

THE BUSINESS OF PLEASURE BOATS

A MESSAGE FROM THE PRESIDENT



Jim Coburn, NMBA President

The nation's marine lenders had plenty of issues to digest leading up to their annual conference held in early October, yet their main concerns focused on the viability of the recreational boating industry, the health of banking and its business partners, and trying to interpret whether a slowing general economy is pausing to refresh or retreat. Attended by about 140 lending executives and support service providers, the 28th National Marine Bankers Association symposium was about the same size as in recent years, saw participation by many veterans, but also attracted some fresh faces. It was held at the Sawgrass Marriott Resort near Jacksonville, FL. Overall, the mood was very cautiously optimistic with recognition that some actions can be taken to improve business related to weak boat demand, a stretched consumer and credit markets adjusting to recent housing turmoil.

"Everyone knows it has not been a very good year for marine lenders," NMBA president Jim Coburn of Flagstar Bank told those assembled. "Lenders are chasing a smaller piece of a shrinking boat volume pie. The outlook for 2008 at this point does not look the best and we are wondering when and where this rough time will really hit bottom. We hope soon." On a positive note, Coburn adds that marine lenders have kept their programs strong and steady, availability of credit for consumer marine loans remains solid and interest rates for inventory and consumer programs are receding a bit. "That's good for the entire marine industry."

Matt Gruhn, editor of *Boating Industry* magazine and

kick-off speaker at the conference, urged lenders to work more closely with boat dealers as a way to improve future industry conditions. "Today's dealer is starving for knowledge and growth," he said. "Encourage them to get serious about certification programs to improve sales and service and develop financing plans that can increase the 'pull-through' of new boat sales." He cautioned that dealers face consolidation in the current tough market, predicted growing activity within the pre-owned boat sector and recommended the magazine's "Top 100 Dealer Program" designed to spread best practices as one resource that can help the retail sector improve overall.

Providing a review of the industry's Grow Boating Initiative, NMMA president Thom Dammrich pointed to the growth of boat builder certification from 100 to 279 builders in the past year as a major success, and predicted 95 percent of member builders would achieve it soon. From the NMBA's perspective, participants cite a handful of major marine lenders that have made generous Grow Boating campaign contributions. Also recognized were efforts of both large and small lenders who have integrated the marketing materials into their own promotional routines that have helped spur recognition of the "Life is Better with a Boat" messages ultimately driving prospects to boat shows and showrooms.

Asked to provide a snapshot of the current state of boat building, Scott Porter, president of Thunderbird Products, maker of Formula boats, said business at his firm is likely better than in colleague's camps because of steps taken in recent years to deal with common builder challenges. Among these are a ready acceptance to work with dealers on taking trade-ins (70 to 80 percent of new Formula boat sales involve a trade), buying down interest rates or offering cash rebates to stimulate sales, working with dealers to improve customer satisfaction (including Certification efforts both at the plant and at dealer stores), and finding better methods to forecast boat sales to reduce the seasonal-

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ity of the business, cut overhead and keep a lid on retail selling prices. The planning has paid off in record sales for the builder, 977 units in '07 with dollar value up 6.3 percent, during a year where many competitors saw no growth or contraction.

Porter had a laundry-list of ideas for lenders to help the industry grow. In addition to financially supporting Grow Boating, he suggested formulating a standardized income statement and balance sheet for dealers so data – and performance – could be benchmarked, providing accounting services, offering to finance a growing fleet of mobile (on-water) service vans, keeping monthly tabs on inventories, becoming involved in events such as owner cruises, and making it easier to accept trade-ins. Porter also feels the industry, lenders included, should be doing more to promote consumer boating safety, particularly through hands-on educational training.

A panel of maritime attorneys offered information on legal issues which have become prominent over the past season. More boats are being documented in the name of entities as opposed to individuals, largely for liability protection. As long as details on the documents are in order, lenders should be protected, but Connecticut attorney David Bohannon recommended that personal guarantees and indemnities against liens be required on pre-owned craft. In south Florida, more vessels are being seized by the federal government when they are involved in illegal immigrant smuggling. Miami lawyer Barbara Locke said lenders need to establish a relationship with Coast Guard officials to help get the offending boat off the water and their collateral back. She said due diligence in checking simple things like owner addresses, occupations and earnings will often expose the risk before the loan is made. On the West Coast, San Franciscan Rupert Hansen reports growing use of marine title insurance for pre-owned vessels. In the Southeast, Mark Buhler of Orlando simply cautions more scrutiny on all larger boat transactions, new or used.

Availability of marine insurance continues to be a concern of lenders in areas where hurricanes or other damaging weather events have had an impact. Mike Smith of Global Marine, Mike Bowen of American Modern Insurance and Bob Horner of Markel Ameri-

can Insurance agreed more sources are opening up, but the premiums are still painful without much hope for reduction anytime soon. Underwriters are also requiring boat owners to have a “disaster plan” including steps to be taken if a storm or other calamity threatens, for example, a crew to take the vessel out of harms way. Insurers are leaning on lenders to take responsibility to insure these plans are in place with an eye to help protect collateral. The NMMA and NMBA were successful in scheduling an “Insurance Industry Roundtable” with insurance company executives on October 23rd in Ft. Lauderdale to discuss how to better protect boats and manage risks.

Meteorologist Steve Letro of the National Weather Service and an expert in hurricanes provided an overview of how storm predictions are made by studying various global climate events. He said the 2007 storm season was not as bad as expected and, in fact, no major storms hit the U.S. Danger remains, however, since the primary driver of storms that do make landfall in the country is still in place. That is the long-term active phase of the “Atlantic Multi-Decadal Cycle” characterized by abnormally warm sea surface temperatures. In layman’s terms, Letro explains this translates to the possibility of about 10 yearly storms, five of which would be considered major and two to three of those that could hit U.S. shores.

Economist Mark Vitner of Wachovia Bank brought some calming perspective to the meeting. In the past 20 years he feels most major economic forecasters have underestimated the strength of the U.S. economy and that they are doing so again. His view is that a recession is nowhere near, rather the economy is in a mid-term correction of a near six-year expansion. Of the sub-prime situation, he suggests it is not the problem itself, but that “structured finance markets” where sub-prime activity lives, need to work it out. Of housing generally, Vitner notes sales peaked two years ago and he thinks the bottom is near or will occur in 2008. Home values, and thus home equity, continue to drop in many markets, yet his view is that other positives will overcome this drag. Adding to the drag are energy and health care costs and rising debt loads of consumers. Vitner’s guess as to when a global recession will hit: 2010 or 2011.

The positives, which should keep the economy grow-

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ing by 2.8 to 3.0 percent in the final 2007 quarter and 2.0 to 3.0 percent – with three percent growth considered average and sustainable – next year, include record net worth of individuals spurred by stock market gains, a tight labor market (not including housing) which means growing wages, and stable or slightly rising interest rates for consumers. The 10-year rate, often a benchmark for boat and other longer term loans, is 4.70 percent now with Vitner predicting a slight uptick to 4.90 by year-end, historically quite competitive. He is not optimistic about prospects for the new boat market where fuel costs will keep an anchor on growth for the short term at least.

Other Issues Concerning Lenders (Sidebar)

NMMA's Regulatory Counsel Cindy Squires provided updates on legislative and industry issues of concern to lenders during the NMBA Conference. The status of those, and others, are noted here:

Ethanol – Concern for fuel and engine systems durability and safety is shared by lenders who also see a link to protecting collateral values of loans. Lenders should be involved in educating owners about service precau-

tions and safe use of fuels containing the additive.

Water Access – Less access for lenders means less chance for loans. Many are active in communities to help protect marinas and launch ramps in the way of condo development and can also help by funding the more boat-centered developments.

VIS Implementation – The vessel I.D. system is going forward, but with little, if any, benefit for lenders and related service firms. The system planned will hopefully improve communication among the states for law enforcement and titling purposes. It will not provide any federal lien protection for lenders.

State Boat Titling – In an effort that has spanned 25 years, Louisiana joins those states with uniform title programs and Tennessee may get there soon.

No model year designation on outboards - NMBA hopes liaison work with key lender members and boat price guide publishers will result in a solution to track production dates and resulting values of outboard motors as a suitable replacement for model year designations which have been eliminated by several manufacturers. ■

NMBA REPORTS MARINE LENDERS BEING HURT BY SMUGGLING RINGS

Marine lenders have experienced a large increase in collateral being seized by Homeland Security in the Florida Keys the past several months. These boats are being used by smugglers to bring in Cuban immigrants and Homeland Security is aggressively going after these rings. Once the boats are seized it will not be returned to the owner.

Lenders are sometimes successful in getting the collateral back, but many boats are being damaged in the pursuit. If the lender is successful in getting the boat released to them they are taking huge losses on these loans. Dealers are finding themselves unable to get retail financing as lenders shy away from situations that present too great a risk.

Most of the boats used by the smugglers are 30' – 40' center console sport fish boats with large engines.

They have been stopped with often more than 30 immigrants on board. In at least 2 instances lives have been lost during the pursuit. Early sales were primarily occurring in Monroe and Dade counties, where the boats were sold and slipped. Now lenders are financing boats sold by dealers along both coasts and they are being used in these illegal operations.

This is a very serious problem in Florida and it continues to grow. Federal authorities are arresting the smugglers but they are getting released and back out on the water very quickly.

Dealers need to do whatever they can to qualify their center console sport fish buyers and warn them they may be approached by smugglers and the consequences if they should involve themselves in any illegal

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MARINE LENDERS HURT BY SMUGGLING RINGS...

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activity. The borrower will lose the boat, their credit will be damaged, and the lender will pursue financial recovery of the loss with the buyer to the fullest extent of the law.

The NMBA is asking for support within the dealer community in trying to protect all from these smuggling rings. ■

FORESE RECEIVES MARINE LENDING INDUSTRY SERVICE AWARD



Jackie Forese, Bill Otto Award Recipient

A former NMBA president who kept the association alive – and vibrant – during one of the worst downturns in the U.S. economy and the boating industry, Jackie Forese, was honored with the "William B. Otto III Marine Lending Industry Service Award." Presentation was made October 2 at the NMBA's Annual

Conference held near Jacksonville, FL. The tribute recognizes individuals within the marine industry who have given their time and energy to the NMBA or other marine related groups and helped colleagues achieve success in their work or business. It's named for Bill Otto, a founding member of the association.

Forese guided NMBA from 1988-1992. In that period there was a recession brought on by a credit crunch, George Bush Number One advanced the idea of a Luxury Tax on boats, NMBA membership nosedived,

boat sales dried up, and many banks stopped loaning on boats. Yet Forese, a determined New Yorker who at the time managed Grumman Credit's boat portfolio, was able to keep things together. NMBA extended its reach to find new members by opening up its National Conference to all interested parties, and began a useful dialogue with non-lender partners. Under this president, an alliance with the Consumer Bankers was strengthened, work began to repeal the Luxury Tax, and boat title laws spread to most of the important boating states. Forese instituted a number of programs and initiatives that helped lending and boating.

She has remained active in the association through the years and currently co-manages the NMBA's annual golf tournament held at the Conference and is a key organizer of the annual Marine Lending Workshop held in December. Forese also directs her own financial service company (insurance and investments - not boats), Forest Green Associates.

The award takes the form of a glass trophy to the recipient and wooden plaque noting the awardees kept at NMBA headquarters in Chicago. It was created by Mike Smith and Pam Stanley, principals in Traverse City, MI-based Global Marine Insurance. Those interested in nominating an individual for the award can obtain details by contacting Bernice McArdele at 312/946-6280, bmcardle@nmma.org. ■

SMUGGLING RING FOLLOW-UP FROM BARBARA LOCKE

Asset forfeiture and identity theft in marine industry

As a follow-up to her discussion on Cuban smuggling rings at the NMBA Annual Conference in September, Barbara Locke hosted a call with several marine lenders where she shared the following advice:

1. REVISIT LOAN ORIGINATION PROCESS & DEALER/CORRESPONDENT AGREEMENTS — given the current, and growing, issue with smuggling rings it was suggested the agree-

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SMUGGLING RING FOLLOW-UP

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ments require dealers/correspondents to share in the process and consequences of these transactions.

- Enhance the need to verify identity with face-face closings or bank guaranteed signatures.
- Require address verification
- Add a negligence component in addition to dealer's "knowledge of falsity, misrepresentation or material omission" by the borrower.
- Emphasize that the dealers/correspondents are responsible for acts of any of its employees, agents or contractors.
- Obtain copies of down payment checks — payment by third party/non-borrower often a red flag to future illegal activity in the eyes of the Government entities involved.
- Strengthen and enforce the consequences for dealer's/correspondent's failure to comply — how often do lenders pursue unearned commission rebates after collateral seized?

2. SCRUTINIZE CREDIT APPLICATIONS & DOCUMENTATION — don't forget common sense when reviewing and making the loan decision.

- Require salary and/or employment verification where possible — often what is stated on the application does not make sense, i.e. the job title and salary are out of synch.
- Check for any internal inconsistencies in data among various applications, purchase agreements, loan documents, insurance binder — and question everything that doesn't add up.
- Always require a signed copy of the 1040 tax return.

3. REVIEW, STRENGTHEN TERMS OF YOUR RETAIL INSTALLMENT CONTRACT/NOTE & SECURITY AGREEMENTS — the

terms of default should specifically address detention by any governmental agency as an event of default.

- Even though this may seem unfair from a due process point of view, it's all about economics, and from an asset depreciation vantage point you want control of that vessel.
- Add terminology to address transportation of inherently dangerous materials — this will cover the excess fuel carried on these boats being used for smuggling.
- Add terminology to address violations of regulations that materially affect safety of vessel and passengers.
- Add theft of collateral as event of default, as theft jeopardizes the collateral value. This can also be used as a defense to smuggling.
- Beef up accepted navigational limits and add default if borrower breaches those limits.

4. PRACTICE INDUSTRY-WIDE COMMUNICATION AND UNIFORMITY — all lenders are equally affected so cooperation removes any disadvantage to weaker lending requirements and levels the playing field. Barbara strongly encouraged communication among lenders regarding problematic dealers or manufacturers as a way to slowly send the message to the industry that this behavior won't be tolerated. She also suggested lenders and the NMBA consider ongoing dialogue with representatives of the US Coast Guard and Homeland Security, immigration authorities and the US Attorney's office.

Barbara Locke is a partner with the law firm of Holland & Knight LLP, in the firm's Miami office. She practices in the area of commercial litigation, with emphasis on financial transactions, administrative proceedings, and disputes related to international trade and transportation, principally in marine and aviation. Barbara has extensive experience in dialogue with administrative agencies, such as US Customs and the US Coast Guard, especially in matters dealing with seizures and forfeitures. Barbara can be reached at 305-789-7760 or email at barbara.locke@hklaw.com ■



THANK YOU ROBIN COTTMAYER



Robin Cottmeyer

Robin Cottmeyer's name is synonymous with the NMBA workshop. The first workshop took place in 1982, and the event was dramatically expanded in 1994, which is when Robin took the helm. For 13 years she was Chair of the workshop committee, and under her direction the Workshop Manual, which has become the "bible" of marine lending practices, was significantly



upgraded and expanded. Robin was NMBA president from 1997 – 2000, and has been an active participant in the NMBA for over 20 years. This year, Robin stepped down as Chair of the Workshop Committee, but will continue to stay involved in the workshop.

The NMBA would like to officially thank Robin for her significant contributions to the Workshop over the past 13 years. ■

MARINE LENDING WORKSHOP (December 2-4, 2007)



NMBA Vice President and Workshop Coordinator, Karen Trostle with Immediate Past President, Don Parkhurst

The Bahia Mar Hotel in Fort Lauderdale, FL was the location for the 15th Annual Marine Lending Workshop where 39 attendees eagerly participated in classes designed for the marine lending professional.

The program is targeted toward improving the skills of those involved in the industry on a daily basis as well as introducing the specialized nature of lending, marketing, and collection techniques to people new to the industry.

This year's participants were from banks, service companies, maritime law firms, recovery agencies, insurance companies, and yacht dealerships. Course modules covered topics including an Industry Overview, marketing, insurance, registration and lien perfection, credit analysis, collateral evaluation, collection, repossession and collateral remarketing.

Taught by seasoned maritime professionals, the days

were filled with information and interaction between instructors and students. The evenings were great opportunities for networking with a cocktail reception and an evening aboard a yacht for an intercoastal waterway cruise.



Speaker, Jim Meere and On-Site Coordinator, Jackie Forese

In addition to Workshop Coordinators Karen Trostle (Sterling Acceptance Corporation) and Mike Ryan (M&T Bank), instructors included Don Parkhurst (SunTrust Bank), Mike Smith (Global Marine

Insurance), Jim Meere (Marine Finance Consultants), Jackie Forese (Forest Green and Assoc), Leslie Spencer (SunTrust Bank), Barbara Locke (Holland and Knight LLP) and Shari Friedman (Marwedel, Minichello, and Reeb, PC).

Due to unexpected, last minute medical issues, Jim Coburn (NMBA President and regular Workshop Presenter) was unfortunately unable to participate in this year's event.

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MARINE LENDING WORKSHOP

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NMBA would also like to thank all the following sponsors for making the workshop a great success:

- National Liquidators
- LAB Marine
- Marwedel, Minichello, and Reeb, PC
- Northeast Marine Liquidation
- Manheim
- SunTrust Bank
- GE Money
- M&T Bank
- BSC America
- Intercoastal Financial Group



NMBA MEMBER NEWS CORNER

We are pleased to welcome our newest members (since September 2007) to the NMBA ranks

ASSOCIATE MEMBERS

Manheim Auctions
Atlanta, GA
Contact: Karen Braddy

Sun Title Agency of Michigan, LLC
Grand Rapids, MI
Contact: Lawrence Duthler

NAME CHANGE FOR ROE WALLACE

Effective January 1, 2008 Bruce Wallace will be withdrawing from the firm of Roe Wallace Esteve Taroff & Taitz. The firm will be updating its name from Roe Wallace Esteve Taroff and Taitz, LLP to Roe Taroff Taitz & Portman, LLP. The firm's address and tele-

phone numbers will remain the same, but the firm's email will be changed. The new email address is first initial, dot, last name @ rttplaw.com. The firm's new website is www.rttplaw.com ■



SAVE THE DATE!



NMBA CONFERENCE 2008

November 16-18

Hyatt Grand Champions Resort, Villas and Spa
44-600 Indian Wells Lane
Indian Wells, California 92210

www.grandchampions.hyatt.com

The Hyatt Grand Champions Resort and Spa is a 45-acre oasis of lush gardens and shimmering fountains. Pictured below is the magnificent front exterior.

The golf tournament will be held on Tuesday, November 18th, on the new Ted Robinson designed Celebrity Course in Indian Wells, CA — walking distance from the venue.



THE BUSINESS OF

PLEASURE BOATS

A service of the



**national marine
bankers association**

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