

PROGRESSIVE

Rentals

SPECIAL
LEGISLATIVE ISSUE

THE OFFICIAL VOICE OF THE RENT-TO-OWN INDUSTRY | FEBRUARY-MARCH 2007

THE CHANGES ON THE HILL:

RTO and the NEW CONGRESS

Meet the new leadership in Washington

Don't miss APRO's 2007 Legislative Conference

The politics of rent-to-own

New laws on minimum wage and overtime pay

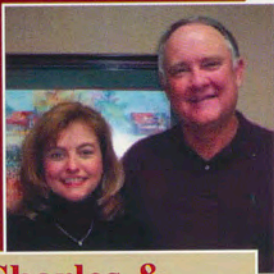
APROfile:
Aaron's Charles Smithgall III



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As former accountants, my wife Holley and I know a good deal when we see one. In 1991, we left thriving accounting practices to begin again in RTO. And what began as a casual conversation with a friend at a fish fry grew to eight independent RTO stores in five years.



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In my 20 years in RTO I have learned that finding the right company

Bruce Emory

and people that believe in you is as important as determination and hard work.

My career in RTO started in 1986, by way of a temporary job when I was just 20 years old. Dedication to my work lead to quick success and opportunity. But in 1992, when I approached my company to become a franchisee, the door of opportunity closed – I wasn't taken seriously.

So I did it on my own, with the help of my family, and built a solid business over the next 10 years. For a time, we had eight stores but were limited financially – unable to carry the big ticket items my customers wanted. In the summer of 2005, I decided to streamline the business down to our top three performing stores and in November of 2005, converted to ColorTyme.

Now we have access to Rent-A-Center's financial power and product pricing and ColorTyme's training programs – which are some of the most intensive in the industry. We have seen a dramatic turn in our stores and staff and can plan for significant growth which used to be beyond our reach.

Sales are up 5.3% and revenue is up over 10% since the conversion. Equally as important, we have the continued, hands-on support from Bob Bloom, Pat Sumner and all the folks at ColorTyme who made the transition easy and the inventory available for our customers.

People, financing, product and training – four reasons I know I have found the right company – for myself, my family and my team.

Bruce Emory, Franchisee

Like so many of us in the RTO industry, I've been in this business a long time – working in many roles with several companies since 1988. I guess you could say that



Joe Huck

RTO is in my blood. I love what I do—I love our customers and always wanted to have my own store. So in 2002, I opened up Big House Rentals and watched our independent store grow. By October 2005, I needed more inventory but didn't have near enough capital to get the job done.

I considered several franchises, but ultimately was drawn to ColorTyme for their 100 percent inventory financing program – including a nice discount on my franchise fee based on my RTO experience. Almost overnight, I had access to the inventory I needed and complete support from the ColorTyme team.

Today, my business is thriving! I count my decision to convert my store to ColorTyme as one of the best choices I've made. And while change is good, some things have changed very little. I still run my store like a family business and I intend to keep it that way.

Joe Huck, Franchisee

It's like comparing apples to oranges



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PROGRESSIVE RENTALS

FEBRUARY-MARCH 2007

22 | THE POLITICS OF RENT-TO-OWN

A look back at the industry's pursuit of federal legislation and what the recent shift in Washington means for the RTO industry.

BY ED WINN III

28 | MEET THE NEW CONGRESS

Get to know the new power players on Capitol Hill and find out how they view the rent-to-own industry.

BY BILL KEESE, RICHARD MAY
AND DEE DEE YELVERTON

36 | BE HEARD!

Read why APRO's 2007 Dave Egan Legislative Conference, April 16-18 in Washington, D.C., is the best opportunity to present the industry's issues before the new Congress.

BY DEE DEE YELVERTON

39 | LEGISLATIVE LINGO

Gain a better understanding of political terms and processes associated with the industry's federal legislative efforts.

40 | AN OLD LAW STILL HAS TEETH

An increase in the minimum wage could bring new focus on the proper payment of overtime. Make sure you are using the right formula or the Fair Labor Standards Act of 1938 could bite your business.

BY BRIAN T. FARRINGTON

44 | HIGH FIVE: AN APROFILE OF CHARLES SMITHGALL III

Football player. Soldier. Canadian cattle rancher. Charles Smithgall III finds a place to stay in his fifth career as chairman and CEO of SEI/Aaron's.

BY KRISTEN CARD

DEPARTMENTS

5 | NOTEWORTHY

14 | PRESIDENT'S VIEW

BY LARRY CARRICO

16 | RTO PERSPECTIVE

BY BILL KEESE

18 | THINKING RTO

BY ED WINN III

20 | MEMBER VOICES

BY ELLISON CRIDER

50 | WHO'S WHO IN MISCELLANEOUS RTO SERVICES



APRO now offers an exclusive health insurance program to members

The Association of Progressive Rental Organizations has partnered with Trustmark Affinity Markets and Integrated Insurance to provide an exclusive health insurance program for its members. The program offers discounted rates, group buying power, more than 40 networks of participating doctors and the advantage of a claims-stabilization fund. Any profit from the program will go into this fund and can be used to help stabilize rates in the future. Member companies can choose from a variety of plans, with deductibles ranging from \$500 to \$2,000. Another key benefit is the exceptional service and association experience for which Trustmark is known. Trustmark has been in the association business for more than 50 years and APRO member companies who participate in this program will have dedicated teams to serve them. Member companies with more than 50 employees also will be able to take advantage of customized reporting—a feature that is typically available only to companies with more than 200 employees. APRO members can contact Bob Scott or Kent Miller at 309/686-3737 for more information.

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APRO

note

WORTHY

COMPILED BY
DEE DEE YELVERTON

New York Premier Rental-Purchase store receives Top New Business award

Premier Rental-Purchase in New York has been recognized as a "Top New Business" by M&T Bank as part of a U.S. Small Business Administration awards ceremony held recently at the Syracuse store. Bernard J. Paprocki, U.S. SBA Syracuse district director, presented the "Top Commercial Lender of the Year" award to M&T Bank in recognition of the number of loans and amount of money it has lent to small businesses in central New York. M&T Bank and the SBA recognized Premier Rentals as the top new business for M&T Bank in that region.

Allen J. Naples, M&T Bank regional president; Rick Vadnais, Premier Rental-Purchase store owner; Debra Angarano, M&T Bank; and Trooper Earle, Premier president.



"I am very flattered that they would recognize a small business in the rent-to-own industry as one of their success stories in its first year of business," says Rick Vadnais, Syracuse, New York, Premier Rental-Purchase store owner.

Debra Angarano of M&T Bank says they wanted to recognize the company for its hard work and efficiency. "Premier Rentals is doing well and we wanted to recognize Rick and his team," says Angarano.

Trooper Earle, Premier president and chief executive officer, is proud of the team's success. "We are very honored," Earle says. "As an SBA-approved franchise, we work very hard to make the process of obtaining a loan efficient for our franchisees."

Vadnais plans to open a second store in the Syracuse area by the end of 2007.

Alliance Rental converts to Aaron Rents

Alliance Rental Centers, operator of 10 stores throughout north



Texas owned by Kelly Sayre, will convert seven of its stores to franchised Aaron Rents stores. The stores will

enter the Aaron's franchise system and operate as Aaron's Sales & Lease Ownership stores. In addition, as part of the transaction, Alliance will acquire one of Aaron's current company-operated stores and merge it with its newly franchised Aaron's Sales & Lease Ownership store in Wichita Falls, Texas. Simultaneously, Aaron Rents will acquire two of

Alliance's other stores and merge them into existing company operated Aaron's Sales & Lease Ownership stores. Alliance will sell its remaining store to Briley Investments Inc., which converted its Rent City stores to the Aaron's Sales & Lease Ownership franchise system in November.

Alliance also has agreed to open three

additional franchised Aaron's Sales & Lease Ownership stores over the next several years. All of the stores involved are located in Texas.

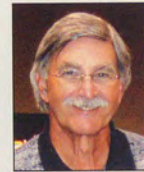
"We are excited about Alliance joining our franchise program through the conversion of its stores into the Aaron's system," says R. Charles Loudermilk Sr., chairman and chief executive officer of Aaron Rents.

Rent-to-own industry veterans Rose and Loeb sign deal with Rent-n-Roll

Rent-to-own industry veterans Richard Rose and Jeff Loeb, partners in



RTO Inc, have signed a market development agreement with Rent-n-Roll Custom Wheels and Tires and plan to



open their first store in the Norfolk, Virginia, area soon. The agreement covers all of the major markets in the state of Virginia as well as Washington, D.C. "We are extremely excited to complete another significant multi-unit development agreement with proven operators," says Vince Ficarrota, vice president of franchising. "Having Richard and Jeff and their team join our growing list of veteran operators is a true honor and I look forward to working with them in developing their Rent-n-Roll operation."

Larry Sutton, president and founder of Rent-n-Roll agrees. "I am very pleased and honored that Richard and Jeff have chosen to join the Rent-n-Roll family," says Sutton. "I have

Whirlpool wins design awards

Whirlpool Corp. has won four design awards—three from the Chicago Athenaeum of Architecture and Design and one from the Industrial Designers Society of America and

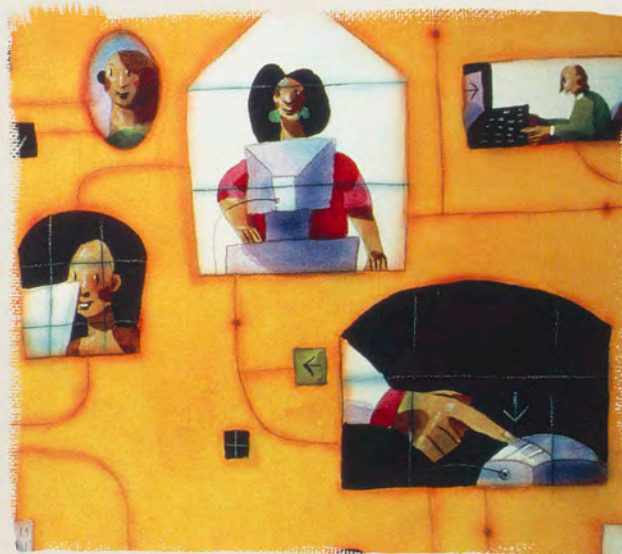
BusinessWeek magazine. Whirlpool won the awards for the Whirlpool Duet Sport fabric care system, KitchenAid Architect II series microwave hood combination oven, the Maytag ICE20 refrigerator and the Whirlpool brand Duet fabric care system. Entries were received from more than 25 countries.

"These products demonstrate that great design, along with great innovation and continually listening to your consumers, drives success in the marketplace," says Charles Jones, vice president, Global Consumer Design, Whirlpool Corp. "We are honored to be recognized for our designs by these highly regarded organizations."



known both of them for a long time and have had the pleasure of working with them throughout the years concerning various APRO projects. Both of them are highly respected throughout the entire industry and I am quite certain they will bring some new and exciting ideas to the entire Rent-n-Roll group of franchisees," he says. "I can't wait to get started, as I believe the Virginia and D.C. markets provide us a tremendous growth opportunity. We continue to attract the very best operators in the RTO industry and that makes us stronger as a company. I really look forward to working with Richard and Jeff and I am proud that they chose to do business with Rent-n-Roll."

Rose, president and chief executive officer of RTO Inc, says that he and Loeb are looking forward to this new business opportunity and hope to have the first store opened as early in the spring of 2007 as possible. "We are extremely excited about entering the tire and rim business," says Rose. "It is a great industry and Larry, Vince and their team have developed an excellent concept. The list of other franchisees—many we know well—have signed on with great success, making this an opportunity we could not pass up," he says. "We have a



What's new on RTOHQ.ORG

E-COMMUNITIES LEGISLATIVE ACTIVITY DISCUSSION: Join APRO's "Legislative Activity" discussion online in the E-Communities forum of RTOHQ.org. Receive in-depth and candid political analysis and updates about rent-to-own legislative initiatives. Log in at RTOHQ.org. Click on the APRO Member Log-in/E-Communities tab, type in your password and join the discussion. The "Legislative Activity" E-Community is an APRO-member-only service.

lot to learn and know we can lean on Larry, Vince and the other operators for help as we grow."

Iowa rental dealers elect officers, board members to state association

Members of the Association of Iowa Rental Dealers elected new officers and members of their board of directors at the January 9 state association board meeting. The new officers

and board members are Brian Luksetich, First State, president/secretary/treasurer; and Mark Connelly, Aaron's Sales & Lease Ownership, vice president. Newly elected board members are Joe Kel, Appliance & Furniture RentAll; Lyn Leach, Ace Rent-to-Own; Jim Schebler, Premier Rental-Purchase; Ray Sexton, First State; Ron Smith, Rent-A-Center; Ed Spuzello, Furniture Source; Mike Waters, Home Zone; and Marc Timmons, Rent-A-Center.

Members tentatively set September 11 as

2007

FEBRUARY

4-5
Texas Association of Rental Agencies 2007 Legislative Conference, Stephen F. Austin Hotel, Austin, Texas. For more information, contact Vicky Hale, vicky@taraontheweb.com, 817/539-0500.

4-7
Rent-n-Roll Annual Franchise Meeting, Saddle Brook Resort, Tampa, Florida. For more information, contact Larry Sutton, lsutton@rentnroll.com, 813/977-9800.

6-8
Rent One Annual Meeting, Drury Plaza, St. Louis, Missouri. For more information, contact Kris Lowe, klowe@rentone-rto.com, 618/242-8448, ext. 218.

11-14
RentDirect Nationwide Prime Time, Walt Disney World Swan and Dolphin Resort, Orlando, Florida. For more information, contact James MacAlpine, jamesm@nationwidegroup.org, 336/714-8802,

13
APRO Mini Legislative Summit at RentDirect, Walt Disney World Swan and Dolphin Resort, Orlando, Florida. For more information, contact Shelley Martinek, smartinek@aprovision.org, 800/204-2776, ext. 109.

14
Missouri Rental Dealers Association Annual Meeting, Holiday Inn Select, Columbia, Missouri. For more information, contact Ken Steiner, steineraa@aol.com, 573/442-2963.

17-20
San Francisco Furniture Mart Winter Home Furnishings Show. For more information, call 415/552-2311 or visit www.sfmart.com.

the date for the annual AIRD meeting. Members also designated January of each year as "board meeting month" for the purpose of planning the year's activities. Rental dealers in Iowa are watchful of potential legislative activity, spurred by recent comments from Senator Joe Bolkom, a Democrat from Iowa City, who has stated that upcoming title loan legislation could be part of a broader package of reforms.

For more information about AIRD, contact Brian Luksetich at 515/244-2222.

Wichita senior wins scholarship established by late Rent-A-Center chairman emeritus

A Wichita, Kansas, high school senior has won a \$44,000 scholarship established by late Rent-A-Center Chairman Emeritus W. Frank Barton. Trinity Academy senior David Friedberg has won the Clay Barton Scholarship to study at the W. Frank Barton School of Business at Wichita State, the largest

business scholarship awarded at WSU. Friedberg, the son of Gene and Beth Friedberg, will receive \$11,000 for four years.

Barton established the scholarship as a memorial to his son who died in 1988 at age 20. Nearly 25 students competed for the Clay Barton scholarship and other business scholarships during the recent Allen, Gibbs & Houlik L.C. Scholarship Competition.



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SED is a dependable solution for us. We have established a level of comfort with their pricing models and their consistent turn-around allows us to be more "just in time" with our inventory. It also helps that their sales team understands our business and can offer us RTO-relevant product solutions. - Ruth Armour *Flexi Compras*

Service that Speaks Volumes

I like SED tracking and notification of products being shipped. Our salesrep does a great job of communicating with us. - Willie Cole *J. Enterprises / Colortyme*

The reason I do business with SED is mainly due to my sales rep. He is very good at taking care of his customers. This to me is the most important decision on who you do business with. - Larry Pividal *CPL Group, DBA Rent King*

We do business with SED because their prices are right and they take care of service issues promptly. - Bob Freitag *Lebakkens Inc.*

The personal service I get from SED is what I like best. Our salesrep calls our stores each month to make sure the products we buy are working and ready to rent. If there is a problem it is fixed fast. - Bill Esenbock *Colorama Rental Center*



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in pursuing a business degree were eligible to participate.

Rent-to-own veterans Lockwood and George open Premier stores in New York

Rent-to-own veterans David Lockwood and John George have opened new Premier Rental-Purchase stores in Liverpool and Buffalo, New York, respectively. Trooper Earle, president and chief



executive officer of Premier Rental-Purchase and longtime APRO member, is looking forward to the success of both stores. "David and John are seasoned professionals—both in the rent-to-own industry and in each of their respective regions," Earle says. "They are talented individuals and we are happy to help them move to the next

level of their professional success."

Whirlpool sells its Hoover floor-care business to Techtronic Industries

Whirlpool Corp. will sell its Hoover floor-care business to Techtronic Industries Co. for \$107 million in cash. Whirlpool expects the transaction to close in the first quarter of 2007, following regulatory clearance.

"The decision to divest the floor-care business

allows us to focus on our core appliance business," says Jeff M. Fettig, Whirlpool chairman and chief executive officer.

Upon close of the transaction, TTI will assume operational control of the Hoover business, including manufacturing operations in North Canton, Ohio; El Paso, Texas; Juarez, Mexico; and all other Hoover locations. As part of the sale, Whirlpool retains the liabilities associated with pension and post-retirement benefit plans for currently retired Hoover employees.

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Our Goal is Always Improvement

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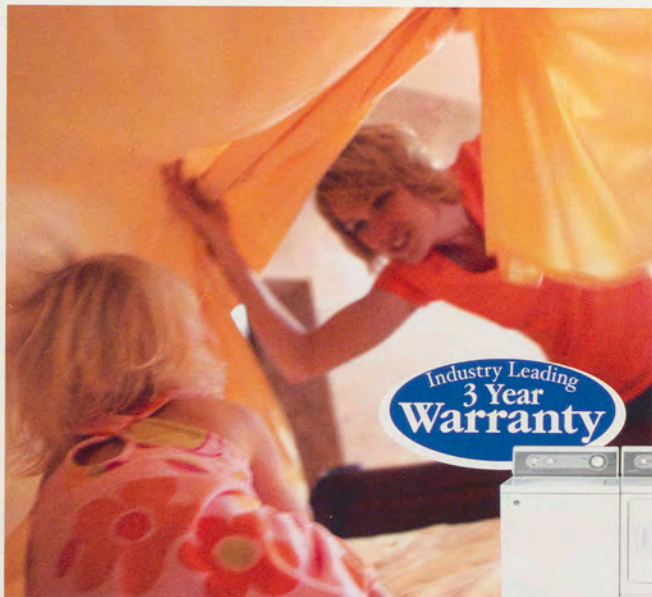
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253-872-2900 or 800-473-0002

Aaron Rents and Dunn Foundation donate three more homes' worth of furniture to Tampa families

Aaron Rents Inc. has donated three more homes' worth of merchandise to deserving Tampa families via the Warrick Dunn Foundation's Homes for

home and, unbeknownst to the family, arranges with Aaron's to fill that home with the mother's favorite style of furniture.

Aaron's Sales & Lease Ownership President Ken Butler says, "We have worked closely with Warrick Dunn on these home presentations since 2002. We are honored to consider Warrick a part of the Aaron's family and we are humbled to be part of such a rewarding charitable cause. The most telling

20 years.

"We love having a partnership with Metropolitan Ministries and are glad we can contribute throughout the year to meet their needs," Rent King Owner Chris Kale says. "Taking part in Metropolitan Ministries holiday food collection is something Rent King looks forward to every year."

Rent King was able to nearly double its food donation from last year thanks to employee payroll deductions throughout the year. Employees

who contribute anywhere from \$1 to \$10 per paycheck are members of the King's Court and their donations are used throughout the year to support local charities, including Metropolitan Ministries. Owners of Rent King—Chris Kale, Larry Pivald and Paul Schaller—match what the employees give throughout the year.

"By all of us contributing, we are able to really make an impact in all of the communities we are in," Schaller says. Pivald agrees. "It makes us so proud to have employees who faithfully contribute their money to help others," says Pivald, "and we will do what we can to encourage everyone in giving back to their community."

RENT-TO-OWN HELPS THE COMMUNITY

the Holidays campaign. Thanks to the work of the foundation, the families spent the holidays in their new homes that are fully furnished with everything from furniture to appliances and electronics.

Atlanta Falcon and former Tampa Bay Buccaneer Warrick Dunn established his charitable program, called Homes for the Holidays, in 1997 as a way to honor the life of his mother, Betty Smothers, a police officer and security guard who was killed during a robbery attempt while working as an off-duty police officer in Baton Rouge. Since then, the foundation has helped 67 families and 171 children receive new homes.

As part of the program, Warrick surprises every mother with a \$5,000 check to help make the down payment on the

fact is that every family Warrick has helped, from the start of his Homes for the Holidays campaign, is still in their home to this day. His charitable work makes a huge impact on the lives of these mothers and their children and we are grateful for the chance to help."

Rent King donates 5,500 pounds of food to Metropolitan Ministries in Tampa

Tampa-based Rent King has donated 5,500 pounds of food to Metropolitan Ministries, an organization also based in Tampa. Metropolitan Ministries provides food, housing and life skills to poor, hungry and homeless individuals and families for more than

Ohio region Rent-A-Center employees help injured co-worker

Ohio Rent-A-Center employees are helping fellow co-worker and good samaritan Dave Lewis. Twenty-four-year-old Lewis was injured December 10 after he stopped to help a family involved in a car wreck.

Lewis and his wife noticed an accident on state Route 225 in Portage County on Sunday afternoon. Lewis stopped



Tom Doyle, Metropolitan Ministries (left) with Rent King's Chris Kale, Sharon Tomaszewski, Horice Rubin, Paul Schaller and Larry Pivald.

to offer assistance and was hit when another car ran into the stopped car, which then hit Lewis. Lewis' leg was broken in three places. He was released from Akron City Hospital following surgery and is recovering at home with his wife and 11-month-old son.

Rent-A-Center employees in the Ohio region plan to help the Lewis family with donations and other gifts, according to Rent-A-Center spokesperson Mary Gazioğlu. In addition, the Warren City Victims of Crime Advocacy has set up a fund for donations for the family at National City Bank located at 3900 East Market St., Warren, Ohio 44483.

University Loft donates \$10,000 to Cystic Fibrosis Foundation

Indiana-based University Loft Co. has donated \$10,000 to the Cystic Fibrosis Foundation. The foundation is a non-profit, donor-supported organization that works to assure the means to help develop a cure and control cystic fibrosis, as well as improve the quality of life for those living with the disease.

"It means so much to me to be able to donate to a foundation that is working to help change lives and raise awareness of a serious disease," says James Jannetides, president and chief executive officer

of University Loft Co. "At University Loft, we always strive to give back as much as possible, not only to those in our community, but to those around the country and world."

Buddy's Home Furnishings donates chair to help ease recovery for injured Tampa police officer

Buddy's Home Furnishings has donated a new recliner to an injured Tampa police officer who is recovering from injuries sustained recently in a near fatal crash. "We are always happy to help our officers and those in need in our community," says Sandy Houghtalin, a Buddy's employee. "We're thrilled if this can help Officer Mullins in any way."

According to reports, Officer Deanna Mullins was getting into her patrol car after helping a disabled pedestrian when a drunken driver crashed head-on into her cruiser. The crash broke several of Mullins' ribs, a knee and an ankle, punctured a lung and injured her nose. Her fellow officers had been trying to collect money to buy her a recliner after learning that she could not sleep comfortably in her bed or on the sofa because of her injuries.

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For more than 25 years, rental dealers have relied on the Association of Progressive Rental Organizations to provide them with information on legislative issues. Since it was founded in 1980, APRO has promoted, educated and protected the industry. APRO organized the first state association in Connecticut in 1984 and it has helped build the state association network nationwide in order to protect and defend the rent-to-own business.

Fifteen years ago, I received a call from some unknown rental dealers in Texas who told me I was in danger of being legislated out of business. They asked me to get involved with the Illinois legislature and members of the Illinois delegation in Congress and educate them about our industry. After the call, I asked myself why

these guys from down South cared about us Yankees in Illinois. After a moment's reflection, I got it. If one state enacted bad RTO laws, the neighboring state might do the same. Eventually, one bad law would affect every state.

I began working with my legislators, educating them on our industry, and in the process, I developed many lifelong friends. Through my association with APRO, I have seen rental dealers across the country unite to take a stand and show decision-makers how our transaction improves the lives of our consumers. In the 1990s, our industry was subjected to attacks from the IRS, consumer advocates and anyone who thought our transaction was unfair.

Even after legislators in state after state enacted laws regulating our industry, we learned we still had to maintain a watchful eye. Several years after the Illinois legislature enacted a fair regulatory RTO law, we still had a battle with the chair of the Consumer Affairs Department to defend our right to do business. It took the time and effort of several rental dealers explaining the transaction to the chair in order for us to maintain our hard-fought law in Illinois. This effort is ongoing and we are continually educating members of state legislatures, state and federal regulatory bodies and new members of Congress on the benefits of the rent-to-own transaction.

Where do we go from here? What has worked? What hasn't worked? Is there some great fix-all for the entire industry? These are all great questions

that have numerous answers and approaches. Get involved and help provide the much-needed answers.

If you take a moment to consider what the greatest threat to your business is, you might say financing, competition or personnel. Today, I would say local, state and federal government is a great threat to your business. When rental dealers from around the country united and successfully defended the industry against the IRS's attempt to tax us as a sale and not a lease, it enhanced the value of all of our businesses. Will each of us benefit if we get responsible federal legislation passed? Some single-state dealers do not think it would and erroneously believe that only the multi-state and public companies should fight that battle.

I disagree. *United* our voice means more. When something good occurs for the industry, it creates value for all of us. Conversely, a bad law will be harmful to all of us. Can there be several approaches? Certainly. Will we always agree? Not always. But I assure you, when one is attacked we are all at risk.

We can rise up together and involve ourselves in this cause, as many already do, or we can wait for others to step in and control our destiny. I urge you to reach out, get involved and visit with your elected officials. Start in your hometown and you will be amazed how much your congressperson appreciates your input. Don't limit your talk to only that of your business but broaden the discussion to include the things that can make your life and that of others better. I am convinced we can achieve great things again when all rental dealers in APRO and all the state associations join together to educate those decision-makers.

Over the next year, I want to see you at state associations meetings, APRO's legislative conference, buying shows and of course APRO's Convention and Buying Show, September 24-27 in Reno. What can you do between now and then? Tell everyone who will listen about our business and the benefit we provide our customers. See you soon! ■

Larry Carrico is president of SKC Enterprises in Mount Vernon, Illinois.

.....
 "Reach out, get involved and visit with your elected officials. Start in your hometown and you will be amazed how much your congressperson appreciates your input."

A united front



By **LARRY CARRICO**
 APRO's president

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In this legislative issue of *Progressive Rentals*, we are attempting to bring to you the most comprehensive overview of a new Congress and the rent-to-own industry's challenges for the coming two years. It is only fitting, therefore, that I take a moment of your time to editorialize on the nature of politics as I see it and the changes in our political process that I see the country longing for.

When I was seven years old, my father gave me an opportunity that changed my life. It was 1956 and one of the three television networks provided Americans with the first comprehensive telecast of both the Republican and the Democratic

the time, I embraced the change but have since come to realize the destructive nature of this change in political direction.

Over the years, the politics of confrontation has evolved into the political wars of partisan politics. The losers from these wars are the American people. Our disdain for the political process has manifested itself in voter apathy at all levels, record lows in approval ratings for the president, the Senate and the House of Representatives—even though approval ratings for individual politicians can be high—and perhaps the most insidious of all, the demise of trust in our government at all levels.

The mid-term congressional elections of last November illustrate the frustration of the American people. Political insiders say that the Democrats took control of the House and the Senate not because of a clearer vision and better issues, but because of the frustrations of the war efforts and the much publicized scandals of a very few in the Republican party.

The one faint glimmer of hope for improvement is the proclamation by a few leaders in the new Congress that it is time to seek bipartisan support for the issues facing our country. If these sentiments can get traction early in this Congress, then there is hope for positive action over the next few years. As I see it, this could return us to the days when government was our friend and not our foe—where the “art of compromise” can lead us to policies we can all support.

This has a very real and vital affect on the future federal legislative efforts on behalf of rent-to-own in this new Congress. I hope all of us will look anew at our positions and attitudes and take the high road in our work these next two years. I know we can—we have done it in the past.

I also hope we can better understand the history of some of our political opponents and have the tolerance to overcome past prejudices in order to seek and attain the long-sought-after political solutions to our issues. ■

Bill Keese's e-mail address is bkeese@aprovision.org.

.....
 “We might return to the days when government was our friend and not our foe—where the ‘art of compromise’ can lead us to policies we can all support.”

A bipartisan future?

national conventions. That year, incumbent president Dwight Eisenhower was re-nominated by the Republicans for a second term. It was a foregone conclusion that he would get the nomination along with his vice president, Richard Nixon, and as history would show, would also be re-elected as president of the United States of America.

The Democrats gathered in Chicago for their annual convention. At the time, my family was living in a suburb of Chicago so this was very exciting for a 7-year-old boy. Adlai Stevenson, a United States senator from Illinois, received his party's nomination and he chose Senator Estes Kefauver of Tennessee as his running mate.

Dad “strongly suggested” that I watch both conventions on our “big” 12-inch television. The thrill and excitement of “participating” in these two events caused me to want to study government and politics in school and to run for political office sooner rather than later.

I majored in government at the University of Texas and in 1976 I was elected to the Texas House of Representatives. In college, I was taught that “politics” was the “art of compromise.” We all know that change comes slowly in all strata of government. During my six years in the Texas Legislature, I experienced the change that was initiated by the 1960s “social revolution.” It was a change from “the art of compromise” to the “politics of confrontation.” At



By BILL KEESE
APRO's executive director

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In this new information age, rental companies are generating vast amounts of electronic data. There are voluminous customer records, accounting records, purchasing records and marketing records, not to mention all of the e-mails that go back and forth between management and employees and among employees themselves, some with and some without the knowledge and approval of the company. Few rental companies are actively thinking about the management of all of this data, but there may be consequences for the failure not only to think about it, but also to have a plan in place for managing it.

Document retention

There is a new federal rule of civil procedure that may have an impact on rent-to-own companies. Rule 37 provides a safe harbor to protect parties in litigation from sanctions for failing to provide electronically stored information that has been lost in the routine operations of the party's computer system. However, unless the party has a written document retention policy, the safe harbor may not be available. That means that a rental company in a lawsuit without a policy and without the ability to produce electronic data that has been requested may be subject to sanctions and, in a worst case, charges of obstruction of justice, which can mean criminal penalties for principals of the company.

Every company, rental or otherwise, needs a written document retention policy that is made known to every employee and enforced consistently in the company.



By **ED WINN III**
APRO's general counsel

Such a policy needs to take into consideration the following areas: purpose of the policy; naming someone to be responsible for records management; identifying documents subject to the policy; document retention schedule; methodology for destroying documents; separate policy for documents that affect existing or threatened litigation; compliance and compliance review.

Rental dealers will need to take an inventory of all electronic devices being used in the business.

These may include employees' cell phones, personal digital assistants, home computers if employees used them in their work at all, etc. The company also will need a policy about the retention of voice mails. Dealers will need to take an inventory of all software being used in the company. The person in charge of the document policy will need to understand how the company's database works and how information is stored and retrieved.

Then the company will have to establish rules for destroying electronic information and ensuring that these internal rules comply with all applicable laws. There are OSHA rules that control document retention to some workplaces, certainly warehouses and similar workplaces. There are tax laws that relate to tax document retention. There are Equal Employment Opportunity Commission rules that relate to document retention not only of employees but also of the records of job applicants. There are statutes of limitation in some state rental purchase statutes concerning customer agreements and other information. There are state statutes of limitation concerning contracts, generally that vary from four to 10 years.


There is not, alas, a single policy that will work for all companies in all states. The Rent-A-Center or Aaron's policies are not going to be practical for one-store dealers. Nonetheless, one-store dealers are going to need a written policy because even small dealers get sued from time to time either by customers or disgruntled former employees. Dealers without policies and without the ability to respond accurately to discovery requests in a lawsuit run the risk of losing the suit not because they are liable for any wrongdoing, but because they were unable to furnish information requested by the other side and the judge rules against the company because of that failure.

When dealers are developing their policies, it may be a good time to remind employees that e-mails are not very private and that anything that is communicated electronically through the company's system may show up one day in a lawsuit and at the very least embarrass the author if not far worse.

.....
“Every company needs a written document retention policy that is made known to every employee and enforced consistently in the company.”

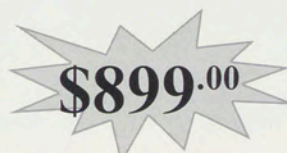
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APRO has a sample document retention policy on the APRO Web site (www.rtohq.org) in the members' only section. This document will serve as a useful starting point for dealers to begin to attack the problem in their companies. This is a hot issue since the new discovery rule became effective December 1, 2006. There is a wealth of information available on the topic. Dealers who fail to develop a document retention policy for the companies and later suffer the consequences of an unhappy result in court have only themselves to blame. ■

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


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ADVERTISER INDEX

Alliance/Speed Queen.....	11
Americans for the Arts.....	13
APRO's RTO Employee Disaster Relief Fund.....	25
APRO's Insurance Program.....	4
BDI Laguna	2
ColorTyme.....	IFC-1
D&H Distributors	17
GE Appliances.....	IBC
High Touch	15
LG/Zenith	BC
Premier Rental-Purchase	19
Rental Information Systems	8
RentDirect Nationwide	26-27
Rimco Sales & Lease Ownership	10
RTO Pro Software	19
RSSS.....	35
SED International.....	9
Teletrack	21
TRIB Group	11

Vendors are an integral part of the Association of Progressive Rental Organizations. We provide products and services that dealers need to conduct their business successfully. As vendors, I believe we sometimes take for granted the value that we bring to the association and its membership. It is just as important to us as it is to the dealer members to be aware of how negative legislation can affect our own businesses adversely.

As vice-chair of the Vendor Advisory Committee, I would challenge each vendor to the rent-to-own industry to step up and become involved in

friends fighting arm in arm for the survival of your livelihood.

The passage of the bill introduced by Senator Schumer, as Ed Winn wrote in his article in the December 2006-January 2007 issue of *Progressive Rentals*, will “mark the end of the rent-to-own industry as it currently exists today.” If that is true—and after reading

Ed’s article, I believe it is—we all need to unite and fight as hard as we can to defeat this threat.

Some may say, “We don’t have the budget to go to legislative conferences.” Well, let me tell you, if you do not go and participate in this process, you may not need to worry about a budget, because if there is no RTO business to produce income, there will not be any money to budget. Please make every effort to attend the conference.

I hope to see many of you at the mini conferences and, especially, at the legislative conference in Washington. Let’s fight this battle together! ■

Ellison Crider is vice-chairman of APRO’s Vendor Advisory Committee. He also is general manager of RSSS, headquartered in Corpus Christi, Texas.

.....
“If you do not participate in this process, you may not need to worry about a budget, because if there is no RTO business to produce income, there will be not be any money to budget.”

Vendors: get involved!

the upcoming APRO legislative conferences this year. We need to join with the dealers and present a united front in opposition to proposed negative legislation and in support of positive legislation like a federal RTO bill. All of us working together toward a positive and mutually beneficial outcome will benefit the entire industry.

There are two “mini” legislative conferences coming up—one on February 11 at the Nationwide Primetime! Show in Orlando and one March 6 at the TRIB Group “Meeting of the Minds” in Atlanta, Georgia. Vendors as well as dealers are invited to these meetings. At these meetings, you will learn how to approach your elected officials and educate them about the rent-to-own transaction. You also will learn about any pending state or federal legislation, positive or negative, that could affect the industry.



By ELLISON CRIDER
 APRO board member

Rental dealers and industry vendors will meet April 16 and 17 in Washington, D.C., for the annual APRO Legislative Conference. We, as vendors, need to show up in force at that meeting and walk the halls of Congress with our friends in the fight, the dealers. I have done this myself and, besides thoroughly enjoying myself, made friends with rental dealers who I might not otherwise have had the opportunity to befriend. It is hard to describe, but when you are walking the halls of Congress together, you are not vendors or dealers, you are just

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A First Advantage Company

The politics of

To some extent, the politics of the rent-to-own industry are enmeshed with the politics of poverty. This is so because it is the poor—however one may choose to calibrate that economic stratum of the populace—who avail themselves of the goods and services offered through RTO more than any other identifiable group. Some readers will remember when President Lyndon Johnson declared a “War on Poverty” in 1964 and his intention to eradicate poverty in the country. Since then the federal government has spent trillions of dollars on this war and, to no one’s surprise, the poor are still with us. ¶ There is ample evidence of the persistence of poverty in the U.S. and that this war has not been won. And the political debate over why continues to rage. There are those who maintain that not enough of the country’s vast wealth has been redistributed to the poor. Others argue that the very act of redistribution harms the poor by killing initiative and adding an unnecessary and unproductive burden on overall economic productivity.

A look back
at the industry’s
pursuit of
federal
legislation
and what the
recent shift
in Washington
means for
rent-to-own

By ED WINN III

SEYMOUR CHWAST

rent-to-own



One result of the war on poverty has been the birth of scores of public and private social programs to fight this war. Employees of these programs, without admitting it, cannot afford to win this war lest they battle themselves right out of a job. Wright Lee, writing for the *Cato Journal*, calls them “poverty professionals.” Their role is to make decisions for the poor because the poor are not sufficiently responsible to make proper economic, nutritional, medical, housing or consumption decisions on their own.

What does the federal government’s war on poverty have to do with the politics of rent-to-own? For one thing, the poverty professionals have determined that using rent-to-own is one of those terrible financial de-

well funded. When the industry goes to Washington every year during its legislative conference, fewer than 10 percent of rental dealers attend. According to the U.S. Public Interest Research Group, between 1997 and 2002, the RTO industry spent about \$800,000 per year in lobbying expenses, soft money and political action committee contributions on the federal effort. By contrast, the payday lending industry is raising between \$12 million and \$15 million for federal lobbying for the next year. Of course, the Republican-controlled Congress has just done away with payday lending to military personnel and that industry has a real concern that the new Democratic Congress may restrict the industry further.

The RTO industry has done a great deal with its limited political capital, particularly at the state level. The rent-to-own story is a persuasive one. The industry moves a lot of refrigerators and televisions. It employs a lot of people. It adds comfort and convenience to the lives of its customers. The very nature of the transaction ensures that doing business with an RTO store will never make a customer’s life worse by pushing him or her further into debt, which cannot be said of the many debt-related businesses that make up the “fringe banking” world.

When the RTO industry has presented its case to open-minded legislators, it has been remarkably successful at getting support for fair and balanced legislation, certainly at the state level. National politics are more complicated and more expensive and the best that can be said is that the industry

has protected itself against periodic attacks at the federal level and has made slow, incremental progress toward the fabled safe harbor of a federal RTO law.

Federal regulatory agencies whose job it is to protect consumers and whose staffs are peopled with no small number of career consumer advocates, have been largely nonplussed about the RTO issue. In the early 1980s, the Federal Reserve Board supported minimalist federal regulation of the RTO transaction, but since then has said, when asked, that there may not be a need for federal regulation of RTO. The Federal Trade Commission has had much the same opinion even after studying the industry in detail in 2000. Neither body has seen consumer complaints against RTO dealers in any great numbers and both agencies have expressed concern that adding regulation to a fragmented industry like RTO may favor the big companies over smaller start-ups.

Without the support of federal regulatory agencies whose mission it is to protect consumers—and in the face of private consumer advocacy groups who prefer

Rental dealers who ignore the new and potentially ominous events in Washington are naïve, in denial, or are relying heavily on the inertia that is a part of the legislative branch of the federal government.

cisions—a misallocation of limited resources—that their clients, the poor, left to their own devices, will make. The poor must either be taught not to use RTO transactions, and if they are finally not educable, a belief of many of their champions, then the choice must be eliminated by outlawing the transaction altogether. This has been the consumer argument, more or less, since the Talley brothers began renting televisions in the 1960s.

In the political arena, consumer advocacy, particularly advocacy on behalf of the poor, is well-organized and well-funded, thanks in part to the money spent during the 40-plus-year war on poverty. Thousands of consumer lobbyists now have made this calling their career. They may not make as much money as lobbyists for Microsoft, Wal-Mart or the pharmaceutical or airline industries, but they have jobs for life and they go to work every day feeling good, even smug, about what they do.

By contrast, the RTO lobbying effort, while heroic at times, has not been particularly well organized or

no federal legislation to a law that would recognize RTO without making it illegal—it has been difficult for the industry to advance an RTO bill in Washington.

In the late 1990s, another obstacle arose, in part due to the industry's successes in the states, this time from conservative legislators who favor limited federal government and who champion states' rights. The chief advantage of federal legislation to the RTO industry is that a federal bill would define RTO as a lease and prevent states from calling it a sale. This definition of the transaction has a pre-emptive aspect when viewed through the prism of court decisions in Wisconsin, Minnesota and New Jersey. The federal bills that the industry has supported would overrule decisions made by courts in these states and some conservatives, ordinarily staunch champions of small business and freedom of choice in the marketplace, have opposed even this limited intrusion of the federal government into what they view as state business.

When the stand-alone RTO bill hit the House floor in 2002, some 40 Republicans voted against the bill, which narrowly passed by a vote of 215 to 201, in part because of the pre-emption issue.

Rent-to-own legislative successes at the federal level have occurred in Republican-controlled bodies—the Senate in 1983 and the House in 2002. Democratic Congresses, in addition to raising taxes, have historically passed a lot of consumer protection legislation. And now the Democrats control both houses. Senator Charles Schumer introduced industry-killing legislation in the last Congress and there is no reason to suppose that he will not reintroduce it in the new Congress.

Rental dealers who ignore the new and potentially ominous events in Washington are naïve, in denial, or are relying heavily on the inertia that is a part of the legislative branch of the federal government. The industry has made good friends in Washington, both Republicans and Democrats. Those friends will not disappear with the changing of the guard in this new Congress. The safe bet is probably that nothing bad happens to the RTO industry. The safer bet is to invest a little time, money and energy in the process, however unpleasant the task may be to some dealers, to ensure that nothing bad happens over the next two years. There are some payday lenders who used to loan money around military bases who have closed their doors. They did not think that the federal government could put them out of business. They were wrong—dead wrong. ■

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

Association of Progressive
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To address such needs, APRO has established a permanent disaster relief fund: RTO [Relief To Our] Employees Disaster Relief Fund. Every dollar raised will go directly to rent-to-own employees in need. RTO Employees Disaster Relief Fund organizers are asking every rent-to-own company owner to implement a voluntary payroll-deduction plan within his/her company—suggesting a small donation per month from each employee. We ask that each company match its employees' monthly contributions. APRO can provide you with a template for paycheck stuffers to encourage your employees to participate.

Rent-to-own has always been a family of generosity. Please contribute to the RTO Employees Disaster Relief Fund and encourage your employees to do the same. A small contribution will make a big difference.

For more information, contact Bill Keese at bkeese@aprovision.org or call 800/204-2776, ext. 101.



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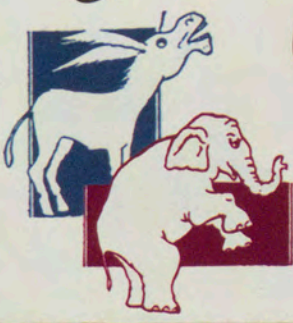
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**DURING THE
REMODELING**

**Who are the
power players
on Capitol Hill
and what do
they think about
rent-to-own?**

MEET

**THE NEW
CONGRESS**

The results of November's Congressional elections changed the leadership in both the House of Representatives and the Senate. For the first time since 1994, the Democrats have taken control of both houses of Congress. Who are the new power players in Washington and how do they view the rent-to-own industry? The following summaries will give you a perspective on the personal and professional histories of the leaders of the new Congress and their position on rent-to-own.

By Bill Keese,
Richard May and
Dee Dee Yelverton

Harry Reid (D:NEVADA)
 MAJORITY LEADER

Reid's story is one of the most fascinating personal histories in Washington today. In the 1960s, Reid worked as an officer for the U.S. Capitol Police in Washington, D.C., while attending George Washington University Law School. Prior to coming to the nation's capital, he received his associate's degree from Southern Utah State College in 1959 and a bachelor of science degree from Utah State University in 1961. After receiving his law degree, he returned to Henderson, Nevada, and served as the city attorney. His accomplishments led him to seek and achieve a seat in the Nevada State Assembly in 1968 at the age of 28.



Reid was elected lieutenant governor at the age of 30, the youngest lieutenant governor in the state's history.

In 1977, Reid was appointed Chairman of the Nevada State Gaming Commission and served five years making a name for himself fighting to clean up Nevada's gaming industry. During this time, he received many death threats. His wife once found a bomb attached to one of their cars. The character played by Dick Smothers in the film *Casino* is based, in part, on Reid.

After returning to private practice for a few years, Reid re-entered politics and was elected to the U.S. House of Representatives in 1982, where he introduced the *Taxpayer Bill of Rights*. In 1986, Reid was elected to the U.S. Senate. He is in his fourth term in the Senate. In 1999, he became minority whip and in 2004, he was elected Senate Democratic leader and minority leader. On November 14, 2006, he was elected majority leader for the current Congress.

Family is important to Reid and he has 16 grandchildren.

POSITION ON RTO: Reid has never taken an official position on rent-to-own legislation.

Dick Durbin (D:ILLINOIS)
 MAJORITY WHIP

Durbin represents the "engine that could." While losing every election in his early political career, even the election to ward chief of the local Democratic party, Durbin has risen to become the second most powerful senator in the country. Since his victory as Springfield's U.S. congressman in 1982, Durbin hasn't lost an election even in his own party. His recent re-election to Democratic majority whip is only the fifth time in history that an Illinois senator has served as a Senate leader.

He spent his early years using his law degree as legal



counsel to then Lt. Governor Paul Simon. He later replaced retiring U.S. Senator Simon in 1996 and was re-elected in 2002. In 1999, Senate Democratic leader Tom Daschle of South Dakota appointed Durbin to the Senate's leadership team as assistant Democratic floor leader. In April 2006, *Time* magazine listed Durbin as one of the top 10 U.S. senators.

Durbin, a Democrat from Springfield, outlines health care issues, consumer protection, gun safety, agriculture and fair tax structure as his main issues. He is married to Loretta Schaefer Durbin. They have three children and one grandchild.

POSITION ON RTO: Durbin has no official position on rent-to-own legislation.

Charles Schumer (D:NEW YORK)
 MAJORITY CONFERENCE VICE-CHAIR,
 CAMPAIGN COMMITTEE CHAIR AND
 BANKING COMMITTEE MEMBER

Schumer was a National Merit scholar and graduated from high school as valedictorian. He was admitted to Harvard University in 1967 where he first became involved in politics, joining the College Democrats and working on Senator Eugene McCarthy's 1968 presidential campaign. Schumer stayed at Harvard for law school and in the spring of 1974 received his law degree. Although he was admitted to the New York Bar early the following year, he never practiced law.



Instead, Schumer chose to run for the New York State Assembly from the 45th district in Brooklyn. At the age of 23, he was elected and became the youngest member in the state legislature since Teddy Roosevelt.

At the age of 29, Schumer ran for a seat in the U.S. House of Representatives and won. He spent 18 years in the House, writing and helping pass legislation, including the *Brady Bill*, the *Assault Weapons Ban*, which outlaws the manufacture and importation of 19 types of semi-automatic weapons, and the *1994 Omnibus Crime Bill*, which put 100,000 new police officers on the street, enforced "three strikes and you're out" sentencing and created after-school programs for troubled teens. He also passed legislation forcing credit card companies to disclose interest rates on all solicitations.

Schumer has a history of studying, reporting and acting on consumer issues, including a 1995 report titled "Consumer in a Box," which explored the 90 percent increase in breakfast cereal prices since 1983 and demanded that the Justice Department investigate breakfast cereal antitrust violations. He sponsored the *Hate Crimes Statistics Act* and the *Hate Crimes Prevention Act*.

In 1998, Schumer was elected to the U.S. Senate, defeat-

ing incumbent Senator Alfonse D'Amato to become the state's junior senator. Soon after being sworn in, Schumer learned that Senator Daniel Patrick Moynihan planned to retire in 2000, making Schumer the state's senior senator in just two years.

POSITION ON RTO: In 1993, Schumer co-sponsored HR 3136 by House Banking Committee Chair Henry B. Gonzalez that would have re-characterized the rent-to-own transaction as a sale and not a lease. In 1997, he co-sponsored Congressman Joe Kennedy's *Rent-to-Own Reform Act*, another attempt to override state laws to re-characterize the RTO transaction as a sale and not a lease. In 2006, Schumer orchestrated a press conference in front of a New York City Rent-A-Center store and proclaimed the rent-to-own industry "one of the sleaziest businesses." Later, he introduced his own bill, S 4037, the *Rent-to-Own Reform Act of 2006*, creating legislative price controls for the rent-to-own industry.

Christopher Dodd

(D:CONNECTICUT)

BANKING COMMITTEE CHAIRMAN

Dodd follows in his father's legislative footsteps. Thomas Dodd was elected to the U.S. House of Representatives in 1952 and served two terms. He lost his first bid for a seat in the U.S. Senate in 1956 to Prescott S. Bush, the father of President George H.W. Bush, but was later elected to the Senate in 1958. The younger Dodd was first elected to the U.S. House of Representatives in 1974 and elected to the U.S. Senate in 1980.

Dodd received his bachelor's degree in English literature from Providence College in 1966—the same college his father graduated from in 1930. After graduation, Dodd volunteered for the Peace Corps and worked in a small rural town in the Dominican Republic until 1968. He then joined the U.S. Army Reserve. In 1972, he received his law degree from the University of Louisville.

Dodd is in his fifth term in the U.S. Senate and has served as general chairman of the Democratic National Committee (1995–97). In the Senate, Dodd has championed children's issues and he was one of the influential leaders to pass the *Family and Medical Leave Act*.

POSITION ON RTO: APRO's first federal legislative effort took place in 1983. The industry was able to get favorable rent-to-own language placed in another Senate bill that eventually passed the Senate. However, Dodd voted against the inclusion of the rent-to-own provision in committee.

Mitch McConnell (R:KENTUCKY)

MINORITY LEADER

McConnell was born in Alabama and raised in south Louisville, Kentucky. He graduated in 1964 with honors from the University of Louisville College of Arts and Sciences, where he was student body president. He graduated in 1967 from the University of Kentucky College of Law, where he was elected president of the Student Bar Association.



McConnell gained experience on Capitol Hill as an intern under Senator John Sherman Cooper, as an assistant to Senator Marlow Cook and as a deputy assistant attorney general under President Gerald R. Ford.

McConnell was first elected to the Senate in 1984. He was the only Republican challenger in the country to defeat a Democrat incumbent that year and the first Republican to win a statewide race in Kentucky since 1968. In 2002, he was re-elected with 65 percent of the vote—the largest majority by a Republican candidate in Kentucky history.

McConnell was elected majority whip in the 108th Congress and unanimously re-elected by his Republican colleagues in 2004. He served as chairman of the National Republican Senatorial Committee during the 1998 and 2000 election cycles.

He has served on the Committee on Agriculture, Nutrition and Forestry; the Subcommittee on Forestry, Conservation and Rural Revitalization; the Subcommittee on Production and Price Competitiveness; the Committee on Appropriations; the Subcommittee on Defense and the Subcommittee on Commerce, Justice, State and the Judiciary, among others. McConnell is a conservative and has voted yes on restricting class action lawsuits in 1995 and yes on limiting product liability punitive damage awards in 1996.

POSITION ON RTO: McConnell has no official position on rent-to-own legislation.

Trent Lott (R-MISSISSIPPI)

MINORITY WHIP

With more than 30 years of congressional service, Lott has worked with seven U.S. presidents and has been a part of House and Senate leadership for more than two decades. Lott has been a leader in national security issues and representing Mississippi, ensuring the state's highways, universities, military bases and all constituent-based businesses are properly represented in the U.S. Congress.



Born on October 9, 1941, in the small town of Grenada, Mississippi, Lott's early years were shaped by the no-nonsense values of hard-working parents. His father was a pipe

fitter and his mother taught elementary school. Lott attended a Pascagoula public school that would later bear his name. He received his bachelor of science degree in public administration in 1963 and his juris doctorate in 1967 from the University of Mississippi in Oxford.

Lott is known as the masterful politician negotiating bi-partisan legislation and coalitions that will ensure his place in history. He recently negotiated the compromise to create the Homeland Security Department. Lott also has been called "the comeback kid" of the Congress, regaining his Senate leadership position after losing it due to a public relations controversy.

POSITION ON RTO: Lott co-sponsored rent-to-own supported legislation for three sessions.

The U.S. HOUSE of REPRESENTATIVES

Nancy Pelosi (D: CALIFORNIA)
SPEAKER OF THE HOUSE

Pelosi has represented California's Eighth District in the House of Representatives since 1987. Pelosi was elected Democratic leader of the House of Representatives by her colleagues in the fall of 2002 and is the first woman in American history to lead a major party in the U.S. Congress. Before being elected leader, she served as House Democratic whip for one year and was responsible for the party's legislative strategy in the House.



Pelosi has been a strong proponent of environmental and healthcare issues, including women's health and the creation of a nationwide health tracking network to examine the links between environmental pollutants and chronic disease. She has been a supporter of increasing investments in health research and has secured funding to double the budget for the National Institutes of Health. One of Pelosi's first legislative victories was the creation of the Housing Opportunities for People with AIDS program. She also has worked to accelerate development of an HIV vaccine, expand access to Medicaid for people living with HIV and increase funding for the *Ryan White CARE Act*, the Minority HIV/AIDS Initiative and other programs for people living with or at risk for HIV/AIDS.

Pelosi also increased access to health insurance for people with disabilities by ensuring continuation of their health care coverage. She was instrumental in passing legislation to assist nonprofit organizations in the creation of affordable housing.

Pelosi served as a member of the House Permanent Select Committee on Intelligence for 10 years—the longest continuous period of service in the committee's history—including two years as the ranking Democrat. She

has been a senior member of the House Appropriations Committee.

Pelosi secured passage of environmental legislation in the *International Development and Finance Act of 1989*, which became known as the "Pelosi Amendment."

Pelosi also has served on the Committee on Standards of Official Conduct (Ethics), the Democratic National Platform Committee, the Democratic Senate Campaign Committee and the Banking and Financial Services Committee. She has chaired the Congressional Working Group on China and has served on the Executive Committee of the Democratic Study Group.

POSITION ON RTO: Pelosi voted against the rent-to-own supported bill in 2002.

Steny H. Hoyer (D: MARYLAND)
MAJORITY LEADER

Hoyer is now serving in his 13th full term in the House of Representatives, representing the Fifth Congressional District of Maryland. He served two terms as the House Democratic whip, the second-ranking position among House Democrats before being elected House majority leader in December 2006. Hoyer is the longest-serving House member from southern Maryland in history, as well as the highest-ranking member of Congress in Maryland history.



He is perhaps best known for serving as the lead House sponsor of historic federal election reform (the *Help America Vote Act*), which President Bush signed into law on October 29, 2002, and for guiding the landmark *Americans With Disabilities Act* to passage in 1990.

Hoyer is a senior member of the Appropriations Committee and currently serves on the Subcommittees on Transportation, Treasury and Housing; and Labor, Health and Human Services, Education and Related Agencies. He also serves on the Democratic Steering Committee and he was chairman of the Democratic Caucus from 1989 to 1994.

In 1963, Hoyer graduated with honors from the University of Maryland and was selected "Outstanding Male Graduate." In 1966, he received his law degree from Georgetown University Law Center. That same year, at the age of 27, he won a seat in the Maryland Senate, after campaigning on a fair housing platform.

In 1975, he was elected president of the Senate—the youngest ever in state history—and served in that body until 1978. He also was a member of the State Board of Higher Education from 1978 to 1981.

POSITION ON RTO: Hoyer voted for the rent-to-own supported bill in 2002.

James E. Clyburn (D: SOUTH CAROLINA)
MAJORITY WHIP

Clyburn will become the second African-American in U.S. history to assume the third leadership position in the House of Representatives. Clyburn, born in 1940, has represented the sixth district of South Carolina for seven terms and has never faced serious challenge in any of his elections.



After receiving a history degree from SCSU, Clyburn served as a teacher, an employment counselor and director of two youth and community development projects in Charleston, South Carolina. He was appointed to the staff of Governor John C. West in January 1971. In October 1974, West appointed him South Carolina human affairs commissioner where he served until retiring from state government in 1992 to run for Congress.

Clyburn has spent a lifetime dedicated to philanthropic work benefiting students seeking higher education. Each August, he hosts the Rudolph Canzater Memorial Classic golf tournament in Santee, South Carolina, that has raised more than \$300,000 for college scholarships. APRO and many APRO members have contributed generously to the Canzater Classic and retired rent-to-own operator and APRO Member of the Year James Byrd attended the yearly event on behalf of the industry and trade association.

Clyburn and his wife, Emily, also established the James E. and Emily E. Clyburn Endowment for the Archives and History at their alma mater and have raised more than \$1.2 million dollars for the endowment to date.

POSITION ON RTO: Clyburn co-sponsored rent-to-own supported legislation and voted for the rent-to-own supported bill in 2002.

Barney Frank (D: MARYLAND)
FINANCIAL SERVICES
COMMITTEE CHAIRMAN

Frank is the Democratic congressman representing the fourth district of Massachusetts and is the senior Democrat on the Financial Services Committee. He has been in Congress since 1981.

In 1968, he became the chief assistant to Mayor Kevin White of Boston, a position he held for three years.



He then served for one year as administrative assistant to Congressman Michael J. Harrington. In 1972, Frank was elected to the Massachusetts Legislature, where he served for eight years. During that time, he graduated from Harvard Law School.

While in state and local government, Frank taught part-time at the University of Massachusetts Boston, the John F. Kennedy School of Government at Harvard and at Boston University. He published a number of

articles on politics and public affairs, including *Speaking Frankly*, an essay that he wrote and published in 1992 about the role the Democratic party should play in the 1990s.

In the *2006 Almanac of American Politics*, Frank is described as: "one of the intellectual and political leaders of the Democratic party in the House—political theorist and pit bull all at the same time. In Washingtonian's biannual polls of House staffers he is consistently voted the brainiest and funniest member of the House by wide margins...[He] quickly gained a reputation as one of the smartest talkers and best debaters in the chamber—maybe one of the best of all time." Frank has a reputation for speaking his mind. One of his strongest interests has been affordable housing.

POSITION ON RTO: Frank voted against the rent-to-own legislation in subcommittee, committee and the full house in 2002.

Maxine Waters (D: CALIFORNIA)
U.S. HOUSE FINANCIAL SERVICES
COMMITTEE MEMBER, SUB-COMMITTEE
ON HOUSING AND COMMUNITY
OPPORTUNITY CHAIR, SUB-COMMITTEE
ON FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT MEMBER

Waters was born in St. Louis, Missouri, and was raised by her single mother along with her 12 siblings. At age 13, she began working in factories and segregated restaurants. She moved to Los Angeles, California, and worked in garment factories and at the telephone company. She worked her way through California State University at Los Angeles and earned a bachelor of arts degree. She became a teacher and a volunteer coordinator for Head Start. Her husband, Sidney Williams, is the former U.S. ambassador to the Commonwealth of the Bahamas.



Waters was elected to the California State Assembly in 1976 and rose to the powerful position of Democratic Caucus chair. She was then elected to the U.S. House of Representatives in 1990. Her congressional district includes a large portion of south central Los Angeles. As a first-term representative, she successfully co-chaired the 1992 presidential campaign of Bill Clinton.

Waters has served as chair of the Congressional Black Caucus and she is a member of the Congressional Progressive Caucus. She is co-founder of Black Women's Forum, a nonprofit organization of more than 1,200 African American women in the Los Angeles area. She also founded Project Build in the mid-1980s, working with young people in Los Angeles housing developments on job training and placement. She is the founding member and chair of the "Out of Iraq" Congressional Caucus.

POSITION ON RTO: During the 1993 hearing on the RTO industry, Waters called rent-to-own "apartheid cred-

it." She is a vocal critic of the industry and has consistently voted against rent-to-own legislation. Waters co-sponsored credit sale legislation in 1993, 1996 and 1997. She voted against the rent-to-own supported legislation in subcommittee, committee and the full house in 2002.

John Boehner (R:OHIO)
MINORITY LEADER

Boehner was born in Reading, Ohio, into a large Roman Catholic family with 11 siblings. In 1977, he received his business degree from Xavier University and used the degree to climb up the Nucite Sales ladder, eventually becoming president of the firm. While working in the private sector, Boehner entered the political arena—first serving as Union Township trustee from 1982 to 1984 and then as a representative to the Ohio state legislature from 1984 to 1990.



In 1990, he was elected to represent Ohio's Eighth Congressional District in the U.S. House of Representatives. During his tenure in the House, he has worked with federal government issues, education issues and moving up the Republican leadership. In just his first term, Boehner and fellow members of the reform-minded "Gang of Seven" took on the House establishment and successfully closed the House Bank, uncovered "dine-and-dash" practices at the House restaurant and exposed drug sales and cozy cash-for-stamps deals at the House post office.

Boehner also was instrumental in crafting the "Contract with America" for the 104th Congress that nationalized the 1994 elections that took control of the House of Representatives for the Republicans for the first time in more than a half century. One of the contract's cornerstones—the *Congressional Accountability Act*, requiring Congress to live under the same rules and regulations as the rest of the nation—bears the unmistakable imprint of Boehner's drive to reform the House.

The success of the Republican take-over and Boehner's high profile position earned him election to the House Republican leadership in 1994.

On February 2, 2006, Boehner was elected House majority leader and, because of the most recent elections, he enters this Congress as House minority leader.

POSITION ON RTO: Boehner co-sponsored rent-to-own supportive legislation for three sessions in a row. He voted for the rent-to-own supported legislation in 2002.

Roy Blunt (R:MISSOURI)
MINORITY WHIP

Blunt earned his bachelor's in history from Southwest Baptist University in 1970 and went on to get his master's degree in history from Missouri State University.



Blunt first entered politics in 1972 and was elected county clerk of Greene County, Missouri. In 1980 he ran for lieutenant governor but lost to his Democratic opponent.

In 1984 he was elected Missouri's secretary of state and was the first Republican in 50 years to hold that position. He ran for and lost the governor's race in 1992. From 1993 until 1996, Blunt returned to his alma mater, Southwest Baptist University, as president. He was elected to the U.S. House of Representatives in 1996 after incumbent Mel Hancock retired. In just his second term, Blunt was elected chief deputy whip. In November 2002, Blunt became majority whip earlier than any member of Congress in the past seven decades.

Blunt has become one of the most powerful conservatives in the House regarding social issues, education, gun control and tax cuts. He has a lifetime rating of 94 percent from the American Conservative Union and a 92 percent rating from the conservative Christian Coalition.

POSITION ON RTO: Blunt voted against the rent-to-own supported legislation in 2002.

Spencer Bachus (R:ALABAMA)
FINANCIAL SERVICES COMMITTEE
RANKING REPUBLICAN

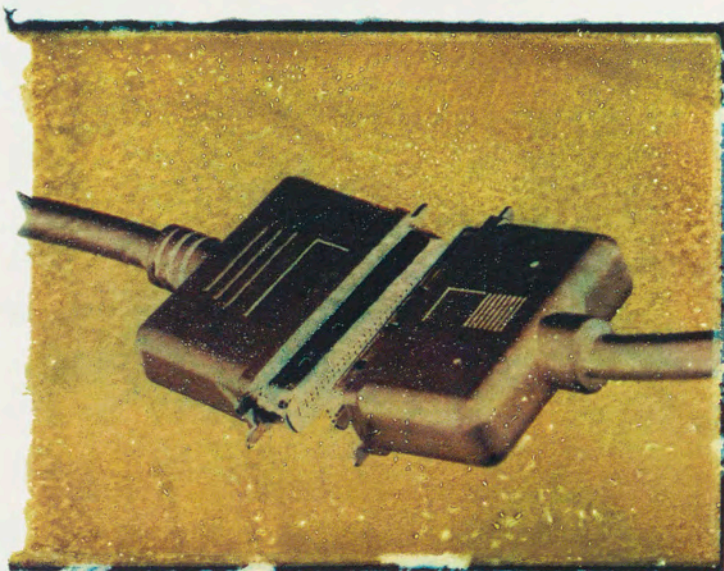
Bachus was born in Birmingham and now represents a Birmingham suburb, one of the wealthiest districts in the country. Graduating from Auburn University in 1972 and then from the rival University of Alabama, Bachus began his political career serving in both the state senate and house.



Bachus was elected to the House of Representatives in 1992 and serves on three key committees: Financial Services, Transportation and Judiciary. He has choreographed a silent but effective rise through the Republican ranks, becoming the most recent ranking Republican on the Financial Services Committee and leapfrogging many senior Republicans for the post.

While his voting record reflects him as a conservative, Bachus also has a reputation as a maverick helping uncover improprieties in the Community Development Financial Institute, leading to the resignations of two of that institute's officials. He also was successful in helping debt relief for third world countries and he raised awareness against the genocidal Sudan government in 2002.

POSITION ON RTO: Bachus co-sponsored supportive rent-to-own legislation in 1993. He voted for and spoke on behalf of supportive rent-to-own legislation in the Financial Services Subcommittee and Full Committee, Judiciary Committee and House floor in 2002. ■



www.RTOHQ.org

YOUR CONNECTION TO RENT-TO-OWN

Want the latest industry news? Need to find your state association president? Want to know when rental dealers in your area are going to meet? Then visit your one-stop resource for all things rent-to-own: APRO's RTO Headquarters (www.rtohq.org). Here are just a few of the invaluable tools available on APRO's premier Web site:

- ▶ Daily rent-to-own industry news
- ▶ Rent-to-own state statutes
- ▶ Industry-wide calendar of events
- ▶ State-by-state breakdown of rent-to-own economic statistics
- ▶ Rental Training Online
- ▶ Article archives from *Progressive Rentals*
- ▶ APRO board members
- ▶ Industry-supported federal bill status and state rent-to-own legislation
- ▶ State rental dealer association presidents
- ▶ Vendor listings
- ▶ APRO's annual Convention and Buying Show
- ▶ *And much more*

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APRO Vendor of the Year—2006

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ent-to-own dealers from around the country will meet April 16-18 at the L'Enfant Plaza Hotel in Washington, D.C. for the APRO 2007 Dave Egan Legislative Conference. Mark your calendar and plan to be there. The current federal legislative climate makes this conference one of the most important you will ever attend. ≠ For almost two decades, APRO's federal legislative efforts have been successful because the rent-to-own industry has been united in direction

and strong in numbers. With control of the House and Senate, the Democrats will be setting the legislative agenda this year and deciding which issues and bills to move through Congress.

“Now is the time for all rental dealers to do their part in protecting their businesses and their industry,” says Bill Keese, APRO executive director. ≠ Take this time to meet with your legislators and tell them about your business. It is vital to the survival of your industry. This conference will give you the opportunity to meet with your legislators, build rapport, develop positive working relationships and dispel the myths and misperceptions many have about the rent-to-own business.

BY DEE DEE YELVERTON

**APRO'S 2007 DAVE
EGAN LEGISLATIVE
CONFERENCE OFFERS RTO
DEALERS AND VENDORS
THE BEST OPPORTUNITY
TO PRESENT THE
INDUSTRY'S ISSUES
BEFORE THE NEW
CONGRESS**





“I am attending this year’s conference because, as a business owner, it is important to me to protect my business and our industry,” says Sandi Whited, president Whited Enterprises, dba Premier Rental-Purchase. “I believe being proactive and on top of situations as they come up allows us to handle the situation more appropriately and efficiently,” she says. “I feel by attending the conference, we will be able to help the aides understand our industry and give them the knowledge to make good judgment calls when they see legislation regarding RTO.”

Lyn Leach, president Ace Rent-To-Own and veteran conference attendee encourages all rental dealers to attend this year’s conference. “This year is such an important year,” says Leach. “We are facing an attack on our industry unlike we have seen in some time. It has never been more important for us to arrive in Washington, as a unified group of dealers, with a message that can have the positive impact on our representatives and senators that is necessary,” he says. “It has been several years since we descended on the nation’s Capitol with dealers from nearly every state and we must revitalize that effort. Now is the time for a call for all hands on deck.”

FIRST-TIME ATTENDEES

First-time attendees will have the support of APRO staff members and rental dealers who have attended previous conferences. “Last year was the first time I had attended the APRO Legislative Conference,” says Larry Goad, president, Zion’s Rental-Purchase and APRO board member.

“And, let me assure you that there is nothing to be nervous or apprehensive about. APRO has taken care of everything! You will have a concise plan and message to present and you don’t have to go it alone,” says Goad. “You can team up with a ‘veteran’ who’s been before.”

This conference is a great opportunity for rental dealers who have never lobbied Congress before to experience the legislative process firsthand. “Don’t let the fact that you’ve never been before stop you from being a part of the APRO Legislative Conference,” says Goad. “Last year was my first year and it was one of the most enjoyable things I’ve ever done.” First-time attendees need only to bring their passion for the industry. “I am new at this,” says Whited. “But, I am going with an open mind to learn and I am going with the passion I have for RTO to express how important our industry is for our customers.”

In addition to providing lasting memories, this year’s conference is particularly important to the continuation of the industry. “In light of recent election results, I think we have our work cut out for us,” says Ron DeMoss, assistant general counsel, Rent-A-Center. “I recently located to Plano where I am the assistant general counsel at Rent-A-Center,” says DeMoss. “I am extremely pleased and excited to have renewed my association with APRO. Now, more than ever, we need to continue our long standing commitment to work together for the best interest of the industry in the legislative arena.”

APRO will provide the message and all supporting materials to attending rental dealers. In addition, APRO will hold an orientation prior to the congressional meetings where rental dealers can review materials and discuss techniques of conducting a successful congressional meeting. Where needed, APRO also will provide experienced assistance to rental dealers for any congressional meeting, including help with scheduling to ensure the most efficient use of time for you and those in the Congressional offices.

RECEIVE A U.S. FLAG

The individual(s) who schedules the most meetings with his or her members of Congress will receive a U.S. flag that has been flown over the nation’s capital. The flag will come from a senator’s office from the winner’s home state and will be presented to the winner(s) at the 2007 APRO Convention and Buying Show in September in Reno, Nevada. The 2006 flag recipients were Larry, Brenda and Darren Tinney from North Carolina. Their flag came from Senator Elizabeth Dole’s office. ■

Register for the 2007 Legislative Conference online at www.rtohq.org or contact Jeannie Hutchison at 800/204-2776, ext. 108. Hotel reservations at the L’Enfant Hotel can be made by calling 202/484-1000.

CONFERENCE SCHEDULE

TUESDAY, APRIL 17

8–9 a.m. : REGISTRATION AND BREAKFAST

Pick up your registration packets, which will provide you with information for your congressional meetings later in the day, then join APRO staff members and fellow rent-to-own dealers for breakfast.

9 a.m.–12 p.m. : GENERAL BRIEFING SESSION

Meet to discuss strategy, review key messages and ask questions before adjourning for afternoon meetings on Capitol Hill.

1–4 p.m. : MEETINGS ON THE HILL

Attend your scheduled meetings with your elected officials to educate them on the benefits of RTO and to ensure the viability of the industry.

5:30 p.m. : INDUSTRY NETWORKING DINNER

Recap the day’s events over dinner with fellow conference attendees.

WEDNESDAY, APRIL 18

9 a.m.–4 p.m. : MEETINGS ON THE HILL

12–1:30 p.m. : INFORMAL LUNCH ON THE HILL

LEGISLATIVE LINGO

Often, the first step in understanding a new process or situation is to become familiar with the terminology commonly used in that environment. The following definitions describe the political terms and processes for those who want to become more familiar with our industry's federal legislative efforts. With a better understanding, we hope more of our readers will participate in APRO's annual Dave Egan Legislative Conference, April 16–18 in Washington, D.C.

LEGISLATIVE STAFF: Each congressional member has a legislative staff to administer and support legislative initiatives. The legislative staff is crucial in the legislative decision making for each elected official. Typically, the staff deals with and makes recommendations on issues before the elected official.

CHIEF OF STAFF: The highest-ranking staff member in congressional offices.

LEGISLATIVE DIRECTOR: The second highest-ranking member and legislative director for congressional offices.

DISTRICT STAFF: Each congressional office has a budget to hire staff members in the congress member's district. District staff usually concentrate on local issues but also are conduits for local member issues that are legislative as well.

THE CONGRESS: The Congress is comprised of elected members of the Senate and the House of Representatives. It is the "legislative branch" of our government and has the responsibility of making laws. The current Congress is the 110th and, like all terms of Congress, is two years in length. Every member of the House of Representatives serves a two-year term of office and represents a district within a state based on population. There are 435 members of the House of Representatives and they are called "congressmen or congresswomen." Every member of the Senate serves a six-year term of office and each senator represents the entire state. There are

100 members of the Senate, two from each state, and the terms of office are staggered so that one-third of the Senate is up for election every two years.

SENATE BILL: A bill originating in the Senate is a Senate bill. Each bill is given a sequential number in order of the date of filing. For example, the 100th bill introduced in the Senate during a Congressional session will be designated as S. 100.

HOUSE BILL: A bill originating in the House of Representatives is called a House resolution. Each bill is given a sequential number in order of the date of filing. For example, the 100th bill introduced in the House of Representatives during a Congressional session will be designated as H.R. 100.

CONFERENCE COMMITTEE: A conference committee is established to work out differences between a House bill and a Senate bill when the two bills are similar in scope. A conference committee is made up of both House and Senate members. If the conference committee is able to reconcile the differences between the bills, then it issues a conference committee report and the amended bill is sent back to both the House and the Senate for approval. If both houses approve the conference committee report, then the bill goes to the president for approval or for veto.

HOUSE LEADERSHIP: The House of Representatives is organized by party affiliation. The two largest parties are the Republicans and the Democrats. Whichever party has the majority vote will be the party in power

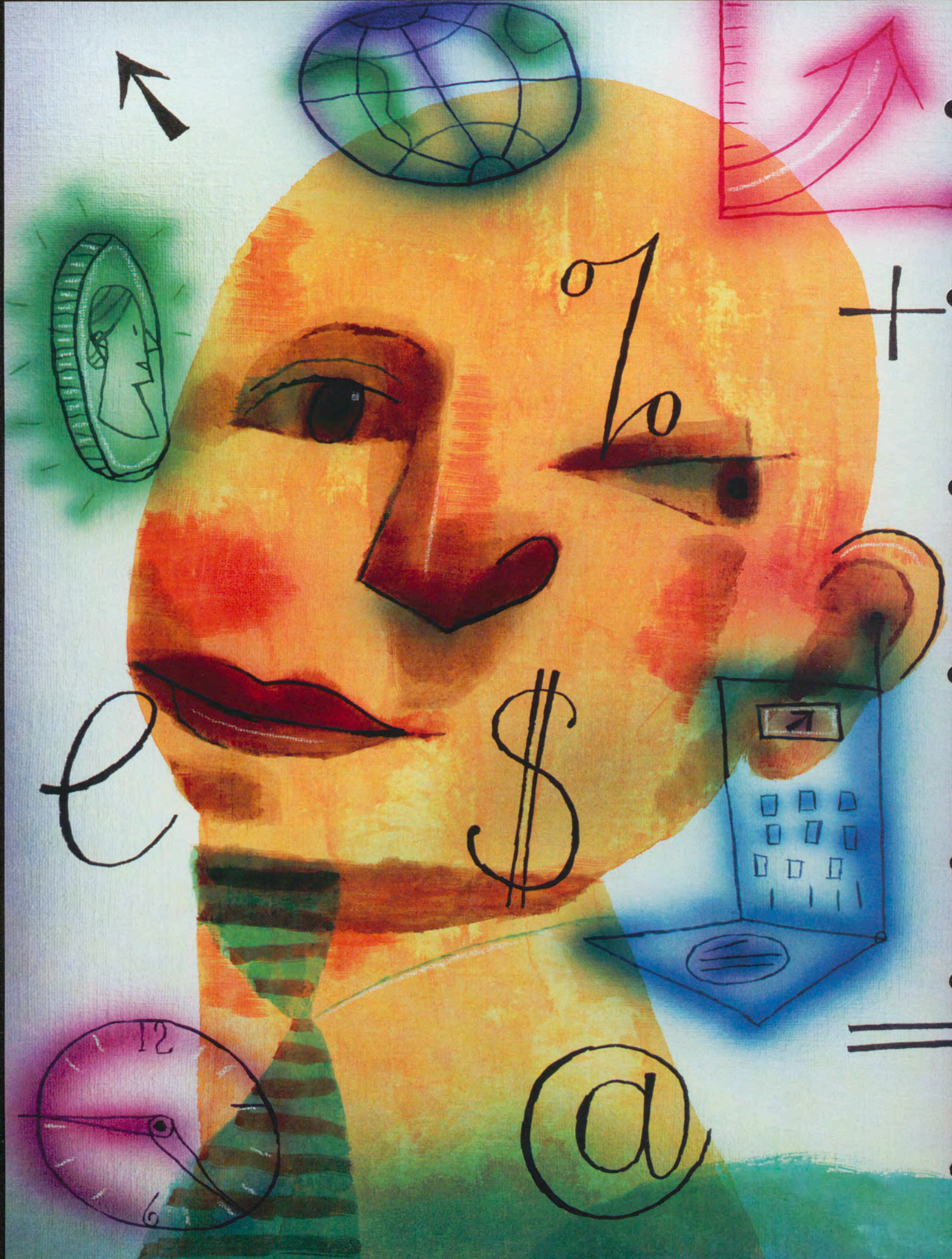
or the majority party. The other party will organize as the minority party. Both parties elect its leadership. Every member of the House will elect the speaker of the house, who acts as the presiding officer in the House. The speaker is from the majority party. After the speaker, each party will elect its own leaders. In the majority party, the next in line in power and influence is the majority leader whose job is to develop the legislative agenda for the majority party. The minority party elects the minority leader who serves as the minority party's top leader. The minority leader is responsible for developing that party's legislative agenda. Each party will elect its own whip whose job is to garner support for his or her party's legislative agenda.

SENATE LEADERSHIP: The Senate is also organized by party affiliation. The vice president of the United States serves as president of the Senate and is the presiding officer of the Senate. All other leadership positions are roughly equivalent to those in the House of Representatives.

SPONSOR: The original member who introduces a bill. Only one sponsor per bill is allowed even when there are multiple originators of the bill.

CO-SPONSORSHIPS: Once a bill has been introduced in either the House or the Senate by the author of the bill, other House or Senate members may add their name in support of the legislation. They are considered to be co-sponsors. House and Senate members who are in leadership positions usually shy away from becoming a co-sponsor. Some members have a blanket policy that they will never co-sponsor legislation. However, most of the members of the House and Senate will be open to co-sponsoring certain legislation that is important to them or their constituencies. Co-sponsorships are on any bill until that bill passes from a committee. ■

—Compiled by Bill Keese,
Richard May and Dee Dee Yelverton



An old law still has teeth

With the raise in minimum wage and confusing rules for overtime pay, make

sure the FLSA doesn't bite your business

Now that the Democrats will control Congress, businesses can be sure of one thing—a bill will be introduced to raise the minimum wage. The federal minimum wage is part of the *Fair Labor Standards Act of 1938*, which also establishes standards for overtime, child labor and recordkeeping

The current minimum wage is \$5.15 per hour and it has not gone up since the 1996 FLSA amendments raised it from \$4.25 to \$5.15. Right now, the conventional wisdom is that the minimum will go up to \$7.25, probably by increments over two or three years.

By Brian Farrington

FLSA and the minimum wage increase

Whether and to what extent a minimum wage increase will affect your rent-to-own business depends on many factors. For one thing, a lot of states have already raised their own minimum rates above the federal level. If you're in one of those states, an increase in the minimum wage will have little or no effect; in fact, you may already have to pay \$7.25 or more in some states. In other states where there is either no state minimum or where the state minimum is the same as the federal, you may find that the "floor" under wages is going up.

Another important factor, of course, is how much you currently pay. If you pay at or near the minimum, you'd better budget for an increase in labor costs. If you are paying your employees, say, \$10 per hour or more, the minimum wage increase won't matter. For employers who pay in the \$7.25-to-\$9-per-hour range, an increase might have no direct effect, but could put pressure on you to give your employees a raise anyway. After all, no employee wants to think of himself or herself as a minimum wage employee and they would like to see some distance between their rate and the minimum.

FLSA and correct overtime payment

The minimum wage is not, however, the most important aspect of the FLSA in the rent-to-own business, or in any other enterprise. What makes the FLSA important is overtime. Unless an exemption applies, employees subject to the Act are required to receive time and a half of their regular rate of pay for hours worked more than 40 in a week. The Wage and Hour Division of the U.S. Department of Labor enforces this law. Rent-to-own employers are frequently investigated, often resulting in substantial back-wage liability for unpaid overtime or minimum wages. Moreover, private lawsuits for unpaid overtime have become among the most common lawsuits filed against employers. For large multi-store operations, liability can be in the millions. Let's look at the basic overtime rules as they apply to a typical rent-to-own store.

EMPLOYERS MUST DESIGNATE A WORK WEEK: The work week is a fixed and recurring period of seven consecutive 24-hour days. It begins whenever the employer chooses and ends 168 hours later. You can select any work week you want—Monday through Sunday, Wednesday through Tuesday, etc.—but once you have selected a work week you must abide by it. It can only be changed if the change is intended to be permanent.

ACCURATE RECORDS: FLSA compliance begins with recordkeeping. Employers are required to keep an accurate record of the hours worked each day and each work week by their employees. One of the most damaging lawsuits

you can have is one accusing you of working employees "off the clock." RTO stores are particularly vulnerable because their employees are often away from the store making deliveries, picking up merchandise or collecting. You must ensure that every hour your employees worked is recorded and paid for.

OVERTIME APPLIES TO ALL EARNINGS, INCLUDING BONUSES AND COMMISSIONS: Another common mistake is payment of overtime only on base rate, not on total earnings. Let's say an employer pays \$8 per hour, plus various leasing bonuses, etc. In a typical workweek, the employee works 50 hours and earns \$100 in extras. The employer pays as follows:

40 hours x \$8 = \$320
10 overtime hours x \$12 = \$120
Extras: \$150
Total: \$590

Another way of expressing overtime, and probably a better way, is to show all hours worked, including overtime hours, at the straight time rate, which is \$8 in this example, and show only the additional half-time premium, which would be half of \$8, or \$4, for the overtime hours:

50 total hours x \$8 = \$400
10 overtime hours x \$4 = \$40
Extras: \$150
Total: \$590

But this employer is in violation of the FLSA. Why? Because the overtime was paid only on the base rate of \$8, not on the extras. The extras are part of the employee's earnings, too, and are subject to overtime. So the proper calculation is to add up all the straight time earnings, divide by hours worked to find the average hourly rate, which the law calls the "regular rate", divide the average hourly rate by two to get the half-time premium and then multiply the half-time premium by the number of overtime hours to get the amount of overtime due:

$[(50 \times \$8) + \$150] \div 50 = \$550 \div 50 = \11 ;
 $\$11 \div 2 = \5.50 ; $\$5.50 \times 10 = \55

So the overtime due is \$55. The entire payment to the employee then looks like this:

50 total hours x \$8 = \$400
Extras: \$150
Overtime: \$55
Total: \$605

Notice that when overtime is paid only on the base rate, the employee's total compensation was \$590. When overtime is paid on all earnings, the employee's total compensation is \$605. The extra \$15 is the overtime due on the extras and employers who do not pay overtime on all compensation are in violation of the FLSA and have at least a two-year back-wage liability. (Note: there are a few regular rate exclusions, meaning that there are some payments upon which the employer need not pay overtime. These include modest Christmas bonuses, discretionary bonuses, fringe benefit payments to third parties such as insurance companies and a few more.)

NO "COMP TIME" FOR OVERTIME: Even if they want it, employees can't be paid for overtime in compensatory time off. If they work more than 40 hours in a work week, overtime is due in money on the next regular paycheck for the pay period in which the overtime is worked.

NO AVERAGING OF WORK WEEKS: Each work week stands alone for overtime purposes. If an employee paid every two weeks worked 48 hours the first week and 32 the next for a total of 80 and an "average" of 40, the employee is still due eight hours of overtime from the first work week.

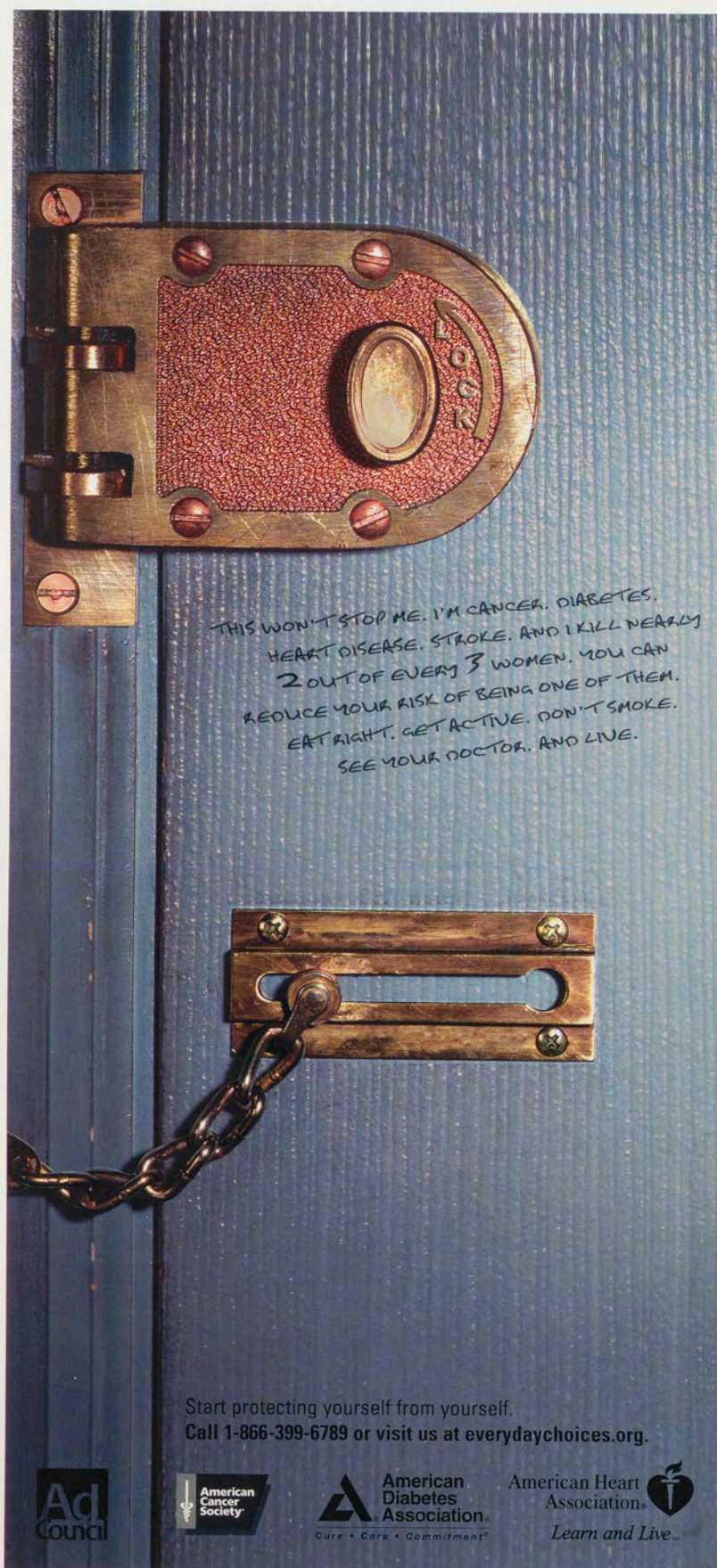
ONLY THE STORE MANAGER IS SALARIED EXEMPT: The most common of all FLSA mistakes in the RTO industry is treating too many employees as "salaried" with no overtime. There actually is an exemption from the overtime requirement for bona fide executive, administrative and professional employees, as well as outside salespeople, and most employees must be salaried to be exempt. However, in addition to the salary requirement, there are also complex "duties" tests that employees must meet to be exempt. The subject is too lengthy to examine in depth here, but the bottom line is this: in the vast majority of cases, any store with fewer than eight to 10 employees cannot have more than one salaried exempt employee, and that's the store manager. Everyone else should be paid overtime.

(Note: there is another, completely unrelated exemption from overtime for any employee paid primarily by commission in a retail store who is able to average for all hours worked more than one-and-a-half times the minimum wage. This exemption, called the "7(i)" exemption or the "commission sales" exemption, can be applicable to RTO stores that are willing to put their employees on commission and structure their pay systems carefully to comply with all the requirements of the law.)

The FLSA may be old—2007 will be its 69th year—but everyday employers who disregard its requirements pay back wages and attorney fees. Let the attention that will be paid to the Act because of proposed increases in the minimum wage be the occasion for all RTO employers to review their FLSA compliance status and fix what's broken. ■

Brian T. Farrington is an attorney who practices in the areas of wage-hour, EEO and other employment law issues and is the author of Wage-Hour Compliance and the Wage-Hour Guide. Under a retainer agreement with APRO, Farrington is available to APRO members for brief telephone consultation at no charge. His contact information is:

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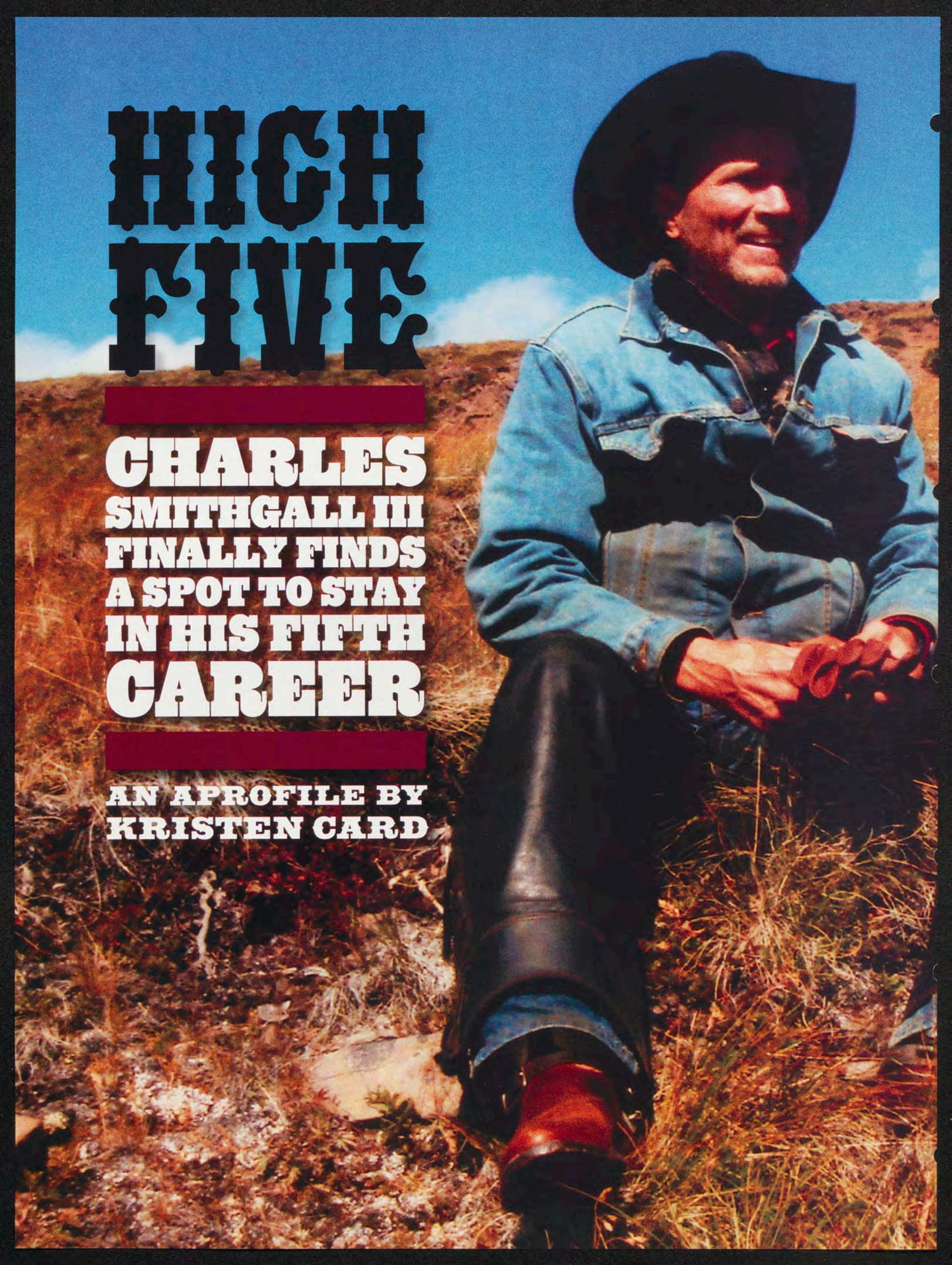
THIS WON'T STOP ME. I'M CANCER, DIABETES,
HEART DISEASE, STROKE, AND I KILL NEARLY
2 OUT OF EVERY 3 WOMEN. YOU CAN
REDUCE YOUR RISK OF BEING ONE OF THEM.
EAT RIGHT. GET ACTIVE. DON'T SMOKE.
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Ad Council
American Cancer Society
American Diabetes Association
American Heart Association

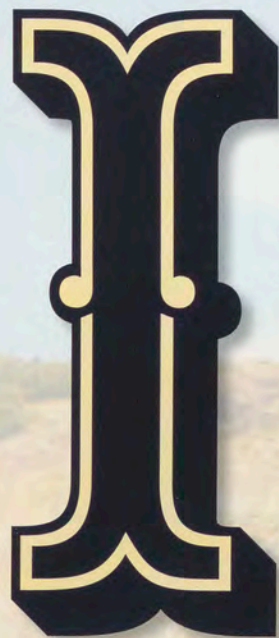
Cure • Care • Commitment®
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HIGH FIVE

A man wearing a black cowboy hat, a blue denim jacket, and black leather chaps is sitting on a grassy hillside. He is smiling and looking towards the right. The background shows a clear blue sky and a dry, hilly landscape.

CHARLES SMITHGALL III FINALLY FINDS A SPOT TO STAY IN HIS FIFTH CAREER

AN APROFILE BY KRISTEN CARD



IT'S

ALMOST IMPOSSIBLE NOT to be immediately charmed by Charles A. Smithgall III's easy Southern drawl and self-deprecating humor. Asked where he was born and raised, Smithgall answers without pause, "Right here in Atlanta. I live just a few blocks from where my parents lived; I guess I didn't get very far in life."

Of course, just the opposite is true. Sixty-four-year-old Smithgall has done extremely well, both personally and professionally—not that his journey hasn't been rife with twists and turns. A sort of career career-changer, Smithgall had four separate business identities before coming to the sales-and-lease-ownership industry 12 years ago, and that's if you don't count his experiences in the Army or on Canadian cattle ranches.

Not surprisingly, Smithgall insists he can't sit still—"I was ADD [Attention Deficit Disorder] before they knew what to call it," he says—and his perpetual-motion way of life seems to be working for him. Today, Smithgall is chairman and chief executive officer of SEI/Aaron's, the third-largest company in the business, with 56 stores in seven states and annual revenue of more than \$60 million.

Smithgall is nothing if not a fascinating storyteller. At the request, "Tell me a little about your childhood," a typical Smithgall tale goes like this:

"We had one toy and it was a pet billy goat," he begins. "It got up on the roof and ate all the shingles off, so the roof leaked in the house. When I was eight, I got a new Lionel electric train, but whenever it rained, the roof would leak from the billy goat's handiwork and the train would short out."

The fact is, Smithgall's father (Charles A. Smithgall Jr.) was a noted Georgia businessman who served as president of Storer Broadcasting, a television/radio company that eventually bought Northeast Airlines, before owning his own string of radio stations and newspapers. His wife, Celestia "Lessie" Bailey Smithgall, must have had her hands rather full with her four children; especially, it seems, with Charles, the eldest of her three boys (they also had an older sister). Charles apparently received high marks at school in everything but conduct, which landed him in five different high schools before he finally graduated.

Smithgall continued his education at his father's alma mater, the Georgia Institute of Technology in Atlanta, where he was a member of the football team and earned his bachelor of science degree in industrial management. He moved up to Philadelphia to try for his MBA at the Wharton School of Finance and Commerce, but after his first year, found himself bouncing around again—to Europe, back to Wharton and finally to Canada.

Smithgall had spent some summers working on cattle ranches in British Columbia, but what spurred him to make the move was a book he found indelibly inspirational, *Grass Beyond the Mountains: Discovering the Last Great Cattle Frontier on the North American Continent*, an epic about the true adventures of a cowboy named Panhandle Phillips, who had created a 4 million acre cattle empire. Smithgall decided he had to meet the cowboy character, who lived basically out in the middle of nowhere.

I

got a 30.30 and a saddle, and I went to find him,” Smithgall remembers. “I got to Williams Lake, then took a mail truck to Anaheim Lake—it was 250 miles along a dirt road—then I bought a horse and a packhorse from another guy who’s in the book, Lester Dorsey, and rode about 70 miles over a mountain range. And I met this guy, Panhandle Phillips.”

Smithgall spent the summer there, then tried to settle. He built a cabin and a barn and even got some cattle, but eventually the isolation got to him.

“I got all lonely,” recalls Smithgall. “My closest neighbor was Panhandle Phillips and he was 15 miles away. One of my cows died and I got depressed, so I went to see Phillips and he suggested I go work for a big cattle ranch and learn how to be a real cowboy.”

So Smithgall got a job with the Douglas Lake Cattle Co., Canada’s largest working cattle ranch, making \$200 per month and all he could eat. It was the late 1960s, and when his parents forwarded his draft notice, Smithgall prepared to return to the U.S.

“We went into town—to Merit, which was about 50 miles from the ranch—about once a month on the cattle truck,” Smithgall says. “So they had a going-away party for me because I’d been drafted and I got pretty loaded up and somehow ended up going back on the cattle truck to the ranch. I just didn’t leave. And that’s how I went from delinquent to defector. They had my face up at the post office. My uncle came up and tried to talk me into going back; he had gotten me into

Officer Candidate School. So eventually, I went. Once I got home, the military police came and got me and it became a big court battle.”

By the time the legalities were settled, Smithgall found himself at an extremely inhospitable Army boot camp in Missouri.

“They knew who I was when I got there,” says Smithgall. “They ran me ragged. I didn’t sleep all weekend. They made me do pushups and sit-ups. Monday morning, they called us to formation and said, ‘Does anybody want to play football?’ Man, I raised my hand so fast! I got on the football team and I didn’t have to do squat after that except play football. The colonels had these football teams and they played each other and the officers would bet on them. It was a lot of fun.”

Smithgall was sent to Virginia for Officer Candidate School, where he was honored as a top member of his unit (“I must have been in a bad group,” he chuckles). Though he wanted to go straight to Vietnam, Smithgall’s orders sent him to South Korea, where he was again recruited for football, then named company commander of an engineer corps. A requested transfer to Vietnam came through. All he says about his first experience there is that his unit was disbanded because there weren’t enough members left

to qualify it as a unit. Once again named company commander of an engineer corps, Smithgall led patrols into Cambodia until he was sent home. Two weeks after his departure, his fire support base in Vietnam was overrun.

Back in the States, Smithgall briefly pursued a future in ranch management, until he realized ranch managers made only \$1,000 per month.

“So I thought, ‘I really want to be a ranch owner, not a manager,’” Smithgall says. “‘I need to go where I can make the most money the fastest and that’d be Atlanta.’ So I’m still here, trying to make enough money to buy my ranch.”

“I DIDN’T REALIZE HOW IMPORTANT HAVING GREAT MENTORS WAS IN TERMS OF YOUR OWN PERSONAL DEVELOPMENT. AS A YOUNG PERSON, YOU’VE GOT TO SEEK OUT YOUR OWN MENTORS; IT’S YOUR RESPONSIBILITY, NOT THEIRS.”



SMITHGALL THE OUTDOORSMAN, INCLUDING A FISHING EXPEDITION IN ALASKA (RIGHT)



Delinquent. Football player. Cowboy. Army commander. Charles Smithgall was 28 and living the life of an adventurer. He added the title of husband to the list when he married Sally Lee Griffitts, known as Griff, whom he had dated off-and-on since his days at Georgia Tech. And he launched the first of his “real” careers when he went to work for Bob Holder of Holder Construction Co., which today is a national commercial construction-services firm operating in 25 states



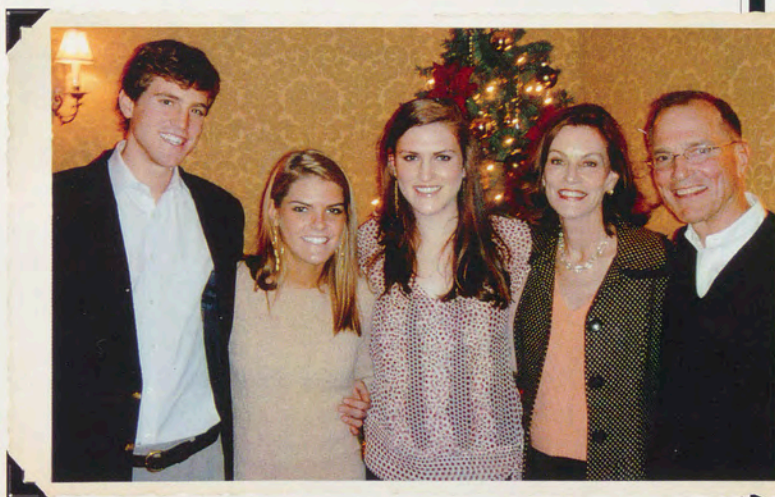
with annual revenues around \$500 million. Smithgall progressed from assistant estimator to vice president within his five-year tenure at Holder, but left to go to Harvard Business School.

The next year, Smithgall returned to Georgia to work for his dad, who was trying to add cable television to his media domain. At a cable TV convention in New Orleans, the younger Smithgall met and got to know Ted Turner, the then-unknown new owner of the Atlanta Braves and future founder of CNN.

"We were both from Atlanta, so we hung around together," remembers Smithgall. "And Ted said, 'You ought to get the cable system up and running in Chattanooga.' He wanted it so he could put the Braves games on up there. I told him, 'Ted, I don't know anything about running a cable company and I don't have any money.' He said he knew folks up there and he'd help me, and he did." Smithgall became the vice president of the Chattanooga Cable Television Co., then helped Turner launch CNN. Smithgall left Turner Broadcasting to buy his own Atlanta radio station, but two weeks later, Turner was calling him with another brilliant idea.

"He said, 'I need to see you right now'—he still thinks I work for him," Smithgall laughs. "He said, 'I want you to change your call letters to WCNN and your station's going to be the flagship station of a radio news network.'"

Smithgall complied and Turner gave WCNN the rights to air Braves baseball and the Atlanta Hawks



TOP: GRIFF AND CHARLES. ABOVE: THE SMITHGALL FAMILY: CHAS, JESSICA, MEGHAN, GRIFF AND CHARLES SMITHGALL, CHRISTMAS 2005.

basketball games. A few years later, the station won the programming rights to all Georgia Tech sports coverage away from a competitor who had had them for more than 60 years. It was a coup and it made Smithgall's Ring Radio Co. profitable. Smithgall stayed with radio for almost 15 years—by far the longest he'd lasted with any professional endeavor—until, in 1995, a buyer came along with an offer too good for Smithgall to refuse. So 25 years and four careers later, Smithgall was once again on the lookout for a new adventure.

Enter Johnny Williams, Smithgall's college roommate and fellow footballer turned investment banker. Over lunch one day, Williams, who had the initial public offering for Aaron Rents, suggested Smithgall get into the business as a franchisee.

"I asked him why he thought I'd like to be in rent-to-own," recalls Smithgall. "At first, he said, 'I think you'd understand the customers, because you converse with blue-collar people the same way you converse with white-collar people.' But then I pressed him some, and he said, 'This is a great business for someone who's not very smart, but has a lot of energy.'"

Amused but underwhelmed with the proposition, Smithgall visited some competitors' stores around town and came away less than impressed.

"I thought, 'I'm not going to be in this business. I've been in the glitz business, media and TV. Those stores looked like pawnshops.'"

Smithgall tried to pass on the opportunity, but his friend had already made an appointment with Aaron's founder and owner Charlie Loudermilk. Smithgall reluctantly agreed to attend the meeting.

"I went into it with this bip-bam-thank-you-ma'am attitude," Smithgall confesses. "I was just going to go in there, listen politely, leave and keep on searching for something else to do. But Charlie's a pretty good salesman. He told me his ambition for the business was to clean it up, put it on Main Street and really make it a legit, first-class business. He gave the analogy of the early video-rental stores: they were poorly lit and had porno sections at the back. And then Blockbuster came along with this beautiful color scheme, bright lights, 10,000 titles, selling popcorn. They changed the industry completely. Charlie said we could do that with this industry and 30 minutes into it, I was like, 'Where do I sign?'"

Smithgall Enterprises Inc. (SEI)/Aaron's opened up its first store in November 1995, in Louisville, Kentucky. After three years and three stores, Smithgall was running out of money—and about to run out on the business in general.

"When you're scared to death, it's a great way to operate a business," says Smithgall with hindsight wisdom. "I figure, if you're afraid all the time of going broke, then you probably won't."

Today, with stores in New York, Connecticut, Kentucky, Indiana, Massachusetts, Rhode Island and Ver-



TOP: SMITHGALL VISITS THE APRO STAFF IN AUSTIN: JEANNIE HUTCHISON, LAURIE HILL, DEE DEE YELVERTON, SHELLEY MARTINEK, SMITHGALL, RICHARD MAY AND BILL KESSE. ABOVE: SMITHGALL (RIGHT) WITH BUSINESS ASSOCIATES. LEFT: WITH AARON'S NASCAR-WINNING CAR.

mont, and with about 25 sites waiting to be developed, Smithgall feels somewhat more secure. He attributes his company's success to three key qualities, which he says demark his "sales-and-lease ownership" approach from many of his competitors' "rent-to-own"—which he refers to as "the R word," by the way—attitudes.

"First, we've got big, beautiful stores and high-qual-

ity merchandise that just sparkles," Smithgall says. "Our stores are twice and frequently three times the size of the competition, with wonderful products, products I'm genuinely proud of. I invite all of our competitors into our stores; we send them written invitations to our grand openings. I think it intimidates the heck out of them to come in.

"Secondly, I've never been in a business where we had more advantage over our competition in terms of price," he continues. "We can tell every customer, 'Take your merchandise and return it and we'll lease you new merchandise for less than you're paying right now.' We guarantee our price to be the lowest—not only within sales-and-lease ownership businesses, but at Best Buy, Circuit City or Wal-Mart. We've been doing it for 51 years. No one can beat our price.

"Finally, our general manager compensation program is exceptional—I believe it's the best in the industry," Smithgall says. "We pay our general managers 16 percent of the pre-tax profit and 2.5 percent of the revenue of the store. So Aaron Rents has a general manager making around \$300,000 a year. What other industry do you know of where somebody can come in without a lot of education and make that kind of money? Their compensation is all based upon the success of the store."

In addition to the concrete tools of size, price and compensation, Smithgall also credits the Aaron Rents philosophy as a big marketplace differentiator.

"Our job is to help make dreams come true," he explains. "Our whole focus is to maximize the life of the customer, while we feel our competitors are trying to maximize the life of the product. We want our customers to own the merchandise as quickly as they can. We don't want it back. If we can get them to ownership, 90 percent will lease from us again.

"The essence of our company is living by our values," Smithgall says, "A reputation for quality, responsibility and integrity, treating our associates and our customers as we want to be treated, developing an outstanding leadership team and planned financial growth. Goals are important, but you either achieve them or you don't. You never achieve values; you just continue to strive for them."

One of the many interesting things about Charles Smithgall's colorful life to date is that his handful of differing careers has never been about failure—a shorter-than-average attention span, maybe, or garden-variety boredom,

or perhaps a clash of personalities, but never failure. He has been successful within every arena, from construction to cable to his current industry, and has therefore gleaned some critical commonalities and life lessons from his adventures.

"There are two things I didn't realize for a long time that I can see now are crucial," Smithgall says. "One, I didn't realize how important having great mentors was in terms of your own personal development. As a young person, you've got to seek out your own mentors; it's your responsibility, not theirs. And while there are all kinds of amazing people out there, remember that people with great strengths also have great weaknesses, so you want to choose what to copy. I've had many great mentors I was lucky to learn from.

"Two, I had the worst regard for salespeople, probably of anybody in the United States," he exaggerates. "I had this total disdain for the sales business until Ted Turner took me to Las Vegas to meet with Jack Kent Cooke [a Canadian-American entrepreneur who became one of the best-known executives in North American professional sports]. He handed me his card and it said 'Jack Kent Cooke, Salesman.' I thought, 'Dang, that's what I want to be.' Now, I'm a student of the sales process, just convincing someone to trust you and come over to your point of view. Everybody's a salesman, really—trial lawyers have to convince juries, doctors need to sell you on taking care of yourself and feeling good. I'm fascinated by it."

With larger-than-life Charlie Loudermilk as his current mentor and a refreshed perspective on the importance of selling, Smithgall seems content for the time being in sales-and-lease ownership.

When asked what he likes best about the business, he says, "I like the fact that we have so much growth opportunity." I like the fact that we serve only about 5 million people of the 50 million who have bad, poor, very little or no credit. I like that we've got competitors, like Best Buy or Circuit City, who spend millions every year advertising, trying to get people to come into their stores, and then turn down an average of 50 percent of them because of credit issues. How many do we turn down? Well, if someone lives in their car, we might hesitate to lease them a new big-screen TV, but if it was a pre-lease, we'd probably let them have it. When people come into our stores, the first thing out of our mouths is, 'Everyone is pre-approved.'"

**"OUR WHOLE FOCUS
IS TO MAXIMIZE
THE LIFE OF THE
CUSTOMER, WHILE
WE FEEL OUR
COMPETITORS ARE
TRYING TO MAXIMIZE
THE LIFE OF THE
PRODUCT."**

[CONTINUED ON PAGE 52]

Miscellaneous RTO services

The following is a list of miscellaneous RTO services suppliers that cater to the rent-to-own industry. All are either APRO associate members (*), advertisers in APRO publications (+), APRO Buying Show exhibitors (^) or APRO-endorsed member benefit program providers (~).

ACCOUNTING SERVICES

Grant Thornton LLP *

Contact: Don Weeks
1717 Main St., Ste. 1500
Dallas, TX 75201-4626
214/561-2300; fax 214/561-2370
don.weeks@gt.com
www.gt.com

Kirkpatrick, Sprecker & Co. LLP *+

Contact: Jim Hubbard CPA
311 S. Hillside St.
Wichita, KS 67211-2130
316/685-1411; fax 316/685-4575
jim@kscpa.com
www.kscpa.com

White & Associates LLC *

Contact: Michael S. White
201 N. Main St., Ste. 300
Wichita, KS 67202-1500
316/265-4877; fax 316/263-3013
MWhite@wacpa1.com

Whitsell and Co. PC *

Contact: Daniel G. Whitsell
1275 Road To Six Flags St. E., Ste. 100
Arlington, TX 76011-5034
817/461-0041; fax 817/795-0025
cpa@whitsellandcompany.com
www.whitsellandcompany.com

Wilbanks Christians PLLC *

Contact: Danny Wilbanks
8906 Wall St., #305
Austin, TX 78754
512/997-9444; fax 512/997-9446
dawilbanks@aol.com

ADVERTISING/PROMOTIONAL

Ad Design Inc. *

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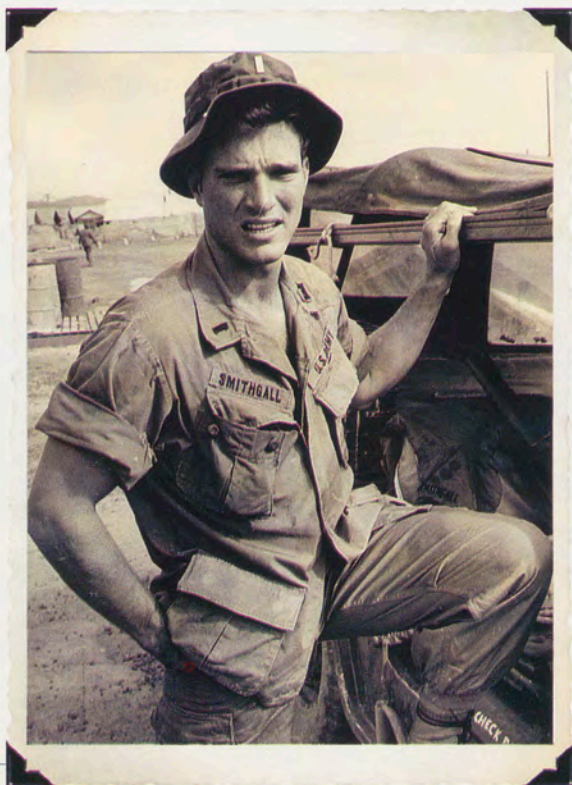
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[“SMITHGALL” CONTINUED FROM PAGE 49]

Smithgall also appreciates the industry’s strong trade organization, the Association of Progressive Rental Organizations. SEI/Aaron’s just rejoined APRO in January; Aaron Rents had taken hiatus from the group, and Smithgall had followed suit. Now both are once again active APRO members and Smithgall is happy about it.

“In my heart, I’ve always felt that if we had a trade industry organization, then we should support it, because it’s good for all of us,” Smithgall says. “There’s comfort and camaraderie in numbers and when we get together and talk, we learn. APRO’s lobbying efforts are also extremely important with the government, where we’ve got people constantly trying to turn this industry into something it’s not. [APRO] is totally devoted to supporting our efforts to conduct business and make peoples’ dreams come true.”

In his personal life, Smithgall’s self-diagnosed ADD manifests itself, luckily, in activities rather than relationships. He and Griff have been married for 35 years and share three children: Chas (Charles A.



Smithgall IV, naturally), 25, works for insurance and financial services giant AIG Inc. in New York City; Meghan, 23, is a fourth-year English/Spanish major at the University of Virginia in Charlottesville; and Jessica, 20, is a student at the University of Texas at Austin.

Smithgall spends much of his “off” time traveling. Griff was a flight attendant for years and last year, Smithgall bought his own jet, so they “just go around everywhere and do stuff,” he says. Every autumn, the couple goes to Scotland to hunt pheasant and partridge in the mornings and play golf in the afternoons. They are planning a trip to Argentina this year.

Smithgall’s recreational travels also include what he calls “projects.” For example, five years ago, he and his son climbed the 20,000-foot Mount Kilimanjaro, located in Tanzania, Africa. Other “projects” within recent memory include riding a mountain bike almost 300 miles from Telluride, Colorado, to Mohab, Utah; spending three weeks

horseback riding around his old stomping grounds up in British Columbia—another 300-plus miles; and at the time of this interview, preparing to bike around Tasmania.

At home, Smithgall maintains a similar pace, golfing, running, biking, playing tennis. And reading—several books at a time, as you might expect. At the moment, Smithgall has in his stack tomes on traveling Tasmania, living like 50 until you’re 80, what every son wants and needs from his father and personalizing sales and achieving astounding results.

“My son worries some about being a success,” Smithgall confides. “I tell him, try to work for good companies because you’ll learn more; try to do your best wherever you are and go with your gut. Do what you want to do and enjoy your life. What is success in business, anyway? I think it’s if you get up bustin’ your fanny every day to go to work, feeling fulfilled. Beyond the necessities of life, everybody wants the same things: Is what I’m doing worthwhile? And, does anybody care about me? If we can answer ‘yes’ to those two questions, then we’re successful.” ■

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

LEFT: SMITHGALL SERVED IN THE ARMY DURING THE VIETNAM WAR.

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