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JANUARY-FEBRUARY 2005

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PROGRESSIVE
Rentals

JANUARY-FEBRUARY 2005

**26 | THE FUTURE OF PLASTIC
TRANSACTIONS IN RENT-TO-OWN**

The age of plastic transactions is upon us. There are still plenty of rental dealers out there who have not taken the steps to accept debit/credit cards as acceptable payment methods for RTO agreements. Yet, more and more RTO businesses are finding that there are true benefits to accepting plastic and that the minimal fees involved do not outweigh the convenience for customers and the instantaneous payments.

BY JULIE SHERRIER

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ABOUT IDLE INVENTORY**

The enlightened dealer sees idle inventory for the treasure that it is. If the industry really wants to expand its customer base, it needs to market to one of its real strengths—solid, functional, lightly used goods at bargain basement prices.

BY ED WINN III

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RTO AGREEMENTS AND
CONSUMER BANKRUPTCIES**

The new definition of security interest clarifies the lease/sale distinction in a way that favors RTO dealers, especially in bankruptcy court. An amendment was offered to the definition of security interest that was intended to draw a brighter-line distinction between leases and sales and to remove the element of a party's intent from the courts interpretation of the issue so as to make outcomes more predictable.

BY ED WINN III

**40 | THE CHAMPION OF ENTREPRENEURS:
AN APROFILE OF TROOPER EARLE**

Meet Trooper Earle, president and CEO of Premier Rental-Purchase, a franchise operation for RTO dealers. Earle has developed a unique and amazingly effective system for securing financing for those who want to open up their own Premier stores. "It's great to wake up every day and know I'm helping people go from being employees to owning their own business, controlling their own lives," says Earle.

BY KRISTEN CARD

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news

BREAK

COMPILED BY
JULIE SHERRIER

Capture the essence at the 2005 Mid-Year Conference

There are some exciting changes in store for 2005 APRO Mid-Year Conference attendees, March 14–16. In addition to being held in sunny Key West, FL, the cost for attending this fun, information-sharing meeting in a laid-back atmosphere has been drastically reduced.



For example, it will only cost APRO members \$200 to register (non-member attendance is \$400) and there is complimentary registration for your spouse. In addition, other key members of your company can attend for just \$100 each as long as there is one full paid APRO member registrant from your company.

Tabletop exhibits will once again grace this year's meeting during a cocktail reception on March 14. The ever-popular round-table discussion and a state of the industry address will be featured on March 15. That afternoon, the second annual APRO Scholarship Foundation Golf Tournament is scheduled to tee off at 1 p.m. at the Key West Golf Club. The



PHOTOGRAPHS COURTESY OF THE MONROE COUNTY TOURIST DEVELOPMENT COUNCIL

APRO to introduce new federal bill; forms Legislative Task force

A PRO members are hoping to make federal legislation a priority for the 109th Congress. In a recent federal legislative review of the new Congress, APRO leaders plan to approach the Republican Congress and White House with small-business minded RTO federal legislation that will define the rent-to-own transaction as a lease.

The RTO small business definition bill will be simply that—a rent-to-own transaction definition bill simplifying legislative language to codify the lease transaction of rent-to-own while allowing states to regulate the lease transaction as each deems fit.

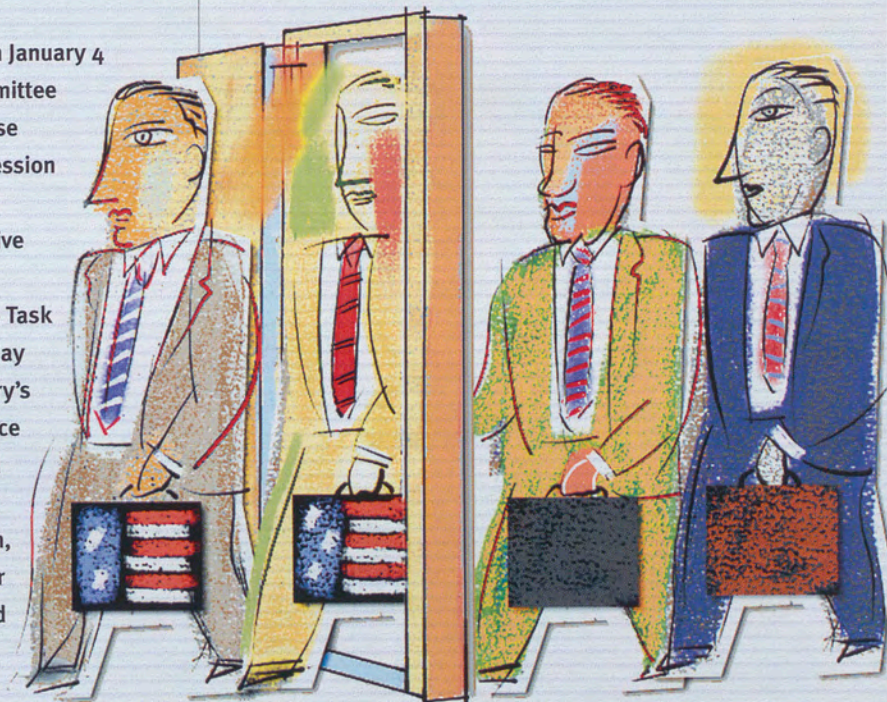
“A simple definition bill fits better with the new Congress,” says APRO President Shannon Strunk. “The bill is not nearly as intrusive and leaves the predominant power of regulation to the states while promoting small business, economic growth, employment and consumer choices in America.”

The 109th U.S. Congress convened on January 4 and will begin by establishing new committee chairs and members for the 48 new House and Senate members. The first part of session will also establish each House’s rules of order, order of business and the legislative calendar.

Strunk has established a Legislative Task Force to be responsible for the day-to-day issues that arise concerning the industry’s efforts in Washington, D.C. The task force will report to the board of directors and include APRO board members Shannon Strunk, “Tiger” John Cleek, Kevin Quinn, Richard Rose and former board member and APRO President Gary McDougal. Ed Winn, Bill Keese and Richard May are the APRO staffers assisting.

“I am pleased to form this task force for this important effort,” says Strunk. “In 1993, former APRO President Kevin Quinn formed such a task force that proved to be very successful in stopping bad federal legislation from occurring, convincing the Internal Revenue Service that our transaction is a lease, not a sale, and to battle the negative press that occurred at the time. This was my model in forming this new task force.”

Strunk, Winn and Keese traveled to D.C. in late January to explore the options for a new federal bill. One option is to draft a “definition only” bill in a different committee. All past federal efforts have been in the House Financial Services and Senate Banking committees. “We have had House and Senate members question the reason for our issue to be in these committees,” says Strunk. “It is time to re-evaluate our strategy and direction and focus on our member needs.”



meeting will conclude on March 16 with the RTO legal update by APRO's General Counsel Ed Winn III.

Online registration is available at www.aprovision.org and the deadline to register is March 1. Hotel reservations must be made separately by calling the Crowne Plaza La Concha at 800/745-2191. We hope to see you there!

Aaron's franchisee elected to serve on APRO board of directors

APRO is excited to announce that eight-store Aaron's operator



John Raines of Ashburn, GA, has been

elected to serve on the APRO board of directors. Raines' election filled a vacated spot on the 17-member board.

A former commercial litigator, Raines got into his family business in 1995, first as an investor then full-time in 2001. Raines and his brother, Mitch, are co-owners of Raines Investment Group, dba Aaron's, with all of their stores located throughout Arkansas. Raines also serves on the board of the Arkansas Rental



USA Today highlights growing trend in renting wheels and tires

A number of APRO members are driving into the burgeoning wheel and tire rental business. *USA Today* writer Chris Woodyard wrote a story January 24 titled, "Spinning Wheels Got To Go Round for Hip Drivers." Woodyard interviewed Rent-A-Wheel co-founder John Bowlin as well as APRO Executive Director Bill Keese and referenced Rent-n-Roll's operation out of Tampa.

"Rent-A-Wheel is a sign of the times, a new wrinkle in the rent-to-own industry," wrote Woodyard. "The fast-growing chain and others like it are cropping up across the Sun Belt—tapping into the craze for giant bling-bling wheels that have become as essential to car enthusiasts as fuzzy dice were to their hot-rodding granddads."

Woodyard detailed the basic RTO agreement plan and did note that purchasing the wheels through RTO was more expensive. He interviewed PIRG's Ed Mierzwinski, a consumer issues analyst for the Public Research Group in Washington, who, not surprisingly, cautioned against any and all RTO agreements.

To read the full article, visit the Rental News Network section of the APRO Web site at www.aprovision.org.

Dealers Association.

"I am a small operator like most APRO members," says Raines. "Two

of the most important issues facing the industry are continuing to improve the image of the

2005

FEBRUARY

24

Alabama-Mississippi Rental Dealers Association general membership meeting, Choctaw, MS, 228/769-3795

25

Arkansas Rental Dealers Association's winter gala, Little Rock, AR, 870/910-0059, www.arkansasrentaldealers.org

MARCH

9-10

TRIB Group "Meeting of the Minds," Atlanta, GA, 770/751-4302, www.tribgroup.com

14-16

APRO 2005 Mid-Year Conference, Key West, FL, 800/204-2776, www.aprovision.org

19-22

Texas Association of Rental Agencies 2005 convention, San Antonio, TX, 940/497-1150, www.taraontheweb.com

22-23

Florida Rental Dealers Association Sixth Annual Legislative Conference, Tallahassee, FL, 813/623-5461, ext. 110, www.frda-rto.com

APRIL

12-13

Alabama-Mississippi Rental Dealers Association spring educational conference, Choctaw, MS, 228/769-3795

14-20

High Point Furniture Market, High Point, NC, 336/888-3700, www.ifhc.com

20

Ohio Rental Dealers Association spring organizational meeting and elections, Columbus, OH, 513/528-8364

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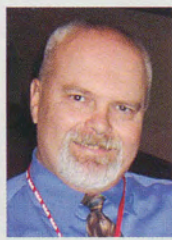
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industry and to work on and implement more favorable legislation, particularly on the federal level," he says. "However, one of my main concerns is balancing the needs of smaller operators like me with the larger regional and national chains within our national trade association."

"We are very excited to have Raines join the APRO board," says APRO President Shannon Strunk. "His background, enthusiasm and business sense will serve the APRO membership well. We look forward to having his input on issues facing the industry." Raines is the first RTO dealer from Aaron's to serve on the APRO board.

ColorTyme kicks off innovative strategic plan concepts

"People helping people" is the new overriding theme for ColorTyme franchisees and employees, announced President and CEO Bob Bloom at the 2005 Winter Operations Meeting, held January 22-25 in Dallas. Several exciting changes were highlighted during the four-day meeting that will secure the Rent-A-Center subsidiary's growth and market position in the coming years. Bloom, who took charge



ColorTyme Winter Operations Meeting. Top: Bob Bloom, Mike Rutledge and Gary Hughes. Above: Bloom, Pat Hunt and Chris Tatro. Right: Sam Lowe.

just six months ago, outlined programs to support increased growth.

One of these is a creative franchise program that is intended to bolster store count while providing opportunities for multi-store RTO managers who want to start their own businesses. "Rent-A-Center has 400 multi-unit managers right now," says Bloom. "It would have been easy for RAC not to support this program, but it believes that this provides tremendous growth opportunities for multi-unit managers. If RAC has a multi-unit operator



who wants to go out and become an entrepreneur, RAC would like these people to stay within the RAC family."

The program will offer \$1,000 credit from ColorTyme toward the initial franchise fee for each year of experience he or she has in the RTO industry—up to \$10,000. An example would be a multi-unit operator with eight years in the business would receive \$8,000 toward a Col-

orTyme franchise fee.

For those multi-store managers who may not have the funding to back their own franchise, ColorTyme also is offering partnerships between multi-store managers and investors. For an investment of \$20,000, multi-unit operators can own 51 percent of their own ColorTyme store.

"This program will allow seasoned RTO veterans an opportunity to run their own business while having the support and benefits of ColorTyme behind them," says Bloom. "I am absolutely committed to growth. In five years, I'd like to have 650 to 700 stores. ColorTyme is currently the fourth largest RTO chain. I would like to move up that ladder one rung at a time," he says. To promote its new franchise program, ColorTyme committed substantial advertising funds to attract not only Rent-A-Center managers, but managers from Aaron's and RentWay as well.

Testifying to the success of being a ColorTyme franchisee, Pat Hunt of Georgia says that he had reached a point with his store where he couldn't get the funding from traditional resources to support growth. After several agonizing months considering whether to convert to ColorTyme, Hunt made the leap and hasn't looked back since.

"I signed a franchise agreement in February 1999. That store went from doing about \$27,000 a month in revenue to \$50,000 a month in the second month after converting to ColorTyme," says Hunt. Today, he has five stores.

Says ColorTyme franchisee Chris Tatro from Chicago, "The biggest attraction of becoming a ColorTyme dealer on the front end was the finance opportunities." An industry veteran, Tatro had run his own Rental Express store for two years (after working for Rent-A-Center for 12 years) before joining ColorTyme. Tatro recently opened his fourth store.

Other programs announced included adding more payday loan operations within ColorTyme stores and more Rims & Tires stores. ColorTyme currently has 44 stores that offer payday loans to customers. "The average ColorTyme store that offers payday loans has significantly higher revenues than the industry average," says Bloom.

Another big boon to ColorTyme is its training program. "ColorTyme University," initially created for employees, has been expanded to include a "graduate" program for store managers, regional directors and franchise owners. Developed by ColorTyme's Sam Lowe, a graduate of

[CONTINUED ON PAGE 13]

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NEWS BREAK



Buddy's Home Furnishing IDs 125 children

A PRO's 2004 Employee of the Year and Buddy's Home Furnishings employee Jody Katz keeps the momentum going with a recent child ID event held at Buddy's Home Furnishings in Temple Terrace, FL. On December 18, the store set the retail-location record with 125 children identifications in less than four hours.

Buddy's has sponsored children ID events throughout Florida in the past several years in conjunction with Child Protection Education of America. CPEA's mission is to help find missing and exploited children. The CPEA and Buddy's employees hosted more than 300 people that afternoon, serving up hot dogs and raffling off prizes, while technicians processed each child's identification.

"It was a great community event," says Katz, who was the event organizer. "We created a fun event while providing a very profound service."

Local fire, police and paramedics attended the event to talk about the procedures, tools and readiness necessary to respond to the event of a missing child. The formal identification of children through fingerprinting and DNA matches are crucial to law enforcement efforts to be able to properly respond.

Money raised goes to the CPEA's bloodhound training program where the dogs are trained to track down missing children. Buddy's Home Furnishings has been supporting and hosting these child ID events for two and half years and have contributed to the identification of more than 1,700 children.



[COLORTYME CONTINUED]

the Chuck Sims RTO school back in the 1980s, "we have an unsurpassed educational training program that takes a person from an entry-level position all the way through to the top with more than 30 hours of training." The program is delivered in a CD-ROM base, with 18 hours of instructional electronic training and 12 hours of manager interaction.

Last but not least, ColorTyme has enlisted the assistance of Whirlpool to conduct extensive research on ColorTyme's

customer base to help the company better meet their needs and help with its marketing team.

ColorTyme is the oldest franchised RTO company in the United States with 300 stores.

Largest Rent-n-Roll agreement to cover all of Texas

In the company's largest market development agreement to date, Rent-n-Roll announced yesterday that RTO deal-

er John Spangle of Partner's Rental Purchase, based in Friendswood, TX, has rights to open Rent-n-Roll stores in the entire state of Texas. Spangle says that he plans to open 30 stores in the state in the next five years.

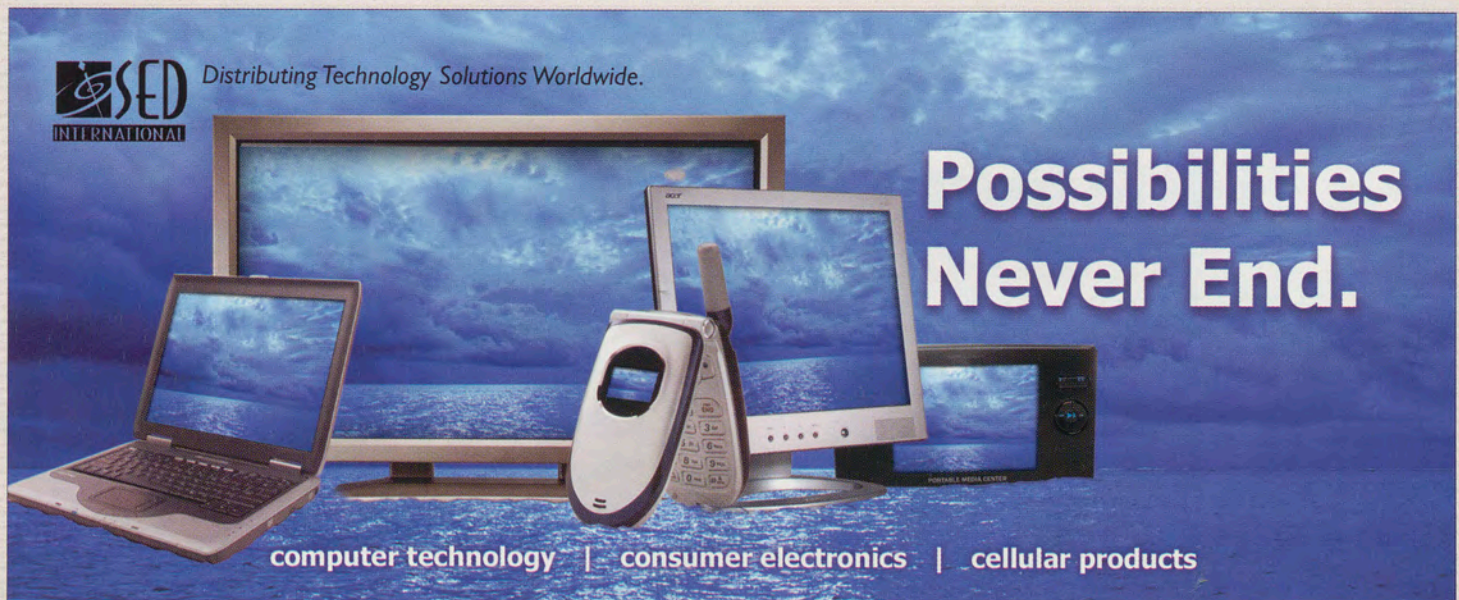
"John is putting together a great team of operators who we know are going to make a huge impact in the Texas markets," says Rent-n-Roll Vice President Vince Ficarrotta. Spangle says that he is looking forward to opening his first store in the Houston

market in the next few months. According to Rent-n-Roll President Larry Sutton, "this agreement brings us to more than 100 stores under contract in 12 states."

For more information, visit the Rent-n-Roll Web site at www.rentnroll.com.

All eyes turn to television formats at annual CES

UHR Rents' Ernie Lewallen—APRO's unof-



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NEWS BREAK



TRIB Group attendees at CES 2005. Left: Ernie Lewallen, Reid Sutton and Karl Wicker of TRIB. Below: CES exhibitor LG Electronics' Don Julson with Lewallen, Lyn Leach and Sutton. Photographs courtesy of Ernie Lewallen.



cial TV technology guru—is convinced that LCD and DLP televisions are the wave of the future and that plasma TVs are still out of reach for most consumers. Lewallen recently attended the Consumer Elec-



tronics Show in January, along with APRO reps and numerous other RTO dealers.

“It seems to me that plasma is cool, but it’s going to diminish in popularity. There’s no way to recharge the screen after it fades. It’s not a product that is good for RTO,” says

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Lewallen. "However, the DLP TVs, as they come down in price, are perfect in that you can easily replace the tube, the units are light and easy to install and provide a beautiful picture. But the price points just aren't there quite yet."

Once Congress resolves the analog vs. digital issue this May with a deadline for conversion, there may soon be a morning when you wake up and your TV won't work unless you have a digital set-top box or a new TV with the digital capability built in, says Lewallen. He also predicts that the 50-inch digital sets selling now are going to drop in price as the manufacturers start to retool the sets to integrate the digital processing in the sets rather than having to sell a separate set-top box when digital becomes official.

"The pressure on the TV manufacturers is enormous right now," says Lewallen. "I predict that the LCD format will become the go-to format in our industry in no time at all as the prices come down."

Florida RTO association to introduce new legislation

According to current Florida law, rent-to-own dealers in the state are

excluded from being able to prosecute customers who steal from them. Florida RTO dealers are preparing to eliminate this exclusion with the introduction of both House and Senate bills to the Florida Legislature during FRDA's Sixth Annual Legislative Conference, March 22-23 in Tallahassee.

"We need everyone's support to help us get this message out to as many members of the Florida House and Senate as possible during our brief one-day assault on Capitol Hill," says FRDA President Terry Beville.

The conference will be held at the Hampton Inn in Tallahassee, 850/562-4300. The deadline for room reservations is March 8. For more information, contact Terry Beville at 813/623-5461.

ACT forges agreement with Initial Technology

Alliance Computing Technology announced that it is now the exclusive supplier of Initial Technology electronic products to the rent-to-own industry.

Initial Technology Inc., a leading supplier and marketer of consumer electronics, has emerged as an industry leader in the highly competitive electronics mar-

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ketplace. Following the unprecedented successes of Initial's affordably priced lines of portable DVD players, HD-ready LCD televisions with built-in DVD players, stand-alone DVD players and home theater DVD systems, Initial launched handheld GPS navigation/DVD player units as well as portable media players at this year's Consumer Electronics Show.

Initial has outpaced the competition while continuing to expand its roster of groundbreaking consumer-oriented products. Initial's next-generation models already have, or soon will include, a host of new and improved features, including standardized SD card/memory stick readers and USB connectivity as well as DivX video compression

capabilities.

This is a reminder of ACT's commitment to service and product development for the RTO industry.

Ohio rental dealers to gather April 25

Columbus, OH, will be the meeting ground for rental dealers in Ohio

attending ORDA's spring organizational meeting on April 25. The meeting will be held at the Concourse Hotel next to the Columbus International Airport. On the agenda is proposed discussion of the success of the 2004 MidWest RTO Expo and plans for future events as well as updates on the state of RTO business in Ohio, legislative updates and other related business. All ORDA members and non-members are invited to attend. The meeting is scheduled to begin at 9 a.m. and conclude at 5 p.m. For more information, contact Ernie Lewallen at 513/528-8364.



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**EDITOR'S NOTE:
APRO RECEIVED
THIS LETTER FROM
BILL WENDELL OF
BLUE RIBBON
RENTALS TO APRO
EXECUTIVE DIRECTOR
BILL KEESE ON
JANUARY 17.**

Dear Bill,

After reading your column in the new issue of *Progressive Rentals*, I wanted to take time and send you a short letter thanking you for the 100-plus columns you have written and I have enjoyed.

This column gives a good rationale for belonging to APRO. There are also a number of good history lessons here regarding the financial crunch of the early '90s, the IRS issue regarding the rent-to-own transaction and other good examples you made.

It's absolutely true that we get our greatest benefit from APRO from communicating with other APRO members regarding how we can improve our business. We all share information with each other. If it hadn't been for APRO, many of us would have been forced out of business because of dishonest practices by managers and associates that we were too unsophisticated to discover on our own. The first APRO seminar I attended was in 1985 in Jackson, Mississippi. Ed Winn was the leading presenter and it was a tremendous eye-opener for me. I think it's true that all APRO members have received more than they have given over the years. The new members need to understand this in a better way.

Thank you again for your very helpful columns.

Sincerely,

Bill Wendell
Bill Wendell

APRO Convention and Buying Show wins national award

Successful Meetings magazine, a national publication serving the meeting planning industry across the country, recently named the 2004 APRO Convention and Buying Show as the "Best Trade Show with Attendance Over 1,000."

APRO Education Director Shelley Martinek entered the competition and explained how the Association retooled the APRO show last year, which included the incredible success of transforming the trade show into a buying show.

Aaron Rents creates two new operating divisions

In order to accommodate the rapid expansion across the country, Aaron Rents (www.aaronrents.com) has created two new operating divisions. Vice President Gregory G. Bellof will head up Mid-Atlantic operations and David A. Boggan will serve as vice president of the Mississippi Valley operations. These additions will bring the number of Aaron's Sales &

Lease Ownership operating divisions to eight. Also, Mitchell S. Paull was appointed senior vice president of merchandising and logistics.

AJ Rentals is latest Premier Rental-Purchase opening

AJ Rentals owner Perry Rees recently opened a Premier Rental-Purchase (www.premierrents.net) store in Washington, PA. After working in the industry for the past 15



years, Rees took the plunge to go on his own, with a little help from Premier. The store opened in just 90 days; Rees is already ahead of sales projections and under budget. Having worked in the

Washington, PA, market for the past eight years, Rees is enjoying continued customer relationships he developed in the area. In addition, he has working for him "a well-oiled team" of RTO staff with whom he shares 30 years of combined service. ■

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This weekend I heard a story. As I listened to this story, I realized that it applied to all areas of my life, as well as the lives of others. I thought I would share it with you. The author of the story explained that the he had the chance to expand his business by opening stores in another country. To take advantage of this opportunity, he realized that he had to leave someone in charge to continue his work and keep his team focused on the long-term company plans, as well as the short term and daily activities. He brought in his executive assistant and explained the opportunities and the chal-

Participating is key

lenges this change would bring. He explained that he would communicate regularly through e-mail. The assistant was excited to take over and promised his loyalty to the company's mission.

After six months, the owner returned to find many changes had taken place. Not only was the office much looser and casual, but people seemed to have changed. The receptionist answering the phone merely said "Hi" as he entered and continued to do her nails. The office staff was in the break room talking and socializing at an odd hour and as he rounded the corner on the way to his office, he ran into his assistant. He asked to speak to him in his office and, once they were seated, he asked the assistant what everyone was doing and why things had changed around the office.



By **SHANNON STRUNK**
APRO's President

The assistant proceeded to explain that he had structured the office around the weekly e-mails the owner had sent. Every Friday when they received the e-mail, they would read it aloud. Then on Monday, they would break up in groups and discuss what the e-mail meant. This would continue all week until most employees were so well versed in the e-mail they could recite the text, paragraph by paragraph. It was obvious that the assistant was proud of the changes and the success they had in reading, understanding and reciting the messages. The owner told the associate that it was great that the group took such interest in his writings, discussed the content in groups and even memorized

them, but then he asked "Did you do anything with it?"

You may have figured out that this was a parable from church and had to do with actually doing something with the lessons we learn. This parable applies to other situations also. We at APRO strive to send out valuable, critical information to our members to help dealers become better dealers and the RTO industry a better industry, and I believe our members are very good at reading and understanding the message. The problem is that many times we do not act on the message. With each of us working within our individual companies and then working together, we can make a difference. But we must act, not just read.

As our industry matures and changes, we need to be prepared to respond to these changes. We need your attendance at APRO events. The Mid-Year Conference is coming up in the middle of March and provides the most intimate business setting to network with fellow dealers. We will have our second annual APRO Scholarship Foundation Golf Tournament, as well as our regular legal update seminar by Ed Winn. This conference offers more time to spend individually with members than any other APRO event. Our legislative conference in Washington, D.C. is coming up in May and we need your participation more than ever to finally get an industry bill passed. The importance of securing federal legislation to define our transaction as a lease and not a sale is more important than ever. Each day that passes as we open new stores and grow our existing stores, the importance of securing a definition bill for the industry grows.

Also, in August, our annual buying show and convention will take place in Las Vegas at the Mandalay Bay Hotel. Not only will we have a great schedule of speakers and seminars to provide you insight and education on a variety of important topics, the vendors will bring better specials than ever. But, most importantly, the APRO events are an opportunity to network with fellow rent-to-own dealers in their business—their successes and failures. We need you there to share.

APRO members have such a wealth of information and experience at their fingertips, but you have to "do something" to get it. ■

Shannon Strunk is the president of Baber's Inc. in Pascagoula, MS.

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Guaranteed Replacement Programs seem to be creeping back into the industry. There is nothing innately wrong with GRPs, mind you; it is just that state insurance commissioners around the country thought that they were insurance products 20 years ago and, not surprisingly, they are of the same opinion today.

GRPs work like this: The rental dealer promises that in exchange for money paid every week or every month, the dealer will replace the customer's rental product if it gets lost, stolen, damaged beyond repair or destroyed from certain

rental company with LDWs does not need to be around in the future to keep its promise, which was never more than a promise not to sue the customer if the rental property got lost, stolen, damaged or destroyed.

The basis of insurance law is to keep insurance companies from taking people's money today on the promise of paying it back one day in the future (think life or car insurance) and, instead, running off with the money. Insurance codes have bonding requirements, financial responsibility requirements, net worth requirements, loss-pay-out ratios and other rules governing the behavior of those who would sell insurance products in a jurisdiction. Purchasers of LDWs do not need the protection of insurance laws because at worst, the rental company does take the money and run. The customer still gets the benefit of his bargain because if the rental property gets lost or stolen, the rental company that has run off will not sue the customer, which was the deal to begin with. This is not the case with GRPs. The rental company needs to be around in the future and not only that, it also needs to have set aside money to pay for replacement product if the contingencies in the GRPs occur, which is why insurance commissioners feel the way that they do about GRPs.

You cannot just offer GRPs up in the marketplace without incurring substantial potential liability. The industry has not seen GRPs in quite a while, but apparently the effort to boost revenues in some areas has caused them, phoenix-like, to rise from the grave. So, if you feel like GRPs are a product that you want to offer, find an insurance company that can help you. Otherwise, resist the urge and stick with LDWs. ■

Ed Winn's e-mail address is edwinn@e-bylaw.com.

"In order to offer Guaranteed Replacement Programs, the rental company is either going to have to be a licensed insurance company or offer the product through one."

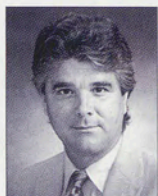
The return of GRPs

enumerated causes. Dealers may be charging a fee for this during the rental. They may be charging this fee after the customer obtains ownership to keep the customer on the books. They may offer GRPs as part of a club program and collect fees during the rental term or after ownership occurs. In any of these cases, the customer is paying money in exchange for the rental company's promise to do something in the future, i.e. provide substitute property if the customer's property is lost.

It is not a bad idea. Depending on the price charged, it may even be a good deal for the customer. The potential problem for rental dealers is that GRPs are probably an insurance product under the insurance codes of most states. There-

fore, in order to offer GRPs, the rental company is either going to have to be a licensed insurance company or offer the product through a licensed insurance company. Without doing one of these two things, the rental dealer is risking civil and possibly criminal penalties for selling an insurance product without a license.

GRPs are very different things from liability damage waivers, which most rental dealers offer and legally so. LDWs are also promises by the rental dealer made to the customer in exchange for money. The crucial difference from an insurance definition point of view is that the



By ED WINN III
APRO's General Counsel

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At left, Tom Roper, Vice President/GMM of Merchandising & Purchasing DSI Systems, Inc.

At right, Timothy Shannon National Manager Consolidated Specialty Sales Thomson Inc.

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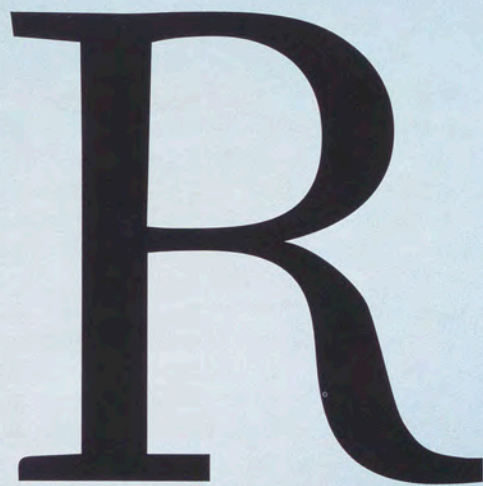
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THE FUTURE
PLASTIC T
IN



R

ental dealers, wake up! The age of plastic transactions is upon us. If you and/or your stores are not currently wired to accept credit, debit, ATM and/or cash cards, you are not only losing out on offering flexible payment options for your customers, but also may be losing out a very profitable opportunity to boost your bottom line. Check out these facts: In 1980, 56 percent of American adults carried around

at least one credit card in the their wallets. By 2000, that figure surged to 76 percent, according to *U.S. News and World Report*. Add to that figure the boom of debit cards, which accounted for 26 percent of in-store (not just rental store) transactions, compared with 21 percent for credit cards in 2001. That was the first year that credit card use fell behind debit cards. The future of plastic transactions cannot be ignored.

OF
TRANSACTIONS
RENT-TO-OWN

BY JULIE SHERRIER

McDonald's has taken the broad step of accepting plastic for fast-food purchases and so have many rent-to-own dealers. However, there are plenty of dealers out there who remain steadfast in their opposition to adding debit/ATM or credit card transactions as acceptable payment methods for RTO agreements for several reasons, including the costs involved. Yet, more and more dealers are finding that there are some true benefits to accepting plastic transactions and that the minimal fees involved do not outweigh the convenience for customers and the instantaneous payments.

Historically, the RTO business was a cash-only transaction. Then dealers started accepting checks, which brought along its own set of headaches in the form of insufficient funds, forgery and check-floating issues. In fact, as many rental dealers know, check-writing problems and schemes got so bad that the late Ernie Talley of Rent-A-Center decided several years ago that his stores would no longer accept checks—but Rent-A-Center stores *do* accept credit and debit cards as well as cash and money orders.

REVENUE FOR THE TAKING

According to UHR Rents' Ernie Lewallen, 95 percent of all his nightly deposits were made in cash or money orders back in 1981. Today, Lewallen estimates that 15 percent to 20 percent of his daily receipts are being paid in some electronic form. "Our stores are seeing quite an uptick in our customers using ATM or debit cards when making payments," says Lewallen. "And the transaction is instant. The money is transferred into our bank accounts immediately. The fees involved are minimal compared to the convenience of the service."

Convenience is the key word here—and flexibility. The cornerstone of the RTO transaction has always been taking care of customers by offering convenient and flexible arrangements so that they can obtain the products they need for their homes. "The true value of the RTO transaction is being flexible and that includes offering a variety of payment options," says Kevin Quinn of Quality Rentals, based in Tacoma, WA. Quinn says that at least 25 percent of his stores' revenues are made with plastic. "My metropolitan stores in mid-sized cities have even posted 32 percent revenue from credit or debit transactions."

Visa check cards—the dominate player in debit cards in the United States—withdraw funds directly from a customer's checking or savings account. Those funds are then instantly credited to a store's bank account. More than half of all transactions processed by Visa during the first six months of 2003 were performed with Visa debit cards. More than 132 million cards were issued in that same six months by 8,700 financial institutions, generating 3.6 billion transactions totalling \$134 billion in sales volume. And that's just six months! The average transaction amount is \$37.49, according to Visa.

Americans used VISA- and MasterCard-branded debit cards for

CREDIT CARD USAGE: ARE AMERICANS MORE RESPONSIBLE THAN PREVIOUSLY THOUGHT?

According to Fair Isaac Corp., a global leader in credit management solutions, today's consumers have a total of 11 credit obligations on record at a credit bureau. These include credit cards and installment loans. On average, today's consumers are paying their bills on time. Eight-five percent of all consumers have never had a loan or account that was 90-plus days overdue and less than 10 percent have ever had a loan or account closed by the lender due to default. About 48 percent of credit card holders carry a balance of less than \$1,000. About 10 percent are far less conservative in their use of credit cards and have total card balances in excess of \$10,000. Fifty-four percent of consumers carry less than \$5,000 of debt-excluding home mortgages. The typical consumer has access to \$12,190 on all credit cards combined. More than half of the people with credit cards are using less than 30 percent of their total credit card limit. Just one in eight are using 80 percent or more of their credit card limit.

more than \$576 billion in purchases and cash advances, a 16 percent increase over the previous year. Since 1998, consumers have racked up more than \$2 trillion in signature debit card transactions.

"Today, most people can open some type of banking account somewhere," says Lewallen. "All you need is some type of state identification."

ARE YOU READY TO MAKE THE SWITCH?

Some RTO dealers just haven't made the mental leap to plastic transactions, yet. "My customers don't seem to be clamoring to make their payments via debit/ATM or credit cards just yet," says Gary Romine of Show-Me Rent-To-Own in Farmington, MO.

"If anything, debit cards would be something that we'd consider, but with our margins getting tighter, I can't justify the upfront costs of installing the machines and then the fees for processing the transactions," says Romine. "However, I may be forced to make the change in the near future in terms of convenience, but right now, I don't see the value-added benefit."

Credit card usage among RTO customers is certainly not unheard of, despite the fact that a large percentage of the RTO customer base has been described as low-income and non-banked. As Lewallen stated, all one needs is a valid state identification to obtain a bank account.



"I'm just a one-store operator in a town with 16,000 people. I thought installing a terminal was big-city stuff, not for rural northern Michigan. I was proven wrong. While I didn't have customers beating down my door asking me to take their credit cards, once we offered it I was surprised at how many people have taken advantage of it."

And you probably don't even need that to obtain a credit card. And to attract a wider variety of customers, offering flexible payment options opens the doors for growth rather than pigeon-holing the industry for one particular demographic group.

Jim Darou, account manager of Hometown Ventures, a one-store operation in Sault Sainte Marie, MI, says that his store has been accepting credit cards for four or five years now. He has, however, seen an increase in the usage of debit cards and says that he now processes more debit transactions than credit transactions. "Plastic transactions do account for quite a bit of our business, but the majority of our customers still pay in cash or with money orders," says Darou.

CONSUMERS BEAR COST OF DEBIT TRANSACTIONS IN CANADA

A new study suggests that Americans saved more than \$4.3 billion in debit fees last year when compared to the system utilized in Canada. The research by Dove Consulting for PULSE found that every major bank in Canada charges its customers a per-transaction fee every time they use their debit card. Canadian consumers pay a fee of C\$0.50 to \$0.60 for each electronic payment transaction, whether making a purchase or getting cash from an ATM.

Canada has only eight major national banks, which control 93 percent of banking assets. By contrast, the U.S. has more than 17,000 banks and credit unions, and the eight largest banks control only 41 percent of banking assets. Canada has only one electronic payments system and consumers have access to only PIN-based debit.

Furthermore, Canadian merchants pay no interchange fees for a debit transaction, whereas U.S. financial institutions receive revenue for use of their databases and for guaranteeing payment for every transaction. The study concludes the Canadian model is unlikely to be embraced in this country anytime soon.

Hometown owner/operator Sidney Burton says he was skeptical at first about installing a credit card terminal in his store. He just didn't think it was going to be necessary, but after talking with several other small-town dealers at an APRO meeting, he changed his mind.

"I'm just a one-store operator in a town with 16,000 people. I thought installing a terminal was big-city stuff, not for rural northern Michigan. I was proven wrong. While I

didn't have customers beating down my door asking me to take their credit cards, once we offered it I was surprised at how many people have taken advantage of it," says Burton.

Burton also says that having a credit card terminal really helps with his collections efforts, especially if his customers are traveling or can't physically make it in to the store to make payments. "A traveling customer will call us up and ask us to run the payment on their credit or debit account," says Burton. "As a pol-

icy, however, we don't keep that information on file and don't make charges automatically."

Today, between 20 percent and 30 percent of Hometown's transactions are made through the credit card terminal. "We have made the cost for the terminal back over and over. We want to make it easy for our customers to keep their accounts active. It's one more opportunity to keep the product in our customer's homes. Any expense concerns that I had upfront has paid off in our collections efforts," says Burton.

Burton admits that at first the thought of his customers paying with credit cards would not be a good idea because if they didn't pay their credit card bills, then his BOR would decrease due to a higher collection rate on unpaid accounts. "But there has been no hint of that kind of behavior among my customers at all. It has not become an issue that we have had to deal with," he says. "After all, I can't manage my customer's money for them. We can help them figure out what works for them with our rental agreements, but if the credit is available to them and they are using it, it's not up to me to decide whether or not they can use credit in my store. It's just another payment option."

Quinn of Quality Rentals couldn't agree more. "We have accepted credit cards for 15 years," he says. "We used to process them the old-fashioned way with the slide machine, but that only accounted for about 2 percent to 2.5 percent of our business. But as our business changed—we target higher-end, plastic-carrying, customers—offering that payment option was not optional. We have customers we never see after their initial visit. They just call in to renew their agreement via credit or debit. And the volume of plastic transactions increases every year.

"We complain sometimes about not reaching as many customers out there as possible," says Quinn. "This is one more way to open the door a little more. I've had customers who originally came into our store with bad credit, but 10 years down the road they are credit-worthy and still doing business with me. There are two kinds of shoppers: those who buy things based on price and those who buy things based on service."

Last year, Quinn says that his 16-store chain generated more than \$4 million in plastic transactions. "If it costs me 2 percent to get that revenue, then it's worth it," he says. ■

Julie Sherrier is the editor of Progressive Rentals magazine.

PLASTIC TRANSACTIONS: HERE'S HOW TO SET IT UP

APRO spoke with Dan Ross of Card Payment Systems, a TRIB Group-approved vendor, about the various fees involved in accepting plastic transactions. "We offer standard pricing, but offer major discounts for TRIB members for offline debit transactions," says Ross. Offline debit transactions don't require a PIN number whereas online debit transactions do.

The cost of the hardware—terminal and printer combinations—can either be purchased or leased and range anywhere from \$250 for a refurbished unit (visit www.merchantwarehouse.com) to \$649 from Card Payment Systems for the Verifone Omni 3200. Discounts are available for multiple units. Adding PIN pads costs from \$50 to \$100 more per machine and it would behoove dealers to buy an all-in-one rather than the add-on PIN feature (check out the Hypercom T7Plus). The various transactions and processing fees may seem complicated at first, but according to numerous rental dealers, are minimal compared to the convenience of the transaction.

"There are two schools of thought among RTO dealers who process plastic," says Ross. "One school refuses to do key-entered transactions as there is the potential for a customer to contest the charges. The other school uses key-entered transactions as a collection tool and pays the 2.10 percent fee."

Ross also warns that "this industry [credit/debit] thrives on the hiding of fees" and cautions dealers to educate themselves on how they are being charged for the different transactions.

Here are some tips from the Merchant Warehouse Web site:

SELECTING CREDIT CARD EQUIPMENT

With so many different types of credit card processing equipment on the market these days, choosing the correct type for your business can be a daunting task. Before you get started there are a few questions you should ask yourself.

Will I be 'swiping' the cards through a terminal or will I be 'keying' them in because the card is not present?

Most retail businesses have the ability to swipe the card because their customers are present at the time of the sale. These merchants should consider a traditional terminal and printer. However, some merchants will not have this luxury and may want a system that is more suited to their specific needs. Software packages are available if there is a PC at the business location. Otherwise, a standard terminal and printer will work fine.

How many transactions a month will I be doing?

Merchants who are doing more than a few transactions a day may want to consider a terminal with a thermal printer. Thermal printers are not only faster, but, because they have

fewer moving parts than a traditional dot-matrix printer, they are also less likely to fail. Thermal paper has come a long way in the past few years and is now much more resistant to fading and yellowing compared to old-fashioned thermal fax paper. Some older model terminals and printer units now come in thermal versions for only a few dollars more.

Is there a phone line available at the business location?

Most businesses have at least one phone line at their business location and since credit card terminals can share the same line you use for your phone this is usually not a problem. However, some merchants such as trade show merchants may find it cost prohibitive to have a phone line installed at each location they travel to. For these merchants, they should consider a wireless terminal that works similar to a cell phone.

Do I need a printer?

Technically, merchants are not required to have a printer. However, considering there is usually only a small price difference between a stand-alone terminal and an integrated terminal and printer unit, it is a good idea to purchase a unit that has a printer built in. Adding a printer after the fact is usually more costly. You should check out the full price list and compare the prices of terminals to integrated units before buying.

Will I be accepting debit cards?

For those merchants who think they will be accepting debit cards, they should consider adding a PIN pad to give their customers additional payment options.

How many merchant accounts will I have for my business?

For almost all businesses, the answer is one. However, in some cases, a business may have more than one. Some examples are businesses that do a large volume of phone-order transactions and also do a large volume of swiped transactions. For these merchants there is a cost benefit to having a second merchant account. Also, some doctors and other professionals may share an office and run separate businesses out of the same space. These merchants may need an additional account for each business. Some merchants will opt for the Verifone Tranz 380x2, which supports two applications in a single terminal. However, most merchants will use a Nurit 2085 or similar terminal that can hold multiple merchant accounts.

Which brand of terminal is right for me?

Your processor may work better with a particular brand of terminal. Typically, almost all of the major brands of credit card equipment will work with most major processors. If you've already decided on a particular brand of terminal, you may want to check out that brand's latest model. Advancements in credit card terminals have been brisk over the last few years. Newer designs allow you to do more and are usually easier to work with.

MERCHANT ACCOUNT RETAIL TIPS

Although retail merchant accounts are the most straightforward types of merchant accounts, you still will want to educate yourself on how to set up the account. Follow the tips below and you'll avoid some of the possible pitfalls of setting up a retail account. Give yourself

enough time; while it's true that most merchant accounts can be set up in a day or two, it does sometimes take longer. It's a good idea to start thinking about setting up a merchant account at least a few weeks before you plan on using it. While you will probably be pleasantly surprised about how quickly you get set up, nothing could be more nerve wracking than waiting for the delivery of your credit card terminal on your businesses opening day. You will have plenty of other challenges in those last few days before you open your doors.

Your local bank may not be the answer.

While most merchants like the idea of doing business with their local bank, many do not realize that the bank may have little experience setting up merchant accounts. Smaller banks may refer their business to a third party to do the processing and receive a commission for doing so. Going directly to the processing company will usually save you time and money. You can still have your funds deposited into your account at your local bank.

Understand all of your fees.

When you first get a quote for merchant services, some fees may seem a bit foreign to you. Don't worry, though, after you take a few minutes to go through the fees it will seem simpler than your phone bill. Take the time to go through your application and ask questions about fees you don't understand. Taking the time to go through the fees may save you an unpleasant surprise when you get your first merchant statement.

Average ticket and monthly volume.

Every processor will ask you to estimate what your average sale and monthly credit card volume will be. While most processors give a lot of leeway to retail businesses, you still will want to give this some thought. If you guess too low, you may find yourself under the watchful eye of the loss prevention department when you go way above your expected monthly volume. If you guess too high, you may subject yourself to some extra paperwork and background checks during the application process. Take the time to talk with your sales representative and figure this out. Most sales reps will have plenty of experience estimating volumes and average tickets and should be able to help.

Don't sign a contract with a cancellation fee.

As a retail business owner, you will find that it is fairly easy to get a merchant account. Don't settle for a processor that has a contract of any length and charges a cancellation fee. Very often merchants will find themselves dissatisfied with the level of service they are receiving and may want to change processors. Ask about your cancellation fee and get details on how you would cancel your account. Some processors may have contracts that automatically renew if you don't give written notice more than a month before your contract expires. Also, beware of sales people who claim that "even though you have a fee in your contract, we never charge it."

To find out more, visit www.merchantwarehouse.com and/or call the TRIB-approved vendor Dan Ross at Card Payment Systems at 866/757-7442.

BY ED WINN III

THINKING ABOUT USED IDLE INVENTORY



There are those who think that all people and all issues can be divided into two camps and there are those who don't. How rental dealers view used idle inventory is one such test of the "everything into two camps" construct. The thesis is that there are those rental dealers who love used idle inventory. I am postulating that this audience makes up 20 percent for the sake of argument and in keeping with the principle that everything divides 80 percent to 20 percent. And there are those dealers who loathe used idle inventory (our 80 percent).

IS IT CLUTTER?

Used merchandise is, after all, used. Sometimes it is all used up—like the baby bear's porridge. It never has the shine and smell of something just-out-of-the-box new. It has been picked up at least once. The pickup may have left a bad taste in the dealer's mouth in and of itself. The used product may be dirty or broken or both. Somebody is going to have to clean it up and maybe fix it before it is worth anything again. It may have to be fumigated, repainted, rewired or sewn back together. That makes a lot of work for somebody and is so much less fun than popping open the box of something brand new.

Then that used, reworked thing is going to have to be re-rented if it is going to have any real value to the rental company. That means steering a customer away from the nice, new, easy-to-rent stuff over toward the bargain bin, not at all where the dealer's heart lies, and it means making excuses for the stuff on the way over and, finally, only half-heartedly trying to make the deal.

This dealer, after all, hates the used stuff because of all the trouble it brings with it to the store and it is hard to feign a seller's enthusiasm for something that is secretly despised. The result of this attitude is that the used stuff doesn't move. It hangs around in the a dimly lighted corner of the showroom and, over time, the pile of used stuff grows, but the store doesn't and the BOR doesn't and the revenues don't because the dealers who hate the used stuff do not understand what they really have on their hands.

OR IS IT CASH?

The other 20-percent side knows, though. These dealers understand how to read a store's profit-and-loss statement. They understand how depreciation works and how to boost store revenues and profits by falling in love with their used idle inventory and by treating it with the respect that a revenue-generating asset deserves.

Now these dealers do not like picking stuff up any better than anyone else. In a perfect world, all customers would all pay on time and keep all of their stuff until they owned it (and then come back in for more). But these dealers live in the all-too-real RTO world where stuff comes back all the time. It is called the rental business, after all.

But these dealers view picking up used merchandise as an opportunity in the making rather than as a burden. First of all, they know the details of what is being returned. Let's suppose that it's a 36-inch flat screen that cost the company \$600 brand new. Let's suppose further

that it has been out more than once for a total of six months and let's also suppose, for internal bookkeeping purposes, the company is using 18 months straight-line depreciation on its rental property. That means that the company is taking \$33 per month as an expense for every month that it owns that TV. After six months, the value of that TV on the company's books is \$400. Some dealers who don't know this in their souls only see a dirty,

IF THE INDUSTRY REALLY WANTS TO EXPAND ITS CUSTOMER BASE, IT NEEDS TO MARKET TO ONE ITS REAL STRENGTHS—SOLID, FUNCTIONAL, LIGHTLY USED GOODS AT BARGAIN BASEMENT PRICES. IF THE INDUSTRY GOT SERIOUS ABOUT MOVING USED STUFF, IT COULD BRING MORE CUSTOMERS THROUGH THE DOORS.

scratched-up TV coming back in to clutter up the showroom. This TV shows up badly next to the wall of brand new sets. Too many dealers figure that nobody is going to want it and don't bother trying to do anything with it.

ONE DEALER'S TRASH IS, ANOTHER DEALER'S TREASURE

The enlightened dealer, however, sees this previously loved unit for the treasure that it is. This dealer knows that for \$50 or so, the cabinet can be repaired and polished and made to look as good as new. He thinks that somebody will want this TV and knows that he can make a really good deal on it. He knows better than to try to rent it out for another 18 months at \$100 per month like the brand new ones. That won't work. He could get it back out on a 12-month agreement, maybe, or maybe he could sell it for cash for, say, \$600 or even a quick \$500, if he showcases the product and lets people know that he has some very good deals on used merchandise. Beside a new set with a cash price of \$900 or \$1,000, this set at half that price should fly off of the shelf. Then, the dealer has moved a unit and made room for another new one on the floor. He has made some lucky customer very happy with a really good deal and made the company some money. The dealer is selling that TV at his original wholesale cost and is still making a 33 percent gross margin overall on the unit. That is a great deal for the customer and a healthy return for the dealer.

Now, he did not maximize the rental revenue potential of that unit and he knows it and doesn't care. Instead, he sold it. He sold it cheap and he sold it quick. The company only grossed \$1,100 on the TV, not the full \$1,800

he would have gotten if the set had been rented for the full 18 months, but he moved the unit in seven months instead of 18. There is interest being paid during all of those months and there are transaction costs associated with each rental and so while the company may have made \$700 less than the full potential on the set, there are also savings that the company enjoyed by making a quick disposition.

OUT WITH THE OLD, IN WITH THE NEW

It is common wisdom in the industry that new stuff sticks better than used. So, over time, if the used stuff is cycled through the system with vigor and focus, there will be a higher mix of new items on the floor. That will mean a higher keep rate. That, in turn, will mean happier customers, fewer pickups, fewer transactions, lower transaction costs and a generally happier, more updated store.

Some rental dealers will say, "that's not enough." Some rental dealers want those VCRs that generate \$5,000 over years that *The Wall Street Journal* took such offense to several years ago. There are doubtless dealers out there who dream of having a store with only fully depreciated merchandise lying around. To them, every real dollar is profit, all \$20,000 per month of them. It is *a* way to run the business, but it is not *the* way to build big stores and grow big revenues. The secret to big stores is to turn rental inventory. And big stores are fun places to own, work in and shop in. There is, in the first place, more new stuff on the floor, because the rental inventory keeps turning.

If rental dealers had really good deals on used merchandise, first of all, and then made a point of telling people about it, they would move more of it.

Some stores have policies of never having a rental term less than 12 months. Others won't rent for less than six months. Why? If a unit has been depreciated down to \$200, why not sell it for cash for \$250 or rent it for three months and make \$300 and get rid of it and turn around and buy a new one?

If the industry really wants to expand its customer base, it needs to market to one its real strengths—solid, functional, lightly used goods at bargain basement prices. If the industry got serious about moving used stuff, it could bring more customers through the doors.

Customers who would never do RTO might well come in to pick up a bargain on some used electronics. But it will not happen, alas, as long as too many rental dealers hate the stuff and only suffer it being in the store at all, much less sing its praises to the public.

Once these dealers learn to embrace their used idle, as some have, they can learn how to move it. They can grow bigger stores, generate more revenue, encounter more customers, and have more fun. Here's hoping that in this New Year, some daring dealers will give it a try. ■

Ed Winn III is APRO's general counsel. His e-mail address is edwinn@e-bylaw.com.



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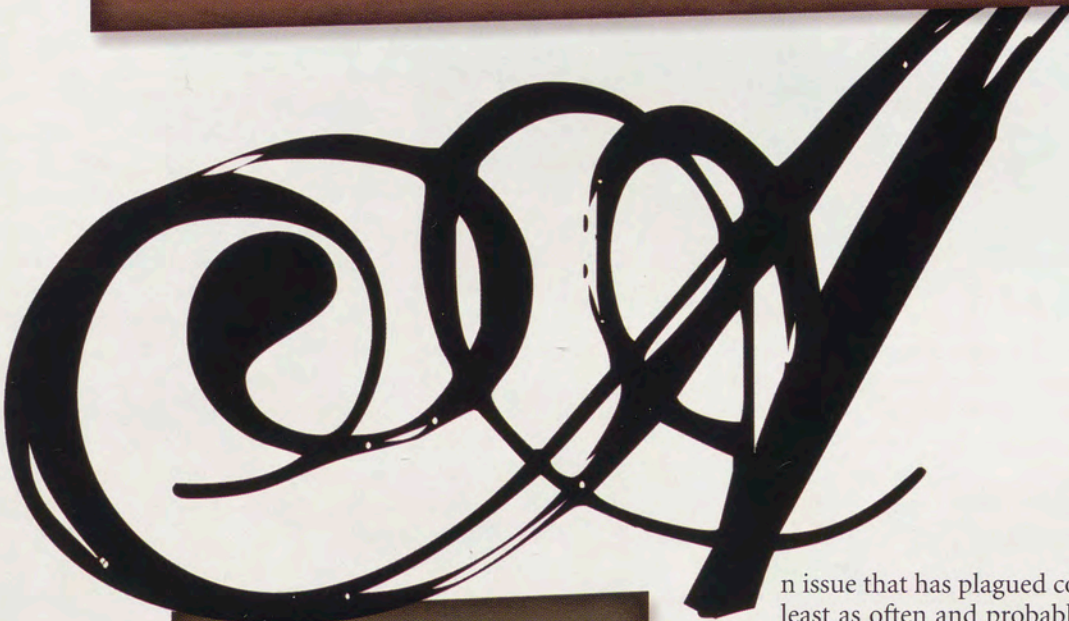
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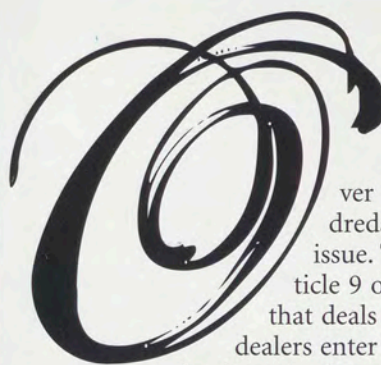


SECURITY INTERESTS RTO AGREEMENTS AND CONSUMER BANKRUPTCIES



BY ED WINN

n issue that has plagued commercial law—at least as often and probably as painfully as it has the RTO industry—is the lease/sale distinction. Since the industrial revolution, merchants have entered into “leases” with other merchants for equipment, vehicles and real estate, to which arrangement the lessee agreed. The lessees were later to learn long after the fact that the transaction was deemed to be really a “sale” and that the rights and obligations of the parties were far different from those contemplated when the agreement was originally struck.



Over the years, there have been hundreds of lawsuits where this was the issue. The law being scrutinized was Article 9 of the Uniform Commercial Code that deals with secured transactions. Rental dealers enter into secured transactions in their businesses often enough. They are debtors and the banks and merchandise vendors are the secured parties who reserve security interests in the property being sold in the case of vendors, bank accounts and rental agreements in the case of banks.

Article 9 established rules for creating and perfecting security interests and what happens when a debtor defaults. An important element of Article 9 is the definition of a security interest, which actually appears in Article 1 of the UCC (Section 1-201(37)), along with a host of other commercial law definitions.

During the 1990s, the definition of security interest was amended in every state, in part because there was so much litigation and uncertainty over the interpretation of this term. The older definition placed a great deal of emphasis on "the intent of the parties." Having to define a party's intent has proven a difficult thing to do with any consistency and the result was that courts came down on every side of the issue, creating numerous multi-prong tests for determining intent and generally confusing the marketplace and arguably impeding commerce with the confusion.

The commercial world depends upon predictability in the law. Finally, after some years of virtual legal chaos, those who are paid to contemplate these kinds of things—in this case the National Conference of Commissioners of Uniform State Laws. The NCCUSL offered an amendment to the definition of security interest that was intended to draw a brighter-line distinction between leases and sales and to remove the element of a party's intent from the courts interpretation of the issue so as to make outcomes more predictable.

The RTO industry would have been in the middle of this fray if, during this same period, there had not been enacted all of the state consumer rental-purchase statutes under which rental dealers operate today. These statutes, however, are irrelevant to commercial law issues.

The new definition of security interest does clarify the lease/sale distinction and does so in a way that favors RTO dealers, especially in bankruptcy court. Bankruptcy judges are instructed by the Bankruptcy

Code to interpret contracts according to state law, usually the state where the bankruptcy was filed and where the debtor lives.

Debtor's lawyers used to encourage bankruptcy judges to look at the definition of security interest when interpreting an RTO agreement because it was easy enough to prove that the customer, at least, intended to use the transaction to obtain ownership and not just to use the property short-term. (The rental customer/debtor testifies under oath that he intended to rent long enough to own.) This argument persuaded several bankruptcy courts with pro-consumer judges to ignore the rental-purchase statute and to rely on the UCC when ruling against rental companies.

With the advent of the new definition of security interest, requiring as a threshold for a lease to qualify as a security interest, that "the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee..." Other requirements under the new definition concern the economic realities of any purchase options that may exist and will not affect the characterization of RTO transactions, since those transactions fall out of the security interest definition due to the no-obligation feature and the consumer's right to terminate unilaterally at any time.

A Virginia bankruptcy judge most recently employed this new definition. The judge noted that the law in his state had changed in 2001 and that a previous 1998 RTO bankruptcy case in which the court ruled against the rental company was no longer good law in the state. According to the judge in this latest opinion, RTO transactions are true leases, now, in Virginia.

That leaves South Carolina, the southern district of Texas and a couple of other specific bankruptcy judges in Idaho, Kentucky and Nebraska as jurisdictions with rulings that RTO transactions are secured transactions. The industry will, doubtlessly, in due course, challenge these few remaining court rulings and show how the new definition of security interest requires a holding that RTO transactions are true leases for bankruptcy purposes. All of the cases referenced in this article, plus all other RTO bankruptcy cases are being compiled as part of the revised APRO Bankruptcy Manual, 2005, which will be available to APRO members free of charge later in the spring. ■

**THE NEW
DEFINITION
OF SECURITY
INTEREST
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THE LEASE/SALE
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AND DOES SO
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Trooper Earle is determined to shake up the RTO universe, one owner-wannabe at a time

the champion *of*

Trooper Earle is the first to confess that he's a workaholic. Sure, he's a huge University of Virginia Cavaliers fan. Of course, he speaks of his wife and daughters with natural affection. But truth be told, Earle is essentially immersed in his vocation of growing a future rent-to-own powerhouse by helping longtime industry managers become successful store owners. "I enjoy what I do and have a passion for it," Earle says. "My primary income now comes from taking care of other people, which is really rewarding for me. It's great to wake up every day and know I'm helping people go from being employees to owning their own business, controlling their own lives. I feel really good about helping people get into a situation where they can call their own shots." Earle, a career RTO man, has been calling his own shots for several years as president and CEO of Premier Rental-Purchase (www.premierrents.net). But, he says, he's never been more satisfied professionally than he has been during the past three years. He sold all his own stores and began to lead Premier down a new and different path—a road with a little less space for the industry big boys and a lot more room for the little guys of rent-to-own. Trooper Earle is a busy guy—and it seems he always has been. Earle was born a Virginian, the last of five children in a military family. Though they moved frequently during his younger years, his family returned to Virginia and settled in Charlottesville, where Trooper grew up, a boy forever on the go. He played a wide variety of sports, including football, basketball and tennis. At 12, he held a state swimming record.

APROfile by Kristen Card

A photograph of two men in business attire standing in a store. The man on the left is wearing a black shirt and tie, and the man on the right is wearing a dark suit and glasses. They are both smiling and looking at a catalog held by a woman whose back is to the camera. The catalog shows interior design photos and the word 'Bahia'. In the background, there are several large televisions on shelves, some displaying a colorful underwater scene. The word 'entrepreneurs' is overlaid in large white letters across the middle of the image.

entrepreneurs

Premier Rental-Purchase store owner Ken Smith from Myrtle Beach, NC, (left) with Trooper Earle

Once he reached high school, Earle's entrepreneurial streak emerged. He ran a lawn service and developed a successful disc jockey business. He earned his bachelor of arts degree at the University of Virginia and, following graduation, spent time out in California working as a bartender and considering his next adventure.

The RTO adventure begins

He returned home to Virginia, where his next adventure—RTO—was waiting. Earle's brother, Chip, knew a ColorTyme dealer who wanted to incorporate furniture independently into his rent-to-own offerings and needed someone to oversee operations. Chip volunteered his career-less kid brother, Trooper. Within weeks, ColorTyme announced it was going to begin offering furniture as well and Earle was assigned to a store in Harrisonburg, VA, that was grappling with about 50 percent past-due customers. Within a couple of months, Earle's store was No. 1 among the owner's three operations; eventually, Earle ran all three of the dealer's stores.

In 1985, a couple of his fellow ColorTyme-ers asked Earle whether he might consider going into a partnership with them to own their own stores. Earle agreed and became 22 percent owner of what eventually became five ColorTyme stores throughout Virginia and Maryland.

Yet, when the partnership began to dissolve several years later, Earle saw it as an opportunity.

"I went to the bank and told them, 'you may not know me, but I am the one who is putting the money in the bank, which enables my partners to write you the check each month.' I wanted to buy out my partners and even though I didn't have much net worth at the time, I was the guy who could best protect their investment and see to it that they got their money paid back. So they said, 'Sure, do it,' and gave me the funding," says Earle.

Hitting the fast-track

"I became 100 percent owner of all five stores March 1, 1991, and we went on a tear. I went from being a junior partner with only 22 percent of five stores on February 28 to becoming ColorTyme's third-largest dealer nationwide with 100 percent of 16 stores by November. In seven months, I pulled together another four financial deals to acquire 11 more ColorTyme stores. It was during this period I realized borrowing money wasn't that difficult if I could show banks a solid financial and operational plan and how their investment would be safe and they would get paid back."

That skyrocketing success lasted a couple of years, but Earle began to get restless. He sold some stores back to the company, consolidated others and ended up leaving

ColorTyme owning and operating just five.

"What I really liked about ColorTyme was the support and the camaraderie, being involved with other dealers and sharing ideas," Earle says. "It wasn't really what ColorTyme was teaching me as much as it was what I was learning from other dealers."

Earle wasn't the only ColorTyme dealer who was eager to take the next step. Carlos Sardinia, the largest ColorTyme dealer at the time, had previously broken off from ColorTyme to launch his own licensing organization, Premier Rent-To-Own. When Earle got word of Premier, the concept energized him so much so that he left his stores for seven months to move to Boca Raton, FL, and help Sardinia get Premier off the ground. Shortly afterward, several other dealers left ColorTyme and joined Premier, quickly growing the organization to 48 stores in 11 states. Eventually, though, Earle returned

"It's great to wake up every day and know I'm helping people go from being employees to owning their own business, controlling their own life. I feel really good about helping people get into a situation where they can call their own shots."

home to run his stores and when Sardinia opted to sell his stores to the growing public companies, the other dealers came to Earle and said, "Troop, you were instrumental in getting us to join and now Carlos is selling out. You can't just leave us high and dry," says Earle. "So I acquired the licensing organization, changed the name to Premier Rental-Purchase and did my best to support the dealers while still running my stores.

"Then we began to get calls from talented RTO professionals saying, 'Hey, can you help me start up my business?'" Earle says.

"I was struggling, honestly, to figure out how to help the dealers and help myself, because running stores takes a lot of energy and helping others takes a lot of energy, too. So, in 2001, I finally sold my stores and started to focus solely on licensing."

Filling the void

Earle saw a void caused by over-consolidation within the RTO industry and recognized the potential opportunity to help seasoned rental-purchase veterans open up their own stores.

"Since Premier was formed by a group of seasoned



Earle (standing left) with Premier Wheel and Tire manager Jason Smith (seated left) and store owners Ken Smith and his wife, Jenny

CARL KERRIDGE

RTO operators coming together, the founding principles of Premier weren't designed around what's best for the licensor, they were designed around how best to serve us—the licensees," says Earle. "The basic principles were: One—the fee we agreed to pay was going to be only the amount required to keep the basic overhead and provide the support we wanted from the licensing company and; Two—the licensor shouldn't go spend a lot of money or hire a bunch of VPs to tell us how to run our business. We knew how to rent and collect; we just wanted the licensing company to provide support in areas where it would be cheaper and smarter if we all worked together."

Support—the ultimate, comprehensive, 24/7 kind—is exactly what Trooper Earle works to provide to Premier's licensees. From complete confidentiality during their first inquiring call to the development of their 10-year business strategy, Earle makes sure he can meet any and all new-dealer needs. And where Premier applicants commonly need the most help is where Earle provides the greatest support: financing.

A unique financial arrangement

"Banks don't typically want to loan money to our industry," Earle says, "because we use money the banks loan us to buy merchandise to put on rental agreements with customers who, much of the time, the bank wouldn't give a checking account to. So, for the bank it doesn't make sense to give us hundreds and hundreds of thousands of dollars so we can do business with consumers the bank doesn't feel are credit-worthy."

Over the past few years, Earle has developed a unique and amazingly effective system for securing financing for folks who want to open up their own Premier stores. It

begins with an exclusive projection model originally designed by his brother, Chip.

"He helped me develop the beginnings of a projection model where you plug in real numbers and it can project in tangible numbers what you'll do for the next three years," says Earle. "Premier's projection model is simple to use and makes it easy for RTO professionals to convert their operational knowledge into accounting spreadsheets the banks need to see. It starts with about 240 questions and within about an hour and a half, it will produce the beginning of a projection custom-tailored to new dealers and to them specifically. Not only a cash flow and profit analysis, but everything needed to go to the bank including BOR and revenue projections, expenses, balance sheets, debt service schedules and more."

"With Premier's help, we have been successful in getting most applicants 80 percent of their necessary funding from a local bank and the shareholders must come up with the other 20 percent on their own," he says. Once the projections are done, Earle sends them to Premier's financial consultant, CPA Dan Whitsell (www.whitsellandcompany.com), a renowned rent-to-own industry specialist, for his review and consultation. Whitsell interviews applicants extensively, validating their projections based on their experience and track record, challenging financial vulnerabilities and examining their personal finances and credit.

Once applicants have cleared Whitsell's fiscal analysis, Premier develops a full-fledged plan for applicants to present to their financing source, which is usually a bank. Premier frequently pursues Small Business Administration guaranteed loans for prospective dealers.

"SBA loans are notoriously difficult to get," Earle says.



CARL KERRIDGE

Jenny and Ken Smith with Earle

"It took us a year-and-a-half of research and now we can successfully bridge the gap between the person who wants the SBA loan and all the reasons why he can't get one. We can get SBA loans for people who probably never thought they could own a business. One guy came to us with no money—none. And today, he's in business with two store locations. If someone is short on his 20 percent, we won't turn them away. We work with him on a variety of options from helping him get backing from family and friends he may know to turning him to financial supporters we know. If someone is good at renting and collecting and has the personal drive to own their own RTO company, we can help him.

Mike Lewis of Mishawaka, IN, a former Rent-A-Center regional director, came to Premier wanting to start his own RTO company. When he tried to secure an SBA guaranteed loan, he was informed that rent-to-own businesses weren't eligible for such loans; apparently, the SBA in Indiana had categorized RTOs as financing businesses, which are automatically ineligible. Earle was determined to resolve the situation. He flew to Indianapolis and sat down with the director of the state's SBA office, explaining Premier and the rental-purchase industry to him. Following two months of back-and-forth between the SBA and Premier, the Indiana office overturned its decade-old position on rent-to-own businesses and Lewis' store became the first rent-to-own business backed by Indiana's SBA in at least 10 years.

It's that sort of dogged determination and dedication to dealers that is helping spread the word about Earle and Premier. Today, Premier has 18 locations open in 10 states, reaching from California to Connecticut. Twelve of those have opened up within the past two years. Additionally, at publication, two more stores were preparing to open and nine more are slated to open in the first half of 2005. Earle's not shy about sharing his plans for the future of the company; he intends to keep on growing.

"I see no reason why we can't continue to help 10 new dealers a year," he says. "If we can do that for just four or five years, then our dealer size will rival our franchise competitors.

"The difference between Premier and our franchise competitors is they are stuck on qualifying people with money who want to invest in the rent-to-own business," says Earle. "We, on the other hand, see tremendous financial opportunity helping seasoned RTO operators who have a proven track record of success in the industry become business owners."

Creating new ventures

Earle is also working to integrate new, optional product lines for Premier dealers. In addition to the company's electronics and appliances offerings, Earle recently launched Premier Home Furnishings (www.premierfurnishings.us) and Premier Wheels & Tires (www.premierwheels.net). In 2005, he plans to debut another new company division, Premier Cash Advance, and he is currently looking for financial backing to open a company-

"The founding principles of Premier aren't designed around what's best for the licensor, but what's best for the licensees. Premier licensees know what they're doing; they just need support."

owned store division. Meanwhile, he's pursuing franchise status for Premier, which should be complete this month. "By converting our legal status to a franchise organization, it will put us on a solid infrastructure for future growth and further simplify our review process with the SBA."

For Earle, building a big company has been a dream for a long time. But talk with him and a few of his colleagues, and it becomes clear money isn't his motivation—not right now, anyway. What drives Earle is the connections.

"I love the hustle and bustle of this business," Earle says. "When you work in rent-to-own, there's always something happening. It's just a constant interaction with customers and employees. It's service-oriented and if you don't love to serve, then you should choose another business."

Earle thrives on connecting with others who love RTO the way he does. So helping other seasoned industry veterans within the context of an organization is definitive work for him.

"Premier's competitive advantage is our dealers," says Earle. "The people at the stores are always the No. 1 reason why rent-to-owns succeed or fail. The people who are calling us are oftentimes the most recognizable RTO face within their community. So if they quit working for their company and if we help them open up a store down the street, their customers will flock to them because they've already got a reputation and a rapport with their

customers. Customers are why RTO stores are successful, not the sign above the door."

Strength in APRO

Earle's strong belief in the power of connection is also the reason why he requires Premier dealers to be members of the Association of Progressive Rental Organizations. Earle has been an APRO member for about a decade now.

"I tell my people all the wonderful things APRO does and the host of things APRO can do for them. If you're a member with us, then you're a member with APRO. Under our licensing agreement, Premier dealers must remain APRO members in good standing.

"I think there's immense value in belonging to an organization that's sharing ideas," continues Earle. "The information APRO shares gets you out of your box, seeing what other people are doing. Without that type of information, you're just not as good as you could be."

Earle also appreciates the role APRO has played in improving the image of the rental-purchase industry.

"APRO's leadership has been instrumental in helping the industry evolve over the past 15 years or so," Earle says. "Rent-to-own is just considered a much more legitimate business. Our business practices, our collections, our appeal to the general consumer is 10 times better than it was 15 years ago and I think APRO gets the credit for all that."

It makes perfect sense that a man like Earle is concerned about the legitimacy of his industry; during conversations with he and his colleagues, the one word that consistently pops up time and time again is integrity.

"I've had my ups and downs, and the one thing that's guided me is integrity, honesty," reveals Earle. "I've always tried my best to do the right thing, which has at times costs me a lot of money. But now, I look back and I'm so glad I paid the money. It was painful, I could have walked away, but I didn't. And now I can walk in holding my head up high and say, 'That was a bad situation. We lost money, you lost money, but I did what was right.' In this industry, you face a lot of tough situations, where if you do the right thing, then it's hard in the short-term, but it's going to be beneficial to you in the long run. In this industry, I think integrity is key."

"He's a man with great integrity in a world without it," says his longtime collaborator, Dan Whitsell. "He does

the right thing no matter what. [The author] Louis L'Amour has a phrase— 'A man to ride the river with.' That's Trooper."

No doubt Earle's wife of 14 years, Shelley, agrees. Trooper Earle, is also a committed husband to her and father to their two daughters—Kaleigh, 12, and Marina, 19 months.

Trooper and Shelley, who is self-employed as an interior designer, weave their work and family lives together masterfully. In addition to Kaleigh's typical preteen activities—Girl Scouts, drama, cheerleading, swimming, volleyball—the family unfailingly attends UVA football games throughout the autumn and vacations among North Carolina's Outer Banks, in conjunction with



Above: Lancaster, TX, Premier Rental-Purchase store owner Roland Bennett with Earle. Left: Bennett's Lancaster store.



Earle's annual business retreat.

Simply put, Earle has a passion for Premier—and for people. While he hopes his dealer-centered company continues to flourish—enough to give the industry's "big dogs" a run for their

money—what he concentrates on day-to-day is contributing whatever and however he can to the success of others.

"It's about the people who are calling me and they're managers or market managers for rent-to-own companies who want an opportunity to go to the next level," Earle says. "To help somebody get there is just a tremendous joy. We're changing people's lives, we're changing their kids' lives. That's important. It's important to me." ■

Kristen Card is an independent business writer in Austin, TX.

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The following list of management and miscellaneous service suppliers cater to the rental-purchase industry. All are either APRO associate members (*), advertisers in APRO publications (+), APRO convention exhibitors (^) or APRO-endorsed member benefit program providers (~).

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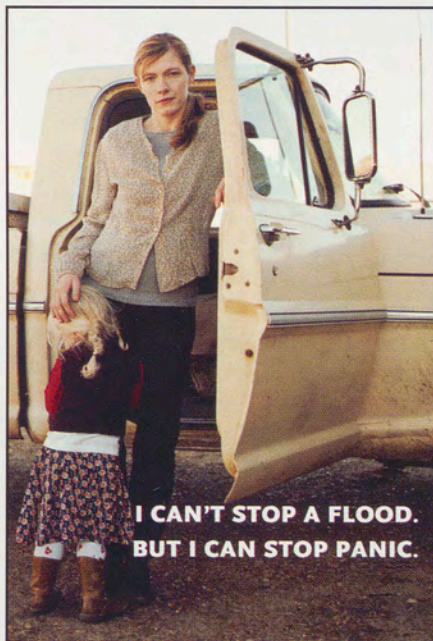
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Webster's defines ethics as "the discipline dealing with what is good and bad and with moral duty and obligation; a set of moral principles or values; a theory or system of moral values; the principles of conduct governing an individual or a group..."

What we're really talking about is "what is right" and "what is wrong." While I do not profess to be a philosopher, I will attempt to give you the benefit of this businessman's perspective from 40-plus years of the pressures of meeting payrolls, pressures from lenders and the pressures of the bottom line.

When nobody's watching

Over the years, I have experienced many managers and employees who treat customers by "The Golden Rule"—acting courteously, honestly and energetically with a sincere attitude of helping customers solve their problems and fulfill their needs. I have also experienced a number of employers—and especially a number of fellow APRO operators—who believe in treating employees in this same way. It's not coincidence that these organizations have happy, stable and productive staffs.

All of us manage for results and some results are better than others, but we all have hopes that by doing things well and doing things the right way, the future will be better. Ethically, everyone owes their customers and their company their best efforts, so why do many people fail?



By **RICHARD ROSE**

I have found that many managers and employees whose results are not meeting expectations fall into one of these categories: 1) they are experiencing personal problems; 2) they were not up to the task; or 3) ethically, in some way, they failed. In short, they did not do what was expected and what they promised to do when they took on the responsibility.

So what does any of this mean? Why do we need ethical values or morals to steer us down the correct path when we reach the proverbial fork in the road? I implore you to consider choosing—if you have not done so already—a moral and ethical high ground as "A Guide for Life"—instead of living minute-to-minute by self-serving motives,

by customs, by accidental occurrences, bad habits, succumbing to the latest fad or an emotional reaction.

What happens when an RTO store is run this way? We all know the results, including an inspired, motivated and energized environment for achievement and personal growth. We can also expect creation of self-esteem and overall happiness and productivity.

To quote philosopher Paul Tellich, "Our purpose is not to make a living but a life—a worthy, well-rounded, useful life. Morality is not a subject; it is life put to the test in dozens of moments." To help build a better world in the vast complicated world we live in, the best thing to do is to build a better you.

Employees face moral and ethical dilemmas every day. Some are obvious; some are not so obvious. Some have bigger implications than others. A breach of integrity or good judgment, at the time, may not seem like such a big deal. After all, is the company going to miss this \$20-cash night drop? Who's going to know? Is your career worth the risk? If your supervisor finds out—and eventually she will—she will wonder what other things have been done to compromise her trust in you. Your co-workers will know what you did—and, of course, you'll know, too. Lots of things can be taken away from us (job titles, a raise, a promotion, etc.), but nobody can take away a stellar reputation when you live your personal and professional lives above reproach.

In his famous "I Have a Dream" speech, Martin Luther King Jr. so eloquently said, "I have a dream that one day my four little children will not be judged by the color of their skin, but by the content of their character." You cannot say it any better than that.

My philosophy is to be kind, use your mental capabilities, be fair, honest, consistent and help others. I have been served well by following these principles. The bottom line is that our integrity and ethics are measured by and from the kinds of things you do when nobody's watching. ■

Richard Rose of RTO Inc. in Norfolk, VA, is a member of the APRO board and the APRO Ethics Committee.

"I implore you to consider choosing a moral and ethical high ground as a 'Guide for Life'."

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