

Reading & Response January 2008

TAKE A GOOD LOOK AT YOUR DEALERSHIP: DO YOU SEE WHAT I SEE?

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Go ahead. Take a good look at your dealership. It appears to be in good shape, but do you see what I see? What do you think it looks like from my perspective?

How can you improve dealership compliance and avoid problems before they happen, while increasing customer satisfaction and overall dealership profitability at the same time? It can be done. Want to know how I would accomplish it? I would begin by conducting a "Walk-thru" of your dealership paying special attention to the following things.

Paperwork: Dealers should have their paperwork reviewed and, as necessary, updated on a yearly basis. Having a relationship with a paperwork vendor capable of keeping you apprised of compliance issues as they develop will help streamline this process. You should also limit who, within the Dealership, has authority to revise the paperwork and have procedures in place to ensure that employees do not use paperwork brought from outside sources, such as the last Dealership where they worked. Regularly auditing actual deals can help to ensure that paperwork is being properly completed and that computers are properly programmed to print information in the appropriate places.

Advertising: The persons who create your Dealership's advertisements should be familiar with the Federal Truth-in-Lending and Leasing Acts and State Advertising Laws and/or your advertisements should be reviewed for compliance with these Laws. Regardless of whether they appear in the newspaper, on television, or on the Dealerships' website, your advertisements must contain mandated disclosures if you use any of the "triggering terms" defined in Regulations M and Z. They must also disclose any material limitations or exclusions to offers that are made in a clear and conspicuous manner. Direct mailers and telephone solicitations or follow up calls can raise a whole host of other issues. Remember to keep copies of all advertisements in case you need to respond to a consumer or regulatory inquiry about an offer or the contents of an advertisement.

F&I: Dealers should make sure they have a copy of the dealer agreement for each lender and service provider with whom the Dealership does business. These agreements and any related materials should always be reviewed by someone who has knowledge about both the products being offered and our industry. Reviewing dealer agreements and properly training employees on how to sell service contracts, GAP agreements, insurance products and all other "F&I products" sold at the Dealership can go a long way in protecting your Dealership from potential liability. All too often we find that Dealers rely on representations made by a third party as to the compliance of its marketing materials, the products it offers and even the training it provides to the Dealership's employees. For those who use an F&I Menu, remember to revise it whenever you begin or cease offering a product so that it accurately reflects the products and services available at the Dealership and to make sure the menu is consistent with other paperwork provided to a customer.

Employees: All potential employees should be required to complete an employment application and, at a minimum, you should contact references to verify that the individual is qualified for the position. Depending upon the job responsibilities and access the applicant will have to confidential information about your Dealership and customers, you may also wish to conduct background investigations or obtain a credit report. All employees should also receive an employee handbook that contains information about the Dealership's internal policies and procedures. Remember to address issues such as who has access to pull and/or review credit reports, whether customer information belongs exclusively to the Dealership and whether employees are permitted to remove

such information from the Dealership both during the term of employment and afterwards. If specific agreements are made with respect to commission payments and bonuses, you may also wish to enter into a separate written employment or compensation agreement. Employee handbooks should be updated regularly and employees should always be required to acknowledge in writing that they have received and read the materials. Just as important is requiring all employees to attend training and/or educational seminars related to their duties at the Dealership, not just at the time they are hired, but on an ongoing basis.

Privacy Policies and Customer Identification Procedures: Every Dealer should have a Privacy Policy that accurately reflects the Dealership's business practices with respect to collecting and sharing customer information and a comprehensive written information security program that describes how the Dealership protects the confidentiality of the information collected. Access to customer information and other Dealership records should be limited to authorized employees who need the information to complete their employment responsibilities. Customer information must be obtained to verify the identity of customers and the Dealership has to have procedures to ensure that it does not enter into transactions with any individual or entity that appears on the list of Specially Designated Nationals and Blocked Persons maintained by the Office of Foreign Asset Control (OFAC). Motor vehicle dealers are responsible not only for implementing their own privacy policies and procedures, but must also take steps to ensure that the lenders and service providers with whom they share information have taken steps to maintain the confidentiality of customer information.

Dealership Website and Computer Systems: Online advertisements must comply with Federal and State Advertising Laws and should be updated on a regular basis. Dealers who permit consumers to submit credit applications electronically must post their privacy policies online. Keep in mind also that many of the same precautions taken with respect to your paperwork apply to your Dealership's computer system. Computer systems and programs should be reviewed and updated regularly. You should also limit who has the ability to update software applications, take steps to prevent and prepare for a systems failure and ensure that data is eliminated or hard drives removed when disposing of computers and any other electronic media and records. By the way, one more thing, what exactly is the dealership doing online? Marketing, advertising, taking orders or selling cars and how does it affect your paperwork? You must have answers to these questions!

Service: Dealers should also have their service paperwork reviewed and updated on a regular basis. Start by reviewing the repair order and other service related paperwork to ensure that they contain all of the information and disclosures required by applicable law. The dealership should obtain permission from its customers prior to road-testing their vehicles, ascertain whether they wish to have parts removed from their vehicles discarded or returned, and advise them of additional charges that may be incurred for miscellaneous materials and partially completed work or for restocking of returned parts. Customers should always be provided with the appropriate estimate or estimate choice form before any services/repairs are performed and a system should be in place to document any additional services/repairs that a customer authorizes. The dealership's warranty and return policies should also be clearly communicated to customers and be consistent in all of the service paperwork, such as the repair order, repair invoice and after hours repair authorization. If you perform a repair at no charge or a reduced charge to the customer when you are not obligated to do so (a "goodwill" repair), don't forget to utilize a form indicating that the performance of the goodwill repair does not create any additional dealership obligation or warranty in connection with the repair or service.

Signage posted in the dealership's service department is necessary not only to make appropriate disclosures to customers, but also to comply with safety-related laws and regulations. Signage advising customers of their right to receive an estimate choice, additional fees that may be incurred in various circumstances and the dealership's warranty and return policies should be consistent with the information provided to customers in the service paperwork and be posted in the area where customers commence the service transaction. You should also have signs that restrict the access of customers to certain areas. In those areas where employees are performing services and repairs, signage should be posted explaining the proper use of safety equipment and the safety equipment, such as first aid kits, eye wash stations and goggles should be located in close proximity to the signs and be easily accessible.

Okay, now you have a glimpse of what I see when I look at your dealership. You probably thought that your dealership was in pretty good shape, but I see numerous areas within the dealership that could use a closer look and a little fine-tuning. I see paperwork that needs to be updated and policies and procedures that need to be developed or revised along with ways to improve customer satisfaction, prevent mistakes and solve existing dealership problems, not to mention many unanswered Internet questions. If these issues are attended to and appropriate action is taken, it will result in a more efficiently run and profitable dealership.

Accomplishing this must be very complicated, time consuming and expensive, right? It doesn't have to be. In fact, you can do most of it yourself provided you know what to look for. Want to see what I see? Get a copy of [The Car Counselor's Guide titled "Conducting Your Own Dealership Compliance Walk-Thru"](#) and remember, put some fun back into the car buying process!

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Oregon rules explain who is and isn't a dealer employee

Who is a dealer's employee, and who is not?

For vehicle dealers certified by the Oregon DMV, the answer is covered in Oregon Administrative Rule 735-150-010 (19). Under this rule, "employee" means a person over whom a dealer exercises the type of control typically associated with an employer, including but not limited to:

- (a) Determining the frequency, method and amount of compensation;
 - (b) Determining whether the person's work is continuous or intermittent;
 - (c) Determining the hours or frequency of a person's work;
- or
- (d) Retaining the ability to terminate the relationship.

Additionally, dealers are accountable for the dealer-related business activities of all employees of the dealer, even if that employee works as infrequently as one day a week.

– *Business Regulation*

Title: Opportunities With The Dealer In Mind
By Laura Patterson

NIADA has it all covered when it comes to opportunities for you the dealer. The association's programs are created to help better secure the future for you, your family and your dealership. NIADA focuses on your education to better your business by providing endless hours of seminars, classes and programs through NIADA.TV. For your family, NIADA's scholarship program helps provide eligible students resources for their college tuition. And, NIADA offers a state-of-the-art retirement program with your future in mind.

NIADA.TV

NIADA.TV provides the solutions and answers that help you operate a more successful business. From the education programs to the virtual trade show, NIADA has your bottom line in mind. The best part is you can view all of them for free.

- Legal, Legislative & Regulatory Summary – One of NIADA.TV's highest viewed program focuses on legal, legislative and regulatory developments from Washington, D.C., and around the country. Every month, NIADA General Counsel Keith Whann reports on important issues that impact the industry.
- Driving Business – If you're looking for interesting, fun and informative programs to help you make a real difference in your business, look no further. DJ Harrington covers it all.
- T.I.P.S. – These unique and powerful tips to improve performance is a program you don't want to miss. George Dans, one of the industry's most sought-after speakers/trainers, provides proven tips on how you can close more deals and make more money.
- Street Smart Sales Training – One of the most innovative and in-demand trainer/speaker Paul Webb takes you through steps he's taken to sell more cars than anyone ever has.
- The K.O. Zone – This ongoing series with master dealer trainer Kelly O'Connell gives you real-world tools you can use today. You too can Knock-Out the competition by tuning in to this new program.
- Automotive Digest News – You can find out the latest in auto industry news with this new program. Chuck Parker hosts this TV program as he goes one-on-one with key industry leaders and vendors who are on the cutting edge of technology.
- Virtual Trade Show – In this one of a kind event, vendors create virtual trade show booths. NIADA knows how hard it is for dealers to get away to attend the many automotive conventions and expos held around the country. This program gives you a hands-on "virtual experience" of products and services available to help you improve your business.

You should tune in regularly. Now, there is more than 300 hours of dealer education available, and new programs are added monthly.

Scholarships

Historically, the association's scholarship program was the responsibility of the NIADA's Auxiliary. Now, the NIADA Foundation has assumed the oversight of the program's functions. Four regional scholarships are awarded annually at the National NIADA Convention in June. This program provides funds to eligible students to be paid to the college of their choice. Applications are to be filled out and must be postmarked no later than Jan. 31, 2008.

In order to be eligible, students must complete the following criteria:

- Be classified as a high school senior;
- Have maintained an outstanding academic achievement record as reflected by an official high school transcript; and
- Demonstrate an aptitude for college work as measured by SAT or ACT scores.

The application process is simple. Submit the completed application form with the required attachments to:

Scholarship Selection Committee
NIADA Foundation
2521 Brown Blvd.
Arlington, TX 76006

Staff reviews the applications for completeness and forwards them to the Scholarship Selection Committee within NIADA and at Northwood University in Midland, Mich. One applicant is selected from each of the four NIADA regions based on the merit of his/her scholarship application and is notified by the Foundation office by May 1, 2008.

NIADA's Retirement Program

Not many people are aware of the benefits of NIADA's Retirement Program which is administered by NADART, National Automobile Dealers Association Retirement Trust. Your business has the ability to offer employees a state-of-the-art 401k retirement plan. A NADART plan can be included in your employees' benefit package, which will help in securing a financially stable retirement. The NADART plans average expense ratio is generally at least 1 percent less than any 401k plan in the marketplace. Also, for qualified employers that start a 401k plan, you may be eligible to receive a tax credit of up to \$1,500 over the first three years of the plan. To learn more about this great program, contact NADART at nadart401k@nada.org or call (800) 248-6232 ext. 7254.

New I-9 Form Required Immediately for all Employers

On November 7, 2007, U.S. Citizenship and Immigration Services (USCIS) issued a revised Form I-9, which employers should begin using immediately in place of their old I-9 forms. Although the new I-9 form was just released, the revision date printed on the lower right corner of the form states (Rev 06/05/07)N). Employers do not need to fill out the new form for existing employees, but will need to use it when re-verification is required.

Some of the documents that previously were acceptable under the old I-9 form are no longer acceptable under the new form. Specifically, the following documents are no longer acceptable for authorizing identity and employment eligibility:

1. Certificate of U.S. Citizenship (Form N-560 or N-561)
2. Certificate of Naturalization (Form N-550 or N-570)
3. Alien Registration Receipt Card (I-151)
4. Unexpired Reentry Permit (Form I-327)
5. Unexpired Refugee Travel Document (Form I-571).

In addition, one document was added to List A as acceptable:

Unexpired Employment Authorization Document (I-766)

The instructions for the new I-9 form also note that employees are not required to provide their Social Security numbers, unless the employee is hired by an employer who participates in the USCIS Electronic Eligibility Verification Program (E-Verify).

For your convenience, we have attached a copy of the English version of the new I-9 form, as well as the Spanish version. The Spanish version, however, should serve merely as a reference for Spanish-speaking employers and employees in the 50 states, as the Spanish version can only be completed by employers and employees in Puerto Rico.

Be sure that the person in charge of reviewing the documents signs the I-9 form in the

appropriate space for the employer at Section 2, as that apparently is the most missed item when audits are performed.

I Certify to OIADA that I have personally read these articles in the Oregon Dealer News Magazine January Issue 2008.

**READING & RESPONSE FORM
OIADA CONTINUING EDUCATION PROGRAM
Complete this test or the Certificate of Completion form for Jan. 2008**

ARTICLE:	QUESTION
I-9 Form	The new I-9 Form is required immediately for all employers. <p style="text-align: right;">(1) True _____ False _____</p>
Kieth Whann	Every dealer should have a privacy policy that accurately reflects the dealership's practices with respect to collecting and sharing customer information. <p style="text-align: right;">(2) True _____ False _____</p>
NIADA	As an OIADA / NIADA member, your dealership has the ability to offer your employees a state-of-the-art 401k retirement plan. There is also a tax credit of up to \$1,500 over the first 3 years of the plan for qualified employers. <p style="text-align: right;">(3) True _____ False _____</p>
Oregon Rules	Dealers are accountable for the dealer-related business activities of all employees of the dealer even if that employee works as infrequently as one day a week. <p style="text-align: right;">(4) True _____ False _____</p>
NIADA	As an OIADA member you can view any NIADA (National Association) TV educational programs for free. These programs are designed to increase your bottom line. <p style="text-align: right;">(5) True _____ False _____</p>
I-9 Form	The I-9 form does not need to be filled out for existing employees, but you will need to use it when re-verification is required. <p style="text-align: right;">(6) True _____ False _____</p>
Keith Whann	Dealerships do not have to prove how they protect the confidentiality of their customers information. <p style="text-align: right;">(7) True _____ False _____</p>

Scroll Down and Check you answers.

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ARTICLE:	QUESTION
I-9 Form	<p>The new I-9 Form is required immediately for all employers.</p> <p>(1) True _____ False <u> x </u></p>
Kieth Whann	<p>Every dealer should have a privacy policy that accurately reflects the dealership's practices with respect to collecting and sharing customer information.</p> <p>(2) True <u> x </u> False _____</p>
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