



Montana Automobile Dealers Association

FEBRUARY 2020 NEWS BULLETIN

PRESIDENT'S MESSAGE:

2020 Montana Dealership Compensation Survey is OPEN: Enroll Today!

Your participation allows MTADA to report on the current trends in employee compensation, benefits, demographics, retention and more.

Participants receive:

Dealers are strongly encouraged to participate. The higher volume of dealer participation helps MTADA prepare more accurate data, which helps YOU fine-tune employee compensation and benefits, promote retention, and stay ahead of the demographic curve.

TO PARTICIPATE:

1. Visit MTADA.com and go to www.mtada.com/dealership-compensation-survey/
2. Complete a confidential questionnaire.
3. Email your survey directly to our inhouse attorney – Jim Sewell jsewell@smithlawmt.com He will confidentially compile your answers and submit them to the MTADA office.

Participation deadline is April 15, 2020. ■

James Johnson is the Dealer Principal at High Plans Motors, Inc. in Wolf Point, Montana



James Johnson
MTADA President

www.mtada.com/dealership-compensation-survey/

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DIRECTOR'S MESSAGE:

NADA Applauds Senate Passage of USMCA

"Today's Senate vote to approve the USCMA is a big win for America's new-car and -truck dealers and our customers. USCMA will reduce the threat of additional, broad-based tariffs on vehicles and parts produced in North America. Approval of USMCA will preserve the global competitiveness of the U.S. automotive industry and enable dealers to continue providing affordable vehicle options for American consumers while strengthening our economic ties to Mexico and Canada."

In anticipation of the Senate's vote, Gilchrist sent a letter to all senators urging their support of the bill. Gilchrist underscored the importance of a favorable trading relationship with Mexico and Canada to the American automotive industry and to the U.S. economy as a whole. [The full text of the letter can be viewed here.](#) ■



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CHAIRMAN'S MESSAGE:

No Better Time Than Now to Evaluate Dealership Website Accessibility

With the new year less than a month away, it is a good time for franchised new-car dealers to evaluate their websites for accessibility and reaffirm our commitment to website accessibility.

Dealers are in the business of providing excellent service to our customers. We are all aware that providing great customer service requires a certain degree of tailoring our service to best serve each and every customer, including those with disabilities.

Customers with hearing, sight or physical disabilities rely on assistive technologies – such as screen readers, text enlargement tools, and programs to control computers by voice – to allow for use of their computers. For these tools to work and give access to people with disabilities, websites must be coded appropriately on the back end. If a dealership's website is not compatible with assistive technologies, disabled customers may not be able to shop for vehicles, make online parts purchases or learn about

what our dealerships have to offer.

For many years, the U.S. Department of Justice has stated that the Americans with Disabilities Act (ADA) applies to public-facing commercial websites, urging businesses to make websites accessible to those with disabilities. Dealers have taken action and adapted their websites as necessary. However, some dealers are facing legal action from plaintiffs who assert that the dealership's website does not provide equal access under the ADA. To avoid expensive litigation, dealerships have often settled their claims with these plaintiffs.

As we're all aware, website accessibility is a complicated undertaking as a majority of our dealership websites are mandated by OEMs and involve third-party website developers, vendors and content providers. Each third-party entity has a level of control for the content of our



Charlie Gilchrist
2019 NADA Chairman

Continued on **PAGE 8**

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LEGAL UPDATE

JEOPARDY

JEOPARDY, the popular TV game show hosted by Alex Trebec pays big money for correct answers to esoteric questions and once in a while, current events. Take for example, last week when a picture of Adam Schiff was displayed. The question was “What is the name of this Congressman, Chairman of the House Intelligence Committee?” The buzzer rang with no answer. Not one of the three had any idea what his name was. Surprising? For a little change of pace this month, let’s play a little Jeopardy with the topics coming from calls I’ve had over the past few weeks.

Question #1: Can “Dealer Plates” be used on service department loaners?

Answer: No, only Demo Plates can be used on service department loaners AND the vehicle must also have the “Monroney” or “Buyers’ Guide” label in the window. Dealer plates are limited to use by dealer, family or officers or employees of the dealership. § 61-4-102 (4) (a) A dealer is authorized to use and display dealer plates on a motor vehicle, except a motorcycle, held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer’s spouse, officers, or employees. Demo plates are governed by § 61-4-129 (2)(a) which provides that demo plates may be used on a motor vehicle displaying a Monroney label or a buyer’s guide label that is being demonstrated and offered for sale or loaned to a dealership customer for not more than 72 hours.




R. J. “Jim” Sewell, Jr.
MTADA General Counsel

Question #2: Can a dealership allow administrative office staff, paid hourly, to earn comp time instead of being paid overtime?

Answer: No. Although compensatory time off for nonexempt employees is an acceptable practice in the public sector, the Department of Labor does not permit its use for nonexempt employees in private-sector employment: “The use of comp time instead of overtime


Continued on **PAGE 6**



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COX AUTOMOTIVE

Legal Update CONTINUED FROM PAGE 4

is limited by Section 7(o) of the FLSA [Fair Labor Standards Act] to a public agency.

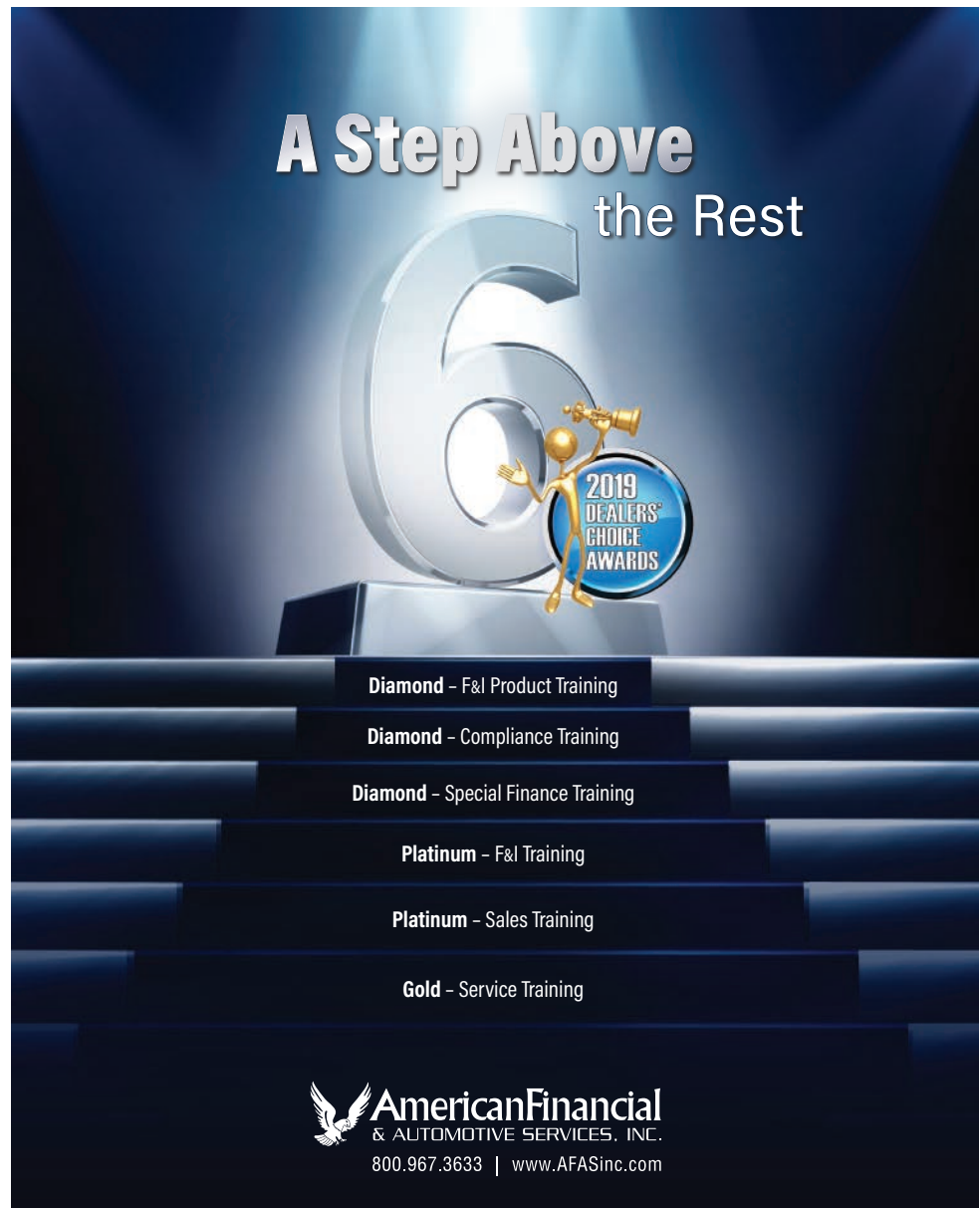
Question #3: Salesperson wants to use social media to advertise prices, payments or offers. Can the dealership permit such activities?

Answer: No. While this would seem to be a laudable initiative, regulators view social media posts with prices, payments, or offers as advertising which must comply with federal and state advertising laws. Too often, employee social media posts do not. Employees should direct customers to the company's website to view offers with appropriate disclosures. How do you make a case that the dealer should not be responsible for advertising that violates federal or state law done by an employee on social media? Have a social media policy that makes employees aware of the dangers of social media advertising. Train employees, monitor compliance, and take action against violations.

Question #4: Can a Dealer pull credit bureau reports on new employees who will handle money? Should an authorization to run a credit report be inserted in the Employment Application.

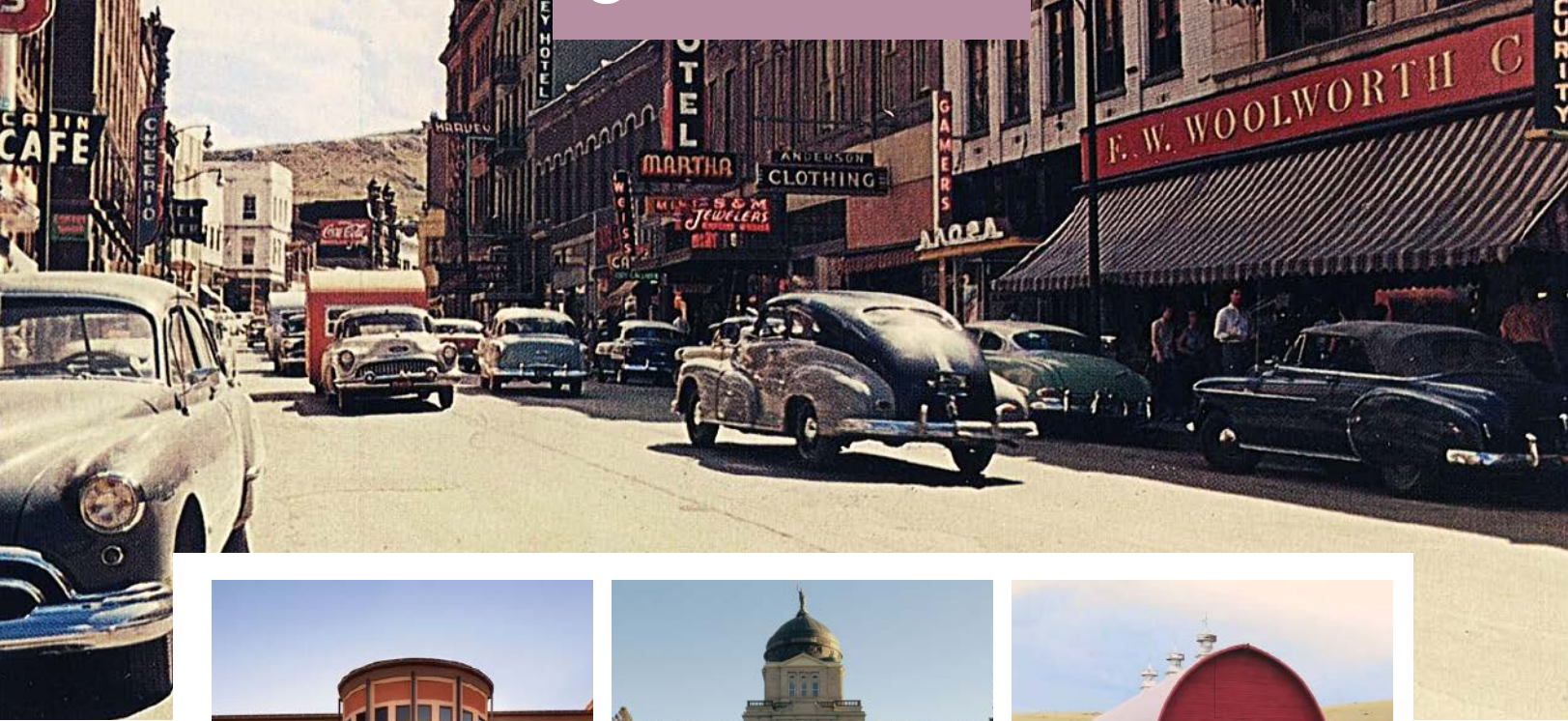
Answer: No. Under the Fair Credit Reporting Act, pulling a credit report for employment purposes can only be authorized by a clear and conspicuous disclosure in writing in a stand-alone document before the report has been pulled that a consumer report may be obtained for employment. An authorization in an employment application will not allow you to pull a credit bureau report on an applicant. You may only do so based upon a stand-alone authorization.

How did you do? Did you hit a home run? Do any of your practices put you in Jeopardy? We hope you found this month's quiz beneficial. ■





JOIN US



106th Annual Family Convention

June 12-14, 2020
Helena, Montana

This year, we have an outdoor dinner with live music, golf scramble, poker tournament, cornhole, and the President's Banquet at the historic Staubach Ranch.

We also have three great speakers:
Bill Wolters, Nathan Mellor, and Michael Burger.

Please join us for the 106th Annual Family Convention! There are great opportunities to make connections and learn from our wonderful sponsors, exhibitors, and members.

To get more info and to register, please visit our website

mtada.com



Welcome to the The Montana Automobile Dealers Association!

The Montana Automobile Dealers Association is made up of 99 franchised new car and truck dealers in Montana. The association and its members strive to uphold the highest standards of honesty and integrity and continuously work together to improve the car buying experience for Montana consumers.

WE HAVE A NEW WEBSITE!

MTADA.COM

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Chairman's Message CONTINUED FROM PAGE 3

websites, which adds a layer of complexity to website accessibility.

With the new year less than a month away, it is a good time for franchised new-car dealers to evaluate their websites for accessibility and reaffirm our commitment to website accessibility.

NADA continues to monitor the issue at a macro level, including the degree to which OEMs and third-party website vendors are collaborating to ensure templates and content is accessible to those with disabilities.

ADA accessibility companies, such as Accessible, AudioEye

and UserWay, can be an additional resource to assist dealerships with accessibility, particularly as websites are updated continuously and must be evaluated on an ongoing basis to ensure compliance.

Let's start the decade by auditing our website's accessibility and ensuring our websites can serve all of our customers. I wish you and your families a very happy holiday season! ■

Charlie Gilchrist is president of Gilchrist Automotive in the greater Dallas-Fort Worth.

Manage Costs by Maximizing Your Tax Savings.



American Fidelity Assurance Company provides a full suite of expense management services that can help you and your employees maximize tax savings and manage costs associated with various benefits. We specialize in providing employer administrative services for all of our services, which can easily coordinate with existing plans.

Our expertise and experience in offering these services allow us to make recommendations on the programs that will work best in your specific situation. Also, we will explain how we can implement these cost-saving programs for you and your employees.

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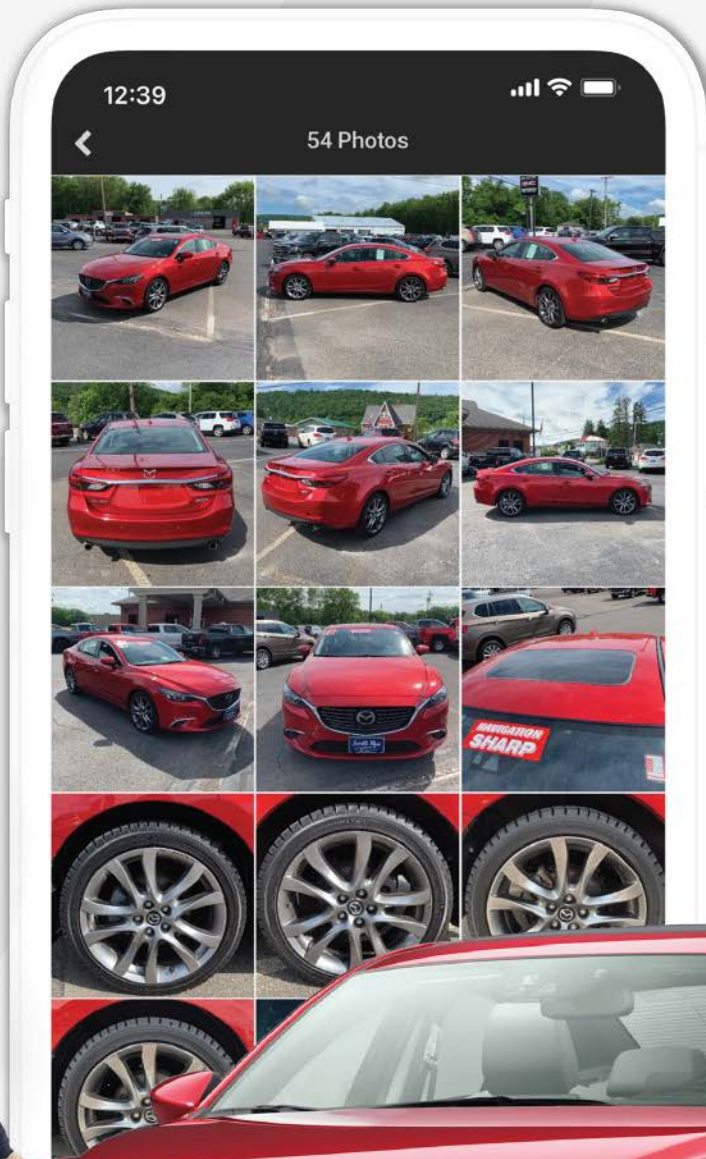


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YEAR-END FINANCIAL REVIEW CHECKLIST

YEAR-END FINANCIAL ITEMS:

- ☐ Reconcile and review bank statements.
- ☐ Review outstanding checks and deposits; determine if any should be written off or voided.
- ☐ Review prepaid balances and expense all items as appropriate.
- ☐ Review accounts receivables and write off any uncollectible receivables.
- ☐ Perform inventory counts as of year-end and adjust the applicable inventory balances as appropriate.
- ☐ Adjust vehicle inventory values as appropriate. If using LIFO, have all new factory in voices available for year-end LIFO calculations.
- ☐ Compile a list of all fixed assets placed into service in 2019 and gather all applicable receipts or invoices.
- ☐ Compile a list of all fixed assets disposed of in 2019, including the date of disposal, the method of disposal, and sale price (if applicable).
- ☐ Properly accrue expenses paid in 2020 for 2019 services, such as payroll, legal and accounting services, and floor plan interest.
- ☐ Confirm payroll tax payable account balances total the amount of all payroll taxes paid in 2020 for the 2019 fourth quarter and year-end payroll tax returns.
- ☐ Reconcile all intercompany accounts and pay interest on all amounts considered a loan.
- ☐ Reconcile any shareholder loans to or from the dealership and pay the appropriate interest on the outstanding balance.
- ☐ Reconcile year-end loan balances, including floor plan loans.
- ☐ Review finance chargebacks and ensure they are recorded on the books in the correct period.
- ☐ Review Form 8300 submissions for the year and mail acknowledgement letters to applicable customers.
- ☐ Review all balance sheet accounts and confirm accurate year-end balances.
- ☐ File all necessary Forms 1099.

YEAR-END COMPLIANCE ITEMS:

- ☐ Perform annual review of the Red Flag rules and Privacy Act laws.
- ☐ File an Unclaimed Property report if applicable.
- ☐ Perform annual review of the dealership's risk assessment.
- ☐ Perform annual review of security procedures including the FTC Customer Safeguard rules.
- ☐ Retain accounting records, including electronic records, as required by the IRS.

Disclaimer: This publication is designed to provide general information regarding the subject matter covered. It is not intended to serve as legal, tax, or other financial advice related to individual situations. Because each individual's legal, tax, and financial situation is different, specific advice should be tailored to the particular circumstances. For this reason, you are advised to consult with your own attorney, CPA, and/or other advisor regarding your specific situation.

Jake Carter, CPA • Jake.Carter@jccscpa.com • 406-862-2597



Jake Carter is a Senior Tax Manager with JCCS, one of the largest Montana-based public accounting firms in our state. As a Certified Public Accountant, he primarily works with Businesses and high net-worth Individuals, but also specializes in International Taxation. Jake was born and raised here in Montana. He moved from Missoula to the Flathead Valley in 2013 where he now works in Whitefish. ■

IT Security Tip #157: Scammers Using a New “Line-Trapping” Technology

Just when you think you’ve heard everything, we’re now learning about a new piece of sophisticated technology being used by fraudsters to scam unsuspecting people over the phone. A woman in the York Region of Toronto received a call in November and was told by the scammers she had been a victim of identity theft.

Police said the woman was directed to call police and confirm the information. The victim called authorities and believed she had spoken to an officer. Through the investigation it was revealed that the suspects used new line-trapping technology to remain connected to her phone line when she tried to call police. Police said the woman lost a quantity of cash and the suspects obtained her personal information.

Always be cautious with any calls or e-mails seeking personal information. If a situation feels suspicious, trust your instincts. If you wish to confirm a call you receive, do so on a delayed timeline. Evidence suggests that the line-trapping technology being utilized has a time limit of several minutes. You can call on another line if you are suspicious of being hacked.

Merry Christmas and Happy New Year from all of us at DIS Technologies. If you would like to know more about protecting your business and your identity from cybercriminals, email us at info@dismt.com or call our DIS helpdesk at 866-293-9359. ■



Erin Dickey
IT Services Director
DIS Technologies

Would you like to know more about IT security strategies?

Download our free report, “The 7 Most Critical IT Security Protections Every Business Must Have in Place Now to Protect Themselves from Cybercrime, Data Breaches and Hacker Attacks”. To get instant access, go to: <http://www.dismt.com/cybersecuritytips>



2020 Board of Directors



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District 1



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Rehbein Ford
District 2



Erick Anderson
Placer Motors
District 3



Tony Pierce
Snowy Mountain
Motors
District 4



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Jeep Chrysler
District 6



Chuck Notbohm
Notbohm Motors
District 7



**James
Johnson**
High Plains
Motors
District 8



Robbie Dee
Dee Motors
Next Gen Dealer

2020 Executive Board of Directors

Effective January 8th, it was voted by membership to amend the by-laws to have the Executive Board be elected for two-year terms.



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Henriksen**
Don Aadsen
Ford
Chairman



**James
Johnson**
High Plains
Motors
President



**Erick
Anderson**
Placer Motors
President Elect



Tony Pierce
Snowy
Mountain
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Vice President



**Don
Kaltschmidt**
Don "K"
Whitefish
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2019 MTADA Board of Directors

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Wolf Point
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406-538-4014

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Don Kaltschmidt
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406-862-2571

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Helena Motors
Helena
406-442-6310

CHAIRMAN

Eric Henricksen
Don Aadsen Ford
Ronan
406-676-4420

OFFICE STAFF

Debbie Jean
Office Manager
MTADA
406-442-1233
Cell: 406-461-6333
bkkpr@mtada.com

Heather Domme
Dealer Services Coordinator
MTADA
406.442.1233
hdomme@mtada.com

DIRECTORS

Chuck Notbohm
Notbohm Motors
Miles City
406-234-4480

Joe Billion
Billion Auto Group
Bozeman
406-582-7777

Tony Pierce
Snowy Mountain Motors
Lewistown
406-538-4014

James Johnson
High Plains Motors, Inc.
Wolf Point
877-818-1913

Erick Anderson
Placer Motors
Helena
406-442-2603

Wade Rehbein
Rehbein Ford
Plains
406-826-3381

EXEC. VICE PRESIDENT & GOVERNMENT RELATIONS

Bruce Knudsen
MTADA
406-442-1233
cell: 406-461-7680
bknudsen@mtada.com

Chuck Notbohm
Notbohm Motors
Miles City
406-234-4480

Aaron Jones
Courtesy Ford
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406-278-5533

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Robbie Dee
Dee Motors
Anaconda
406 563 5225