

***Regulatory Oversight* Podcast — The Future of Auto Dealership Compliance: A Conversation With Tom Kline (Crossover Episode With *Moving the Metal: The Auto Finance Podcast*)**

**Hosts: Stephen Piepgrass, Brooke Conkle, Chris Capurso**

**Guest: Tom Kline**

**Stephen Piepgrass:**

Welcome to another episode of *Regulatory Oversight*, a podcast that provides expert perspective on trends that drive regulatory enforcement activity. I'm Stephen Piepgrass, one of the hosts of the podcast and the leader of our firm's Regulatory Investigation, Strategy and Enforcement practice group. This podcast features insights from members of our practice group, including its nationally ranked state attorneys general practice, as well as guest commentary from business leaders, regulatory experts, and current and former government officials. We cover a wide range of topics affecting businesses operating in highly regulated areas.

Today, I'm pleased to share an episode from one of our firm's other podcasts, [Moving the Metal](#). Given our nationally ranked state attorneys general practice and our frequent collaboration with the transportation team, I thought our listeners might find this topic particularly interesting. In this episode, Brooke Conkle and Chris Capurso are joined by Tom Kline, a lead consultant and founder of Better Vantage Point, to discuss the evolving regulatory landscape for car dealerships.

Tom highlights the increasing activity of state attorneys general in enforcing regulations, especially in the absence of stringent federal oversight, and the compliance challenges this creates for dealerships operating across multiple states. I hope you enjoy the episode.

[INTRO]

**Brooke Conkle:**

Welcome to [Moving the Metal](#), the premier legally focused podcast for the auto finance industry. I'm Brooke Conkle, a partner in Troutman Pepper Locke's Consumer Financial Services Practice Group.

**Chris Capurso:**

And I'm Chris Capurso, an associate in Troutman Pepper Locke's Consumer Financial Services Practice Group.

**Brooke Conkle:**

Today, we're joined by one of our favorite folks from the dealer industry, Tom Kline. But before we jump in, let me remind you to please visit and subscribe to our blogs. We have two great

ones that may be of interest to you, [TroutmanFinancialServices.com](https://www.troutmanfinancialservices.com) and [ConsumerFinancialServicesLawMonitor.com](https://www.consumerfinancialserviceslawmonitor.com).

Also, we have a bevy of other podcasts that you might find interesting. [\*The Consumer Finance Podcast\*](#), which, as you might guess, is all things consumer finance-related. [\*The Crypto Exchange\*](#) devoted to trends, challenges, and legal issues in bitcoin, blockchain, fintech, and regtech. [\*FCRA Focus\*](#), a podcast dedicated to all things credit reporting. [\*Unauthorized Access\*](#), a deep dive into the personalities and issues in the privacy, data, and cybersecurity industry. Finally, [\*Payments Pros\*](#), a great podcast focused exclusively on the payments industry. All of these insightful shows are available on your favorite podcast platform, so check them out.

Speaking of those platforms, if you like what you hear, please leave us a review and let us know how we're doing. We'd love to hear from you. Alternatively, please feel free to reach out to us directly. Our contact information can be found on our firm's website, [troutman.com](https://troutman.com). If you enjoy reading our blogs or listening to our podcasts, please also check out our financial services mobile app. To download, simply go to your [iOS](#) or [Android](#) app store and search for Troutman Pepper Locke. Not only does our app have all of our blog content and podcast episodes in one handy place, it also has a listing of all the firm's financially focused attorneys. So check it out and see what you think.

For today, as I mentioned, we're joined by our buddy, Tom Kline, Lead Consultant and Founder of Better Vantage Point, where Tom focuses on regulatory compliance and risk mitigation techniques for dealers, and also the esteemed author of *Tuck the Octopus*. Tom, welcome to [\*Moving the Metal\*](#).

**Tom Kline:**

Thanks for having me, Brooke and Chris. Great to be here.

**Chris Capurso:**

Yes, this is awesome. Tom, this is going to be – it's difficult to try to quantify and describe in a short bit all of your experience in the auto industry, but try to tell us about all of your experience in the auto industry.

**Tom Kline:**

Let me encapsulate 35 years in 60 seconds, right? My family's actually been in the car business for 100 years this year. My grandfather started in 1925 in Monticello Avenue in Norfolk, and I'm a third-generation car guy. I was dealership owner for 30 years. We sold our stores in 2019. That's when I opened my consulting business, helping dealerships with risk and compliance. I've been now doing that for five years. I started my business two weeks before COVID. That was fun. I got into business, got to my desk, and then COVID. That was interesting times. But anyway, I'm happy to be here. I do help dealerships big and small. I have rural country stores. I have large dealership groups and help everything in between.

**Brooke Conkle:**

Well, Tom, you're one of the first guests we've been able to talk to since the CARS Rule was vacated by the Fifth Circuit. What are your thoughts? Where do you think we're going here with the CARS Rule?

**Tom Kline:**

Yes. That's a really to question, Brooke, because I could talk about that for probably the whole 20 minutes. But I think that we'll see if the FTC decides to do anything, right? They have various different options, and they can reintroduce it. They can change the rulemaking. There's lots of different things they can do. We'll see what happens with that. But kind of from a regulatory perspective, I think what's important to think about is I talked to a lot of dealerships, dealers who are relieved that the Republicans are in control of Congress and the White House. Some of them think, "Okay. Well, now I don't have to mess with anything regulatory because the Republicans are going to handle it."

Kind of what I would say is I'm going to push back on that because to my knowledge, never before had the attorneys general been so active. While the federal regulations may not be enforced as enthusiastically as they have been, there's Illinois, Florida, Arizona, New York, Wisconsin, and Maryland have all recently had AG actions, right? AG, some people say AG stands for attorney general, but it also stands for almost governor, right? These people are politically motivated. They want to make a name for themselves.

Take Maura Healey in Massachusetts as an example, right? She's now governor. She was the AG in Massachusetts. She went after at least five or six, I could think of off the top of my head, car dealerships or car dealership groups. The regulatory environment may be changing from the federal perspective. But from the state perspective, never has it been so active. Is that not what you're finding as well?

**Brooke Conkle:**

Tom, you took the words right out of my mouth. I think a lot of us, when we saw sort of the pending transition and current ongoing transition between the Biden administration and the Trump administration, at the outset, I think a lot of folks saw that as going to be a real decrease at the federal level. But what we always see is the states rise to fill that vacuum, where the feds sort of dip down, the states rise up. And so it really can be a very serious compliance challenge, rather when you go from a federal regime that's really tough, frankly, to comply with, at least you know what the standard is nationwide. When you have sort of a patchwork of compliance obligations between different states, that can make it really tough to do business on a nationwide level.

**Tom Kline:**

That's right. And even this morning's Wall Street Journal, Ted Cruz is trying to defund the CFPB. That was in literally this morning's Wall Street Journal. It's unknowable what is going to happen from a federal perspective. But I do think these AGs are going to continue to enforce the

rules. They're going to make sure that politically it's easy to try to find a car dealer and people don't get upset about finding car dealers, right? The only person who's upset about that is the car dealer. I think that will continue.

**Chris Capurso:**

Yeah. I think one other point is, as far as the federal enforcement, I wanted Brooke's favorite things to say every time we talked about the car's rule is that the FTC thinks this is just kind of clarifying what we can do. We have this authority already. We're just putting it down. We're going to add some more record retention requirements. You could potentially have an FTC that might be interested in enforcing some of these things. I mean, the Brock Sonda case, which I was thinking was one of those kind of seminal cases that seems to be beating into a lot of the AG actions now, I mean, that was during the Trump administration when Rohit Chopra was just a FTC commissioner before he rose in the ranks. I always find that interesting that one of those big cases was during the last Trump administration. Like I said, it's hard to tell what's going to happen.

**Tom Kline:**

Yeah, I agree. And with the CFPB, the FTC, what's really surprising about the cars rule, Brooke, to kind of follow up on that a little bit, the FTC Act was passed in 1914. And the FTC was formed so that there was no deceptive practices, right? That's why it was formed. And so, roughly, the car's rule was 50% already redundant because the FTC already had the charter to root out deceptive practices. That's already there.

Really, the only two things that the car's rule did to really boil it down the simple terms was the advertising requirement and the record-keeping requirements were terribly onerous. Very difficult for any business to do. And no business, to my knowledge, there's no industry that has those kinds of requirement on them. And so, that part of the car's rule was super detrimental. But kind of 50% was already codified, in my opinion, based on the fact that you can't sell oil changes in an EV, right? That's just inceptive. You can't do it. And if you do do it, then you're going to – as my son said when he was very, very young, you get what you get. You don't throw a fit.

**Chris Capurso:**

That's a great phrase. Shifting gears a little bit not to hit the auto pun. But I guess, generally, what is the most common preventable recurring issue that you see for dealers?

**Tom Kline:**

Well, if you look at all the AG, the AG actions of recent, most of those are related to consumers alleging that they were duped in some way or another. Some of it is product stuffing where they didn't know that they were getting the whatever product. Most of the actions have that allegation that the customer doesn't know that they purchased whatever fill-in-the-blank X-product. And what's super easy to prevent that is, from a paperwork perspective, every single deal that a dealer does should have that product listed in four different places. Right? It should be on the

buyer's order. It should be on the retail installment sales contract. It should be on the menu where it says accepted and rejected or declined items. And then there should be a product enrollment form. If allegations ever come up, you say, "Wait. This customer signed four different pieces of paper showing this product. How can they say they didn't know what they were buying?" Right?

And so when I read the press releases from whether the FTC is involved or not or the AGs, my first thought is, "Well, no. Wait a minute. This is so easy. These allegations are so easy to prevent." And if they were doing things the right way, which is that's how I see the right way to do it, then that's how you do it. Otherwise, maybe they are being deceptive. I don't know. I don't have any facts about any of those particular actions, but that's what I see.

**Brooke Conkle:**

Tom, can you tell us a little bit about kind of dealer trends that you have seen sort of fade away that maybe you thought would have a little bit more staying power?

**Tom Kline:**

That's a tough question, Brooke. I guess when I think about that, there's so many things that come to mind. One of them is the car business is a business of basics. It's always back to ABC123. If you're selling a car, you have to train your salesman and they have to understand. And whoever's doing the advertising has to make sure that the salesman knows what the specials are. Otherwise, somebody comes in and says, "I want the ABC car," and the salesman says, "We don't have it or we can't give it to you at that price." And then you got a problem. Then the customer's upset and then you're off to the races.

I would say that making sure they go back to the basics is something that I thought maybe that would go away but it hasn't. And it's always going to be that way. I also think that as things have gotten more – I was just at the NADA Show in New Orleans or Sno-La in this particular case, since there was a blizzard and I have terrible travel stories as everybody else. But you walk up and down and you see all these AI solutions.

And as technology has progressed, you think, "Well, this is going to make it easier to transact business for the dealership." What's actually happened is the exact opposite. A dealer's tech stack typically has 20 to 40 different pieces of technology in order to sell a car, which is just crazy. I mean, 20 to 40 different companies you have to deal with and piece it all together. I haven't seen what I would think is consolidation from that perspective. It hasn't happened yet. Those are kind of, I would say, the top two things that I would look at.

**Chris Capurso:**

Well, it sounds like you already identified one of these with AI and trying to deal with tech, but what do you see as the biggest compliance challenges for dealers?

**Tom Kline:**

Having a compliance program. I know that sounds ABC123, but I'll tell you that I have some dealer groups I'm talking to, 29 stores, 35 stores, 45 stores. And one of the first questions I ask, usually they say, "Well, we have a very robust compliance program." And I said, "That's great. I'd love to hear about that, but let me just ask you one question. Do you have anybody at the locations, not at a corporate office, but do you have anybody at the locations checking behind any of your policies to make sure that they're following the policies the way you want them followed?"

And 80% to 90% of the time the answers that I get back from dealers is no, to which my response is, "If somebody isn't checking behind and you don't have an audit function of some kind reporting up through a chain of command so that you can then act on that information, you really don't have a compliance program." And so that's my answer, is typically you don't have one.

A compliance program I mean – I had a dealer ask me yesterday actually. He said, "Well, do I have to have somebody full-time to do that?" And the answer is no, you don't have to have somebody full-time, but you have to have somebody who can work on it variously, depending on the size of your organization. If you have 40 stores, you should have somebody full-time who's in charge of compliance.

**Brooke Conkle:**

Well, Tom, what do you see on the horizon for 2025 and beyond for car dealers?

**Tom Kline:**

I think the business continues to get more complicated versus more simple because of the technology requirements, because of the different vendors, because of the tremendous expense that all those pieces of technology require. Training is very expensive, training new salespeople. Bringing people up through the ranks is very expensive and time-consuming. These are all challenges that every business has, of course – the car business, because it's so people-intensive, has that in spades. And so I think that continuing to spend money on training, the marketing piece, making sure that they're in compliance, I guess that would also be my next answer just from your previous question, which is, what are they not doing? Checking behind the advertising and making sure the advertising is being done correctly and in conformity with the state and federal laws.

I think training will always be in vogue. And I think continuing that pattern here in 2025 is going to be important. It looks like the interest rates will continue to come down a little bit. They didn't cut the rate yesterday, but I think when things settle down, depending on what this administration does with all the various tariffs and whatever, I think that will help, and I think volume will come back up a little bit more this year than it did last year.



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**Chris Capurso:**

You just mentioned you were at NADA. I see Octopi in the background. As Brooke mentioned, you wrote a book. *Tuck The Octopus*. I guess, first, where do you find time in your busy schedule to write an entire book? I can't even fathom how much time that takes. And second, tell us a little bit about it.

**Tom Kline:**

Yeah, five years is the answer to your question. It took me five years to write the book. I think I probably have 500 hours in the book. It was a lot. *Tuck the Octopus* is an analogy for what it feels like to run a dealership or any business for that matter, which is you're trying to tuck those tentacles in, but they keep flopping all over the place, right? Because that's the nature of the car business, right? If you think about a dealership, it's very complicated because you're running all these different businesses. You have a new car business, and a used car business, and a finance business, and a parts department, and a service department. Sometimes you have a body shop. Sometimes you have a leasing company. Sometimes you have buy here, pay here operation. And you've got an office you have to run. And so that's 10 different departments. Each one of those departments have a lot of people running around. And I've always said the problems start on two legs, right? Problems that dealerships start on two legs, it's either customers or employees. That's, I'd say, 70% of the problems where they start at dealership.

*Tuck the Octopus* is about how you can prevent problems at a dealership. And what to do if you actually have a problem? How to handle it? How to mitigate the risk? How to resolve lawsuits from a business guy's perspective, right? How to little customer problems? All those kinds of things and what it takes to run a dealership, that's what *Tuck The Occuptpus* is about.

**Chris Capurso:**

That's awesome. Well, that'll wrap it up for today's podcast. Thank you to our audience for tuning in. Don't forget to check out our blogs where you can subscribe to the entire blog or just the specific content you find most helpful. That's the [ConsumerFinancialServicesLawMonitor.com](http://ConsumerFinancialServicesLawMonitor.com) and the [TroutmanFinancialServices.com](http://TroutmanFinancialServices.com) blogs. While you're at it, why don't you head on over to [troutman.com](http://troutman.com) and sign up for our Consumer Financial Services mailing list so that you can stay abreast of current issues with our insightful alerts and advisories and receive invitations to our industry insider webinars. And also while you're at it, you should check out Tom on LinkedIn where he is a prevalent poster and posts very helpful information nearly all the time. I read it daily.

And with that, of course, please mark your calendars for this podcast, *Moving the Metal*, which we will be releasing every two weeks in 2025. That will be generally on the second and fourth Tuesdays of each month. And as always, if you have any questions or if we can help in any way, please reach out to us. Until next time.

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