social security numbers of dead people. At least one out of every 123 people Tele-Tracked are using dead people's social security numbers," Webster reports.

—Kelli Montgomery


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RAE Advertising Awards Book	\$10/\$10 

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**Friday, August 13**  
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**MAGNAVOX**

**Fri.-Sun., August 13-15**  
*"APRO Convention Daily" publication*



**Friday, August 13**  
*Welcome reception "Black Cat Party"*



**Saturday, August 14**  
*Ribbon cutting champagne welcome*




**Saturday, August 14**  
*Gala cocktail reception "Saturday Night Live"*



**Saturday, August 14**  
*Keynote speaker, general session*



**Sunday, August 15**  
*President's breakfast & awards*

 **Thomson Consumer Electronics, Inc.**

**Monday, August 16**  
*Pre-banquet cocktail reception*



**Monday, August 16**  
*Awards banquet*

Continued from page 40

Overstreet, Winn and Edwards. His experience in the legal aspects of rental-purchase is extensive.

Is your business on a collision course with disaster? Find out from Gerald P. Buccino of Buccino &

Associates, Chicago. Buccino draws on 30 years of executive, financial and administrative management experience to help RTO dealers identify problem areas within their operations and turn them around. He can assist in crisis situations, restructuring and refinancing, and redirecting assets to ensure future profitability. Buccino

holds an MBA and a Ph.D. in business and economics and is a Certified Public Accountant.

Every manager needs to hear David Oliver of 1st American Rentals, Lithonia, Ga., discuss "Managing a Quality Work Force—Minimizing Risks." This seminar covers training  
CONTINUED ON NEXT PAGE

## APRO's convention speakers to deliver

APRO WILL CONTINUE TO PROVIDE INFORMATION ON SOME OF THE SPEAKERS WHO WILL PRESENT THEIR PROGRAMS DURING APRO'S CONVENTION SEMINARS, AUG. 15-16 AT BALLY'S IN LAS VEGAS.

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In this issue of *Progressive Rentals*, we'll look at speakers for the APRO General Session and Business Meeting, scheduled for 9 a.m. until noon on Saturday, Aug. 14.

"APRO is pleased to announce that Walter E. (Bud) Gates will be our special honored guest speaker during this year's general session and business meeting," said Shelley Martinek, APRO director of education.

Gates is chairman and CEO of THORN EMI Rental Americas (Rent-A-Center). He is one of the most influential and successful entrepreneurs in the rental-purchase industry. His extensive educational credentials include an MBA from Harvard Graduate School of Business Administration. He has worked with Wilson Sporting Goods, a division of Pepsico at the time. Gates worked with legendary UCLA coach John Wooden to develop the John Wooden Basketball Shoe and took the company's athletic footwear business from \$1 million in sales to \$35 million in two years.

*Walter E. (Bud) Gates, on left, and Nate Booth will speak at the Aug. 14 APRO General Session and Business Meeting.*



Gates has served in several executive positions with Pizza Hut, with key products developed during his tenure including Pan Pizza, Personal Pan Pizza and Priazzo stuffed pizza. He joined Rent-A-Center in December of 1985 as executive vice president.

THORN acquired Rent-A-Center in 1987 and Gates attained the title of chairman and CEO of THORN EMI Rental Americas in April, 1992.

For APRO, Gates will speak on the future of renting in America.

Dr. Nate Booth is the head corporate trainer for Robbins Research International of San Diego. He will present the keynote address at the 1993 APRO General Session and Business Meeting. Booth received his D.D.S. degree from the University of Nebraska in 1971 and was in a private dental practice for eight years. Booth earned a master's degree in counseling from the same school in 1983.

For the past 13 years Booth has been relentlessly studying and applying the science of human influence—how you can persuade yourself and others to take action in ways where everyone wins.

Since 1987, Nate has worked closely with Anthony Robbins, President of Robbins Research International, in the development and delivery of corporate programs. Booth has presented more than 700 seminars, workshops and training programs of

tremendous impact to people in corporations and associations such as IBM, Mobil Oil, Mutual of Omaha, Kraft Foods, Prudential Insurance, Specialty Advertising Association, New York Life and Eastman Kodak.

Booth is the author of the book *Turning Resolutions Into Realities* and, with Tony Robbins, is the co-creator of *The Body You Deserve Program*.

Booth's presentation is titled "Change, Challenge and Choice: Thriving in Our Rapidly Changing World."

He says: "In the rental industry, rapid change is coming at you from all directions. The bottom line: The people and businesses who view changes as challenges, and then make the appropriate choices, will prosper emotionally and financially in the years to come."

In Booth's program, you'll learn the skills necessary to enthusiastically move into the 21st century with curiosity, competence and confidence.

"We know you won't want to miss this exciting and dynamic business session during the APRO convention," Martinek adds.

For a detailed description of seminar content and speakers, call Martinek at the APRO office—(512)794-0095.

PR

Continued from previous page

and managing personnel for optimal productivity with minimal risk of lawsuits.

John Delves of Careertrack, Boulder, Colo., will take the ideas and views of top business analyst Tom Peters and relate them to your RTO operation. Delves puts 25 years of line and management experience to work for you in bringing Peters' up-to-date strategies to your everyday business problems. This seminar will be presented at three Monday afternoon times to accommodate our schedule.

Do hiring and recruiting procedures leave you drowning in a sea of dollar signs and question marks? Bud Holladay of Alrenco, New Albany, Ind., is known as the organizer of APRO and has been involved in the rental business since 1968. He uses these many years of experience to discuss "Hiring, Recruiting and Pay Plans."

If you're in the rental-purchase industry, you know the Internal Revenue Service has launched a all-out crusade to re-characterize the stan-

*These seminars are sure to offer every convention attendee the opportunity to address primary concerns of his or her particular RTO operation. We've focused on the business network, the trade show and seminars.*

dard RTO lease as a disguised conditional sales contract. CPA Terry Beville, Tampa, Fla., and attorney John Newman, Alexandria, Va., have seen the situation from two perspectives and have spent years addressing tax problems in the RTO industry. Write-offs, state personal property tax and state sales tax issues will also be discussed.

Harry Weisbrod, president of a Dallas-based consulting firm specializing in wage-and-hour issues and labor law, will tell you "What's Hot in Current Labor Practices." An author and frequent seminar speaker, Weisbrod is an expert on tailoring wage-hour compliance to suit your business situation. His expertise has been known to save APRO members thousands of dollars.

These and other seminars are sure to offer every convention attendee the opportunity to address primary con-

cerns of his or her particular RTO operation. For a complete list of seminars, call APRO Director of Education Shelley Martinek at the APRO office—(512)794-0095.

School may be out, but this convention isn't over yet. The annual awards banquet is the traditional "crowning touch" to APRO conventions, and this year is no exception. It's your chance to dress up (semi-formal) and congratulate yourselves for another successful year in RTO. This year the theme is "Honeymoon in Vegas," based on the movie. With a wedding chapel, Flying Elvises and quickie divorce booth, this event is sure to spell F-U-N.

### More to come

APRO always plans a full-fledged program for spouses. This year's main event is a six-hour trip to nearby Mt. Charleston on Monday. From the desert, you travel 11,000 feet to the top of pine-covered Mt. Charleston. It's cool up there, and the views are spectacular. Lunch is at rustic Mt. Charleston Hotel. So, bring your camera and hiking boots and head for the hills! Wear your boots and spurs, because a horseback ride through the mountains is part of the plan (a hayride will be an option for the less adventurous).

In the December-January issue of *Progressive Rentals*, we talked about Las Vegas itself, about tourist attractions for the family and the businessperson, and the many amenities offered by the luxurious Bally's headquarters hotel. We'll talk more about these aspects of this year's APRO convention in the next issue, but here we've focused on the heart of the convention—the business network, the trade show and the seminars.

By bringing this all together for its members, and throwing in a little fun, APRO proves the value of membership. We know you'll agree. **PR**

*Barbara Stooksberry is a freelance writer and veteran contributor to Progressive Rentals.*



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