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NOV/DEC 2022

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Basics are Must Haves
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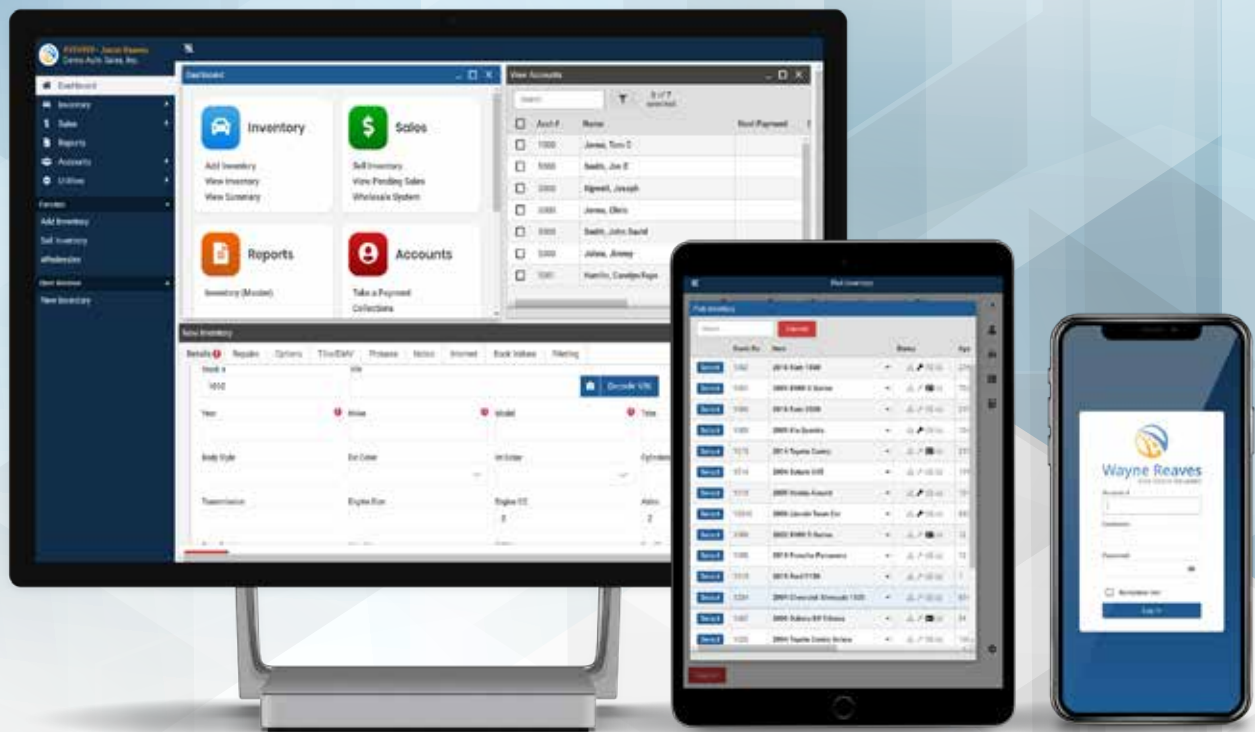
**How to Keep Your Dealership
Out of Legal Trouble**

**How Many Cars Do
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**PLUS:
5 Reasons a Good Online
Reputation is Absolutely
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*Season's
Greetings*





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During this holiday season, everyone at GIADA would like share our genuine appreciation with you. Without our members and supporters, we would not be where we are today, and we're so thankful for all of your support throughout the year.

We hope you have a joyous holiday and we look forward to serving you in the future.





How Many Cars Do You Really Need?

Without hundreds of shiny vehicles lined up, dealers need to use their tools to market to passing customers.

By Harry Siskind, Director of Marketing for AutoSpin USA

How many cars does it take to serve a single car shopper? The answer may surprise you. It is not 100 or 500. It is truly only one. Especially if it is the right one in the right environment.

Car shoppers are accustomed to seeing hundreds of vehicles on dealers' lots. They used to expect to see every color in every trim. Today, due to inventory issues, this is simply not the case for most dealers. Most dealer lots look more like a shopping mall parking lot on a Sunday morning than what car shoppers are used to seeing.

Where is the excitement? To make things worse, the news has filled shoppers' minds with ideas like, "you can't get the car you want," "you will have to pay \$10,000 or more over sticker" and "you will have to wait months to get your car." Combined with an empty lot, how are dealers supposed to get car shoppers excited in today's environment?

The answer is simple...the same way you always have in the past. Without hundreds of shiny vehicles lined up perfectly, dealers need to use the tools at their disposal. Use ramps to highlight the vehicles you do have available. Put your ramps on the front line and plaster them with signage that tells the true story about your inventory availability. Educate the public that passes your store. Tell them that you are open for business and selling cars daily with more arriving all the time. Let them

know that you will find the car they want and will get it for them quickly. And of course, tell them that you are interested in buying their car. Don't hide in an empty showroom and wait for things to get better. Be proactive and use every tool at your disposal.

You can also get creative with your lot layout. Expand your customer parking area across the entire front of the building and even make it two rows. You can park some service and employee vehicles here to give the illusion of a fuller lot.

Remember that almost all car shoppers have always come to dealerships looking for a single car or truck, not hundreds. They may have driven a few, but in the end, they left with one. They took delivery and left happily with just one vehicle. Needing hundreds of vehicles on the lot to serve customers well is a construct in our heads, not the consumers'. You only need one vehicle to send a car shopper home as a happy car owner.

By placing the cars and trucks you have on ramps, you will draw the eye and attention away from the empty pavement. While the eyes of shoppers and passersby are there, deliver your message by covering your ramps with signage. Use the service and employee vehicles creatively.

You have weathered storms before and this too shall pass. ■

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CFPB Takes Action to Protect the Public from Shoddy Data Security Practices

Financial companies may be held liable for unfairly putting customers' data at risk

By CFPB

The Consumer Financial Protection Bureau (CFPB) confirmed in a circular published recently that financial companies may violate federal consumer financial protection law when they fail to safeguard consumer data. The circular provides guidance to consumer protection enforcers, including examples of when firms can be held liable for lax data security protocols.

"Financial firms that cut corners on data security put their customers at risk of identity theft, fraud, and abuse," said CFPB Director Rohit Chopra. "While many nonbank companies and financial technology providers have not been subject to careful oversight over their data security, they risk legal liability when they fail to take commonsense steps to protect personal financial data."

The CFPB is increasing its focus on potential misuse and abuse of personal financial data.

As part of this effort, the CFPB circular explains how and when firms may be violating the Consumer Financial Protection Act with respect to data security. Specifically, financial companies are at risk of violating the Consumer Financial Protection Act if they fail to have adequate measures to protect against data security incidents.

Past data security incidents, including the 2017 Equifax data breach, have led to the harvesting of the sensitive personal data of hundreds of millions of Americans. In some cases, these incidents violated the Consumer Financial Protection Act, in addition to other laws. For example, in 2019, the CFPB charged Equifax with violating the Consumer Financial Protection Act to address misconduct related to data security.

Today's circular also provides examples of widely implemented data security

practices. The circular does not suggest that particular security practices are specifically required under the Consumer Financial Protection Act. However, the circular notes some examples where the failure to implement the following data security measures might increase the risk that a firm's conduct triggers liability under the Consumer Financial Protection Act, including:

- **Multi-factor Authentication:** Multi-factor authentication greatly increases the level of difficulty for adversaries to compromise enterprise user accounts, and thus gain access to sensitive customer data. Multi-factor authentication can protect against credential phishing, such as those using the Web Authentication standard supported by web browsers.
- **Adequate Password Management:** Unauthorized use of passwords is a common data security issue, as is the use of default enterprise logins or passwords. Username and password combinations can be sold on the dark web or posted for free on the internet, creating risk of future breaches. For firms that are still using passwords, password management policies and practices allow for ways to monitor for breaches at other entities where employees may be re-using logins and passwords.
- **Timely Software Updates:** Software vendors and creators, including open-source software libraries and projects, often send out patches and other updates to address continuously emerging threats. Upon announcement of these updates to address vulnerabilities, hackers immediately become aware that firms using older versions of software are potential targets to exploit. Protocols to immediately update software and address vulnerabilities once they become publicly known can reduce vulnerabilities. ■



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DEALER INSURANCE & BONDS

Identity Theft: Not an Opportunity to do Business

Identity theft is no joke; there is a lot at stake today and we all must stay vigilant.

By Brian Stout, Executive General Adjuster, AutoSuccess

Over the course of the last few years, I've seen a significant uptick in dealer open lot insurance claims for false pretense, usually in the form of identity theft. This should come as no surprise given the digital age of social media, social engineering and cyber hackers. It seems as though the threats to steal our personal information are under constant attack by cyber thieves and the pandemic has only acted as a vessel for those looking to takeover someone's identity.

Understanding the threat of identity theft is only part of the battle for auto dealers, who like any business, have been affected by inventory shortages, staffing changes and, well, the rising cost of just about everything due to inflation. Auto dealers must also deal with individuals entering their dealership, or online, who have assumed another's identity. For most salespersons, finance managers and sales managers, the mere thought of someone presenting fraudulent information is not necessarily part of their training or something they have been "warned" about. I'm here to tell you, not only should they be warned about it, but they should also understand the importance of due diligence when confirming someone's identity.

We have all heard the old saying, "if it's too good to be true, then it probably is," well, what I see on nearly every insurance claim presented against a dealer open lot policy for false pretense or fraud involve several common denominators.

5 COMMON DENOMINATORS

The first common denominator is checking up on a buyer's references (in some cases, the salesman puts himself as a reference, which is a terrible decision) or not confirming their income. The second common denominator is a buyer who is willing to purchase a vehicle at 10-20% over the book price. The third common



denominator, which presents itself in the finance department, is when the identify thief purchases the extended warranty, which I typically see \$10,000 to \$12,500, about the most they could possibly pay. The fourth common denominator is gap insurance (which would be necessary, given how upside down the buyer will be when they leave the dealership). The fifth common denominator, yes there's a fifth in every deal, is an interest rate at minimum 2 points higher than someone with a 700+ credit score should have. When the deal is done, someone came in to purchase a vehicle for \$55,000 and left with a \$80,000 loan, all the while using someone else's identity.

While all five of the above common denominators may not exist in every false pretense claim filed, I've not seen less than

four of them in any claim I've handled, and after so many, you see a trend. I'm not here to slap anyone's hand, but at some point, when the deal is so juicy everyone gets wet from the squeeze, it's important to do your part and do your best to confirm the identity of the buyer before it's too late.

Identity theft is no joke, there is a lot at stake today and we all must stay vigilant. I've seen identify theft victims lose everything they have; salesman lose their jobs or get arrested and high-dollar insurance claims get denied as a result of simple measures the dealership could have taken yet did not.

We have also heard the saying, "buyer beware," but I'm here to say, "salesman beware," because I can tell you, identity theft is not an opportunity to do business. ■

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5 Reasons a Good Online Reputation is *Absolutely* Essential

By Mande Wilson, Marketing Director, NIADA

Online reputation may seem like an abstract for some used car dealers, but it is crucial for businesses in the digital era. You don't have to sell digital products to benefit from a pristine presence on the web. Local buyers look up physical businesses before deciding whether they're worth visiting. In this post, we will look at the 5 reasons you need to have a good online reputation.

Better regional visibility on local searches

Google is the world's most used search engine, and it has shifted its algorithm to prioritize reputation. Potential customers looking for used car dealers are likely to see your listing if you have a better digital footprint. Google's knowledge graph tracks news sites, Wikipedia, and social media to understand authority and rank local businesses accordingly.

As a used car dealer, you have three options in terms of online visibility. The first is to be absent from all online platforms and miss out on all the business from online discovery. The second option is to be present online but have an average or poor reputation. Neither of those is good for your business, which leaves the third option: have a good online reputation. With an excellent reputation, you not only appear in front of your prospects, but you also look appealing enough to make them want to visit.

Establish social proof

In the past, used car dealers relied on testimonials in print advertising to establish social proof. As times have changed, the medium has shifted, but the need for social proof remains. The approval from third parties, especially peers of the person reading the reviews, raises the credibility of a person or a business because of this psychological effect. With a stellar online reputation, your dealership can be seen as the better option in your area.



Increase buyer trust for quicker purchase decisions

This benefit extends from social proof. With the right online image, you are seen as not just a leader in your market but also as more trustworthy. Positive reviews can boost buyer confidence which can reduce the likelihood of the dreaded "let me think about it."

Customers delay their buying decision because they assume they might be able to get a better deal elsewhere. You can bypass that by having a solid reputation for giving a good deal.

As a used car dealer, you also have the advantage of limited availability for specific cars. If a customer likes a specific used car, he cannot justify delaying action on account of being able to get the same car for the same price later. This motivates the customer to even opt for financing to buy as soon as possible, as long as he trusts the dealer.

If your online reputation isn't good, the lack of trust can be too large an obstacle to overcome.

You expand Lifetime Value per customer

The lifetime value (LTV) of a customer refers to the money they bring into your business across the number of years an

average customer sticks with you. Since used cars are low-frequency purchases, customers are less likely to buy more than a few times from one dealer.

But with online reputation channels like Google Business, Facebook, and TrustPilot, a customer's positive feedback can improve the conversion rate of other buyers. In other words, your excellent work does not persuade just one customer. It leads to more prospects learning about the quality and the trustworthiness of your service.

Attract educated customers

If you're tired of dealing with customers who want to trade in for rates detached from market realities, you need to get educated customers instead of having to teach every new prospect. People who find you because of your online reputation are people doing their research.

While some used car dealers might prefer customers to know less, our members report positive experiences dealing with customers who do their research and can understand the value they offer. With the right reputation, you attract customers who do not waste your time regardless of whether they buy from you or not. And as long as you provide the value they've come to expect from you based on your online image, they will leave reviews that will further strengthen your brand.

Final Thoughts

From displaying affiliations like your NIADA membership to featuring positive social proof like testimonials and reviews, you have several options to improve your online image. We help independent car dealers get the resources, information, and networking opportunities that allow them to level up their training, positive feedback, and online presence. Join now to get exclusive discounts and training that is documented to improve sales and/or profitability. ■

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THE AUCTION BLOCK



Oakwood's Arrow Auto Auction has been serving North Georgia, the Carolinas, Alabama and the Atlanta area for over 40 years. They are an independent auto auction that is an active member of GIADA, follow NAAA guidelines and is insured with the Auction Insurance Agency (AIA). Auctions are held every Thursday at 4:00pm. Their DEALER ONLY auction facility is situated on 15+ acres and currently has the capacity to store over 1000 vehicles.



Buyers and sellers can be confident in Oakwood's Arrow Auto Auction because it is led by a premier auction team. The owner, Donald W. Smith has been in the car business for more than 45 years and has been involved in every aspect. In his youth, he worked for his late father, Robert W. Smith at "Arrow Tire Company". After graduating from University of West Georgia, he opened his independent dealership which has served Gainesville, GA for more than 35 years. During this time, he was very involved in GIADA where he was President for several years. He was also Chairman on the Used Car Licensing Board of Georgia in the 1990's. During the time he was serving on the Board he acquired Oakwood's Arrow Auto Auction as well as a franchise dealership. He has selected a dynamite team to run OAAA which makes a great place to buy and sell vehicles.



University of West Georgia, Anna Kate worked her way up to Vice President and Assistant General Manager. Her passion and forward thinking can be seen in the many successful years that the auction has experienced. She is the daughter of Donald Smith and hopes to follow in her father's footsteps with many continued accomplishments. She is becoming more involved with GIADA and the auction industry. She is proud to say, in these ever-changing times in the industry, the auction has remained family owned and operated. She considers the auction her heritage and takes immense pride in the team they have employed.

Ken Chahoy, who is the General Manager of OAAA, has been in the car business for over 30 years. His experience is with numerous franchise dealerships all over the Atlanta Area. This knowledge has helped him do a phenomenal job leading the auction team, priding himself in training to always put customer service first!

Anna Kate Williams has worked in various capacities with the business for over 20 years. After attending the



Angie Aycock is THE sales representative for OAAA. She has been with the company for over 20 years. With over forty years' experience in the auction industry, she is a very well-known asset to the company. Although she has been in management in the past, she prefers to be in sales. Over her tenure, Angie has gained knowledge in the business, which makes her understand the value of great customer service. She strives to make every dealer feel appreciated and respected. She genuinely appreciates working with and being a part of helping this family-owned business grow.

OAAA is unique in the fact that over 60 franchise dealerships chose to do business on a consistent basis. Most of these motivated consignors sell above 90%. The appeal of this auction is that OAAA can sell a \$500 vehicle and the one behind it sells for \$60,000. It's not rocket science, it's the "Rocket Lane" that shows our success! OAAA welcomes the opportunity to earn your business. We hope to see you every Thursday at 4:00pm! ■

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COX AUTOMOTIVE



These Four Cybersecurity Basics are Must Haves for Auto Dealerships

By Art Ocain, VP of Incident Response, Airiam

The FTC upgraded its Safeguard Rule to include some robust new requirements that impact dealerships. These added security measures are essential because threat actors are becoming more sophisticated, and no company is immune to attacks. Ensuring your dealership is compliant is a step forward towards protecting your operations and customers' sensitive data from falling victim to cybercrime. Compliance aligns your dealership with the bare minimum in cybersecurity, and dealerships may want to consider extra measures to protect their operations from cybercrime.

Last year, businesses experienced 50% more cyberattack attempts each week compared to 2020. The Russia-Ukraine war has slowed ransomware attacks by 42%, but most cybersecurity experts predict this lull is just the calm before a dangerous storm as threat actors reorganize. The FTC Safeguards changes come at a critical time as experts warn businesses to beef up security, believing attacks will be more frequent and virulent when they start again soon.

Ransomware impacts small, medium, and large dealerships.

What was once only a worry for big corporations has now become an increasing concern for small and medium-sized organizations, including auto dealers. Cybercriminals are becoming increasingly sophisticated, and the size of companies they target is decreasing. In Q4 of 2020, the median number of employees of companies under attack was approximately 235; in Q2 of 2022, the median dropped to 105.

Dealerships and their vendors store valuable consumer data that can be ransomed or sold on the black market. This data, combined with dealers' and vendors' limited cybersecurity resources, makes dealerships prime targets. Hackers breach smaller organizations because they're more vulnerable, and their attacks attract less attention from law enforcement. Does your dealership use mobile technology, engage with external partners or vendors, accept credit cards or other forms of online payment, or

store confidential information? If so, your systems and networks are susceptible to a cyberattack. The FTC's new compliance requirements are the minimum every dealership should follow.

Why All the Added Precautions?

Dealerships may be at greater risk than they realize. The average ransom payment increased from \$84K in Q4 of 2019 to more than \$800K in 2021. The Safeguards Rule requires your dealership to develop, implement, and maintain a written information security program with administrative, technical, and physical safeguards designed to protect your customers' information.

Your plan should ensure the security and confidentiality of customer information, protect against anticipated threats or hazards to the security or integrity of that information, and provide protection from unauthorized access to that information that could substantially harm or inconvenience customers.



The FTC knows that simply having a cyber insurance policy isn't enough to save a dealership's customers from a ransomware attack. While the FTC is most concerned with protecting customers, other factors make compliance an intelligent move to protect your organization. Not all policies pay ransoms, and the costs to recover and rebuild after a ransomware attack include more than hiring a qualified incident response team. Dealers must also factor in downtime, lost data, customer service delays, and the business impact of exposing customers' confidential data.

As cybercrime becomes more common, dealerships can no longer rely only on cyber-insurance and take a gamble of facing even longer recovery times if attacked. Insurance companies and incident responders' resources will be stretched thinner under the expected barrage of increasing claims. Insurance and antivirus software won't be enough if dealerships want minimal impact on their systems and structures from cybercrime. Effective business leaders must understand the threats and invest in adequate cyber-protection to remain compliant and viable players in their industry.

1 Data Retention Policy
If your data is held hostage, every piece of information is vulnerable. The less data your dealership stores, the less impact a breach will have on your

customers and operations. A strategy and formal policy to safely delete any stored data containing customers' sensitive, personal information after two years is best practice. The FTC also requires it for compliance. Newer stored data may still be compromised, but the blast radius in the event of an attack will be smaller.

2 24/7 Monitoring – MDR
FTC-compliant dealerships must have continuous monitoring and vulnerability management of their networks. Managed Detection and Response (MDR) combines technology with hands-on human expertise to provide proactive monitoring, threat hunting, and response. MDR analyzes and adapts to ensure infrastructure is secure. The best MDR includes advanced 24/7 security control, analytics, threat intelligence, and incident investigation and response deployed at the host and network levels. Proactively engaging MDR services identifies and limits the impact of cyberthreats. At a minimum, businesses should employ MDR. Adding endpoint and extended detection and response (EDR/XDR) provides even more visibility and robust protection.

3 Multi-Factor Authentication (MFA)
MFA adds extra steps when there is an attempt to sign into your system. If you've ever received an SMS with a log-in code, you've used MFA. That one-time code you've entered ensures you're authorized to access the system and helps prevent attacks. Some systems have more than one step, but even one additional step makes systems more secure. Extra steps create additional hurdles for would-be attackers.

4 Employee Awareness and Training: Do your technicians answer e-mails? Do customers receive text messages for appointments and marketing outreach? Your sales managers and accounting teams are not the only

employees who must be aware of risks. Cybersecurity is only as strong as its weakest link, and all it takes is one employee—even a well-intentioned one—to cause that chain to break. Offer employee awareness and training programs to everyone in the dealership so they can implement cybersecurity best practices. Ensure all team members use strong passwords, take precautions when downloading documents and clicking links in e-mails, and only access sensitive files from trusted devices.

Prepare your dealership for the next wave of cybercrime.

Compliance is a no-brainer. Dealerships that don't comply by December 2022 face up to \$46,517 per consent order violation. But compliance is more than bureaucracy and avoiding fines; it's smart business. Taking measures to reduce cyber risk is more critical now than ever, and the cost of a breach could be far more than ten times the cost of a fine. Consider taking measures beyond compliance best practices and seek support from experienced cybersecurity professionals that offer state-of-the-art services. The success and prosperity of your dealership depend on it! ■

About the Author

Art Ocain, CISM, MCSE, VCP, CCNA, Airiam's VP of Incident Response, is a visionary leader and IT business strategist. He specializes in resilience engineering, cloud architecture, incident response, cloud strategy, virtualization, server and network administration and security, business continuity planning, disaster recovery, designing storage solutions, network design, web server management, e-mail server management, web application development, database management, and project management. Before his current role, Art was President and COO of MePush, a cybersecurity and managed IT company acquired by Airiam in 2021. He holds an MBA from University of the People.

7 Secrets that Increase Your Leadership Impact

By Brian Braudis



A major concern for senior executives is “bench strength”—that is, the quantity and quality of up-and-coming, potential leaders who are in the pipeline. The problem is that too often these would-be leaders “hold back, shrink and play small.” One CEO recently said, “The potential leaders in our pipeline need to show up, step up, and increase their leadership impact.”

True. An organization is only as strong as its leadership.

In today's climate of unprecedented change, intense competition and more demanding customers, leaders can't hold back or shrink. Team members need leadership to model the way because all they see in this modern-day complexity is uncertainty and that leads to anxiety. Team members are looking to leadership for certainty, definitive guidance, vision and a solid commitment. This is an opportunity for leadership impact.

Here are 7 secrets to increase your leadership impact:

1 Shift the Energy of Your Team

With composure, increase and elevate your communications. Share your higher perspective and calm the anxiety with your increased presence and obvious commitment. Neutralize the teardown effect of uncertainty and

anxiety. Shift the energy of your team toward purpose. You can't just remove the deconstructive nature of negativity without replacing it with something. Use purpose to drive the conversation. Strategically use each day to keep your organizational purpose in front of your team members. Talk about your mission. Get them excited about growing and serving your clients, customers and stakeholders. Share the growth you see and the future you envision. When your team has a growth mindset it's only natural that your organization will grow.

There will always be uncertainty but when you demonstrate resolute certainty in your commitment to your team, anxiety drops, morale increases, team members take note and follow your lead.

2 Collaborate

Bigger results come from bigger efforts. Instill collaboration within divisions and across programs. Use your leadership presence to convert dissonance to connectedness, silos into solidarity, problems into innovations, risk into reward and daily efforts into a dramatically improved future. Set the behavioral norm by becoming known as the leader interested in organizational success over individual success. When you execute on a higher and larger perspective, you instantly increase leadership impact.

3 Cultivate Creativity

Open the floodgates of creativity by asking more questions. The days of one leader with all the answers are in the past. In all likelihood your team is bursting with new ideas. You don't have to be Michelangelo, just ask powerful questions and be patient.—the innovation will come pouring out in the discussions. Team members are intimately familiar with problems. They simply need you to provide them the space to contemplate how today's problems can become tomorrow's innovations.

4 Use Influence Not Power

No one likes a pompous leader. Rather than relying on the shortsighted and limiting power of position, reap the long-term benefits that come from building trust and influence. If you use power, good people will leave you and other people will get you.

When you rely on the external power of your leadership position you not only expose weakness in yourself, you build weakness in others by forcing them to acquiesce, stifling their growth and the potential for their unique



contribution. Ultimately, the entire relationship is weakened. Defensiveness ensues, low trust follows and potential for cooperation is lost—smothered by negative emotion. Fight the imprudent impulse to command, and direct and invest in the higher, more refined skills of finesse, influence and persuasion.

Patience, finesse, influence and persuasion are the building blocks of increased impact.

5 Promote Daily Progress

Leaders are only deemed successful if they get results and they get those results through working with people. The only way people do great things is by focusing on their strengths and possibilities. Leaders set the stage for this focus.

On any given day your team's efforts will be influenced by a mix of perceptions, emotions, and motivations that can either

pull them to higher performance or drag them down. Setbacks can send team spirit spiraling downward to the point where frustration and disgust take over.

Leaders have tremendous influence in promoting daily progress by ensuring team members have the environment they need to make steady progress and maintain momentum. Avoid the toxicity of high pressure, punitive and judgmental measures that constrain momentum.

Rather, set clear goals for meaningful work. Provide autonomy and promote ownership of the outcomes. Nourish your team's efforts through affiliation, showing respect, words of encouragement and minimizing daily hassles.

6 Build a Body of Behavior

Be more of a model than a critic. Eschew the all-too-common "Killer Cs" that will keep you in the weakness of

victim mode. Negativity will rob you of energy, initiative and impact.

Avoid These Killer Cs

- Criticizing
- Complaining
- Competing
- Comparing
- Colluding
- Contending

Don't criticize. Talk about what went well. Show your team what is possible. Add energy to the context. Be consistent. Your team is faced with being productive in spite of problems and hassles. When they know that they can consistently count on you for support and direction, momentum skyrockets.

7 Focus on What is Right, Not Who is Right

Team members rely on leaders to create an environment that is impartial, where everyone has the same opportunities that are based on merit. Don't take sides. Use conflict to demonstrate your commitment to organizational success. Model a higher perspective that lifts others from their petty preoccupations and carries them above the fray. Be a stronghold trailblazer that guides the upward purpose of your team.

The unique and distinct actions of a leader create ripples that increase and spread delivering ever-increasing impact that can be felt within and among teams. The greatest impact however, is felt industry-wide as a unique and distinct competitive advantage that is difficult, if not impossible for others to duplicate. When you employ these seven secrets and increase your leadership impact, you set up your entire team for success. ■

Brian Braudis is a highly sought-after human potential expert, certified coach, speaker and author of High Impact Leadership: 10 Action Strategies for Your Ascent. He has also authored several audio programs from executive leadership development to stress management. Brian believes "leadership" is a verb not a title. Brian's passionate and inspiring presentations are based on the foundation that regardless of your position or role everyone is a leader.

The CARLAWYER®

By Eric Johnson, Partner in the law firm of Hudson Cook, LLP, Editor in Chief of CounselorLibrary.com's Spot Delivery®



Here's our monthly article on selected legal developments we think might interest the auto sales, finance, and leasing world. This month, the developments involve the Federal Trade Commission,

Consumer Financial Protection Bureau, and the Federal Communications Commission. As usual, our article features the "Case(s) of the Month" and our "Compliance Tip." Note that this column does not offer legal advice. Always check with your lawyer to learn how what we report might apply to you or if you have questions.

FEDERAL DEVELOPMENTS

On September 1, the Federal Trade Commission announced a proposed \$3 million settlement agreement with Credit Karma, LLC, resolving allegations that the company made false, misleading, or unsubstantiated claims to consumers about whether they were approved for credit offers, in violation of Section 5 of the FTC Act. According to the complaint, the company's website and mobile application market credit monitoring and other tools, such as financial calculators, for approximating the effect of certain credit choices on a consumer's score. To access most of these tools, a consumer must sign up for a Credit Karma account and become a member. When signing up for an account, a consumer must provide a variety of personal information, including name, date of birth, and last four digits of a social security number, and also agree to the company's privacy policy and terms of service, which state that the company may collect additional information about them from other sources. The FTC's complaint alleged that the company has amassed over 2,500 data points, including credit and income information, per

member. From February 2018 through April 2021, through its website, mobile app, and email marketing campaigns, the company allegedly represented in advertisements and recommendations to members that they had been "pre-approved" for third-party financial products, such as credit cards. However, according to the allegations, almost a third of the members who received a pre-approved offer and applied for credit were denied. The FTC alleged that the company did not conspicuously disclose the possibility of denial and made false claims that consumers had "90% odds" of approval. The FTC alleged that these "pre-approved" claims conveyed false certainty to consumers. Moreover, the FTC alleged that the company purposefully rejected alternative ways to describe the credit offers after it conducted testing to compare versions of its marketing materials and learned that consumers were more likely to click on offers saying "pre-approved" than those saying they had "excellent" odds of being approved. Finally, the FTC alleged that, in response to the company's false claims, consumers wasted significant time applying for credit, and, when consumers applied for these offers, third-party financial companies made hard inquiries on their credit reports, which lowered consumers' credit scores and harmed their ability to secure other financial products in the future.

On September 14, the Federal Trade Commission and the Consumer Financial Protection Bureau announced that they filed a joint amicus brief in the U.S. Court of Appeals for the Third Circuit in the case of *Ingram v. Waypoint Resource Group, LLC*. In the brief, the agencies argue that the Third Circuit should overturn a lower court's decision that could create an exception to the Fair Credit Reporting Act allowing furnishers of credit information to decline to investigate a consumer's dispute in certain circumstances. The lower court concluded

that, when a consumer submits a dispute to a credit reporting agency and that dispute is then referred to the furnisher, the furnisher is only obligated to investigate "bona fide" disputes and, therefore, may decline to investigate any dispute it deems frivolous. The agencies' brief argues that, under the FCRA, a furnisher is required to investigate any dispute forwarded to it by a credit reporting agency and cannot avoid that obligation by deeming the dispute to be not "bona fide."

On September 15, the Federal Trade Commission released a report - **Bringing Dark Patterns to Light - that examines how companies use digital «dark patterns», i.e., design practices that manipulate or heavily influence consumers to make certain choices.** The report focuses on certain common dark pattern tactics, including: disguising advertisements to look like independent content; comparison-shopping sites that claim to be neutral but actually rank companies based on compensation; countdown timers designed to make consumers believe they only have a limited time to purchase a product or service when the offer is not actually time-limited; making it difficult for consumers to cancel subscriptions or charges; hiding or obscuring material information from consumers, such as burying key terms of, or fees for, a product or service; and intentionally steering consumers toward privacy setting options and data sharing options that provide a company with consumers' most personal information.

On September 19, the Consumer Financial Protection Bureau issued a blog post that examines the impact of rising new and used vehicle prices on the amounts financed by consumers for vehicles, financing term lengths, monthly financing payments, and delinquency rates.

On September 27, the Federal Communications Commission issued a notice of proposed rulemaking that

proposes to apply caller ID authentication standards to text messaging and require mobile wireless providers to block illegal text messages before they get to consumers. Specifically, the FCC proposes to require mobile wireless providers to block texts, at the network level, that purport to be from invalid, unallocated, or unused numbers and numbers on a Do-Not-Originate list. The agency also seeks comment on the extent to which spoofing is a problem with regard to text messaging and whether there are measures the FCC can take to encourage providers to identify and block texts that appear to come from spoofed numbers. Comments on the proposed rule are due 30 days after it is published in the Federal Register, which is expected shortly.

CASE(S) OF THE MONTH

Notice Sent to Creditor Opting Out of Arbitration Provision in Vehicle Finance Contract Was Effective, Despite Being Signed by Car Buyers' Attorney and Not Buyers Themselves, as Required by Opt-Out Language: After individuals bought a used car, the dealership assigned the retail installment contract, which contained an arbitration clause but allowed the car buyers to opt out of the arbitration clause. The arbitration clause stated, in relevant part: "Your right to reject: If You don't want this Arbitration Clause to apply, You may reject it by mailing Us ... a written rejection notice that describes the Contract and tells us You are rejecting this Arbitration Clause. A rejection notice is only effective if it is signed by all buyers, co-buyers and cosigners and the envelope that the rejection notice is sent in has a post mark of 30 days or less after the date of this Contract." Within the 30-day opt-out period, the car buyers' attorney sent a letter to the assignee rejecting the arbitration clause. The car buyers then sued the assignee, alleging claims related their purchase of the vehicle. The assignee moved to dismiss and to compel arbitration, arguing that the car buyers' opt-out notice was ineffective because the contract stated that it "is only effective if it is signed by all buyers, co-buyers and cosigners," and the car buyers did not sign the opt-out notice personally but had their attorney sign it.

The U.S. District Court for the Eastern District of Michigan denied the assignee's motion to dismiss and compel arbitration. The court concluded that the car buyers, through their attorney, unambiguously rejected the arbitration clause. The court stated that «counsel's signature, authorized by [the car buyers] and presented on their behalf, has the same legal effect as their personal signatures. This conclusion is based on the relationship between an attorney and client, which is one of agency. ... [A] contract need not specify that it may be signed by an authorized representative for such a signature to be valid; such signatures are generally valid and binding by operation of law. In addition to the general principles of agency law, Michigan law expressly permits an authorized representative to sign a retail installment contract on behalf of the buyer.» See *Davis v. Credit Acceptance Corporation*, 2022 U.S. Dist. LEXIS 152575 (E.D. Mich. August 24, 2022).

COMPLIANCE TIP

Our Case of the Month spotlights another arbitration provision issue – how to handle

the rejection of an arbitration clause, if one is provided in your arbitration agreement. The District Court's decision was ultimately pro-dealer, but it shows how important it is to determine whether your buyer, or in this case, their attorney rejected the arbitration clause. Not every arbitration agreement provides the buyer with the right to reject the arbitration clause. What does your arbitration agreement say? You are using one aren't you? Does it give your buyer the right to reject the clause? How do you handle rejections? Some great questions for you to ask your attorney next you speak with them.

So, there's this month's roundup! Stay legal, and we'll see you next month. ■

Eric (ejohnson@hudco.com) is a Partner in the law firm of Hudson Cook, LLP, Editor in Chief of CounselorLibrary.com's *Spot Delivery*®, a monthly legal newsletter for auto dealers and a contributing author to the *F&I Legal Desk Book*. For information, visit www.counselorlibrary.com. ©CounselorLibrary.com 2022, all rights reserved. Single publication rights only to the Association. HC# 4890-7958-1494.

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PRE-LICENSE COURSE CALENDAR

*All classes held at Sonesta Atlanta Northwest Galleria,
Atlanta unless otherwise noted.*

Thursday, November 3

5:45 pm - 10:00 pm

Monday, November 7

9:45 am - 2:00 pm

Monday, November 14

5:45 pm - 10:00 pm

Wednesday, November 16

9:45 am - 2:00 pm

Anderson Conference Center
5171 Eisenhower Pkwy, Macon

Saturday, November 19

9:45 am - 2:00 pm

Thursday, December 1

5:45pm - 10:00pm

Monday, December 5

9:45am - 2:00pm

Monday, December 12

5:45pm - 10:00pm

Wednesday, December 14

9:45am - 2:00pm

Anderson Conference Center
5171 Eisenhower Pkwy, Macon

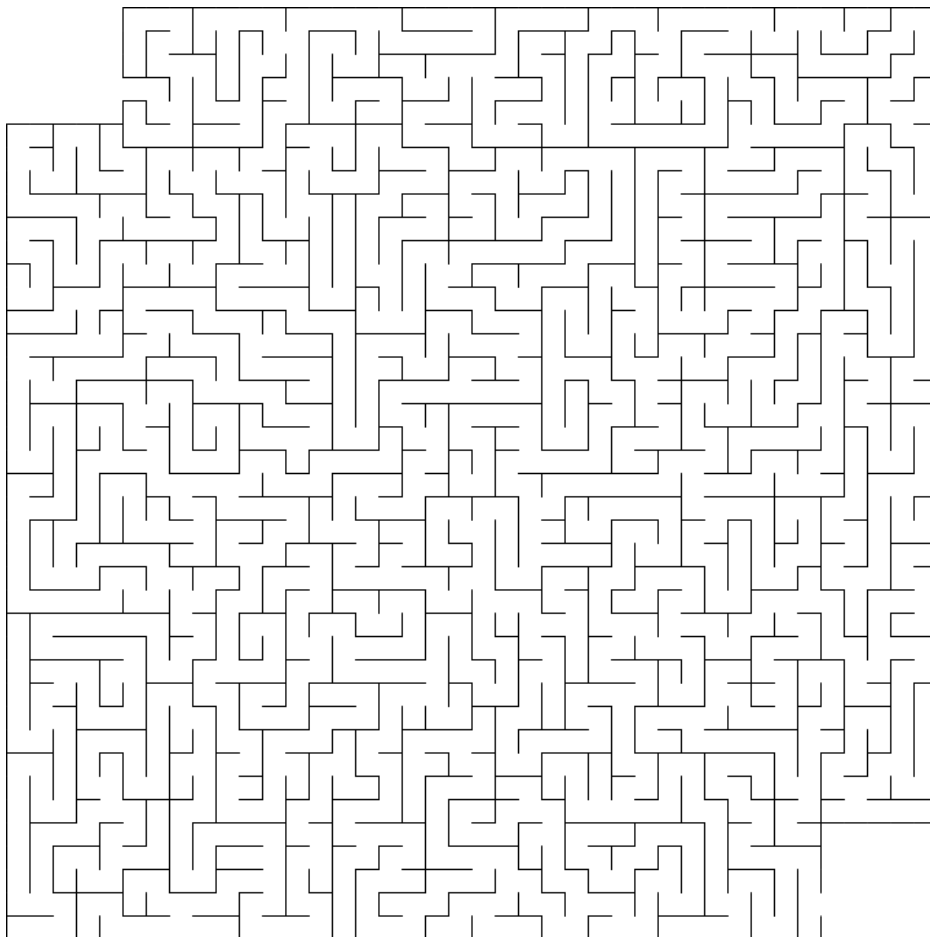
Saturday, December 17

9:45am - 2:00pm

FOR MORE DETAILS, VISIT:

georgiacardealerlicense.com

*Or if you have questions, please feel
free to give us a call at the GIADA
office at 770-745-9650.*



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ANNA KATE WILLIAMS
770-654-3290
annakate@oakwoodaaa.com

ANGIE AYCOCK
770-654-3290
angie@oakwoodaaa.com



MONDAY

Atlanta East Auto Auction

2790 Hwy 78
Loganville, Ga 30052
470-552-1032
info@aeautoauction.com
aeautoauction.com
6:00pm Dealer Sale

IAA MACON

2200 Trade Dr.
Macon, GA 31217
478-314-0031
9:00am Mondays
iaai.com

IAA TIFTON

368 Oak Ridge Church Road
Tifton, GA 31794
229-386-2640
9:30am Mondays
iaai.com

TUESDAY

America's Auto Auction -Atlanta

444 Joe Frank Harris Pkwy
Cartersville, GA 30120
770-382-1010
6:00pm Dealer Only Sale
americasautoauction.com

America's Auto Auction - Jacksonville

11982 New Kings Rd
Jacksonville, FL 32219
904-764-7653
5:00pm Dealer Only Sale
americasautoauction.com

Athens Auto Auction

5050 Atlanta Hwy
Bogart, GA 30622
770-725-7676
6:30pm Dealer & Public Sale
athensautoauctionga.com

Hwy 515 Auto Auction

107 Whitepath Rd
Ellijay, GA 30540
706-635-1500
6:00pm Dealer Sale
hwy515autoauction.com

IAA ATLANTA NORTH

6242 Blackacre Trail NW
Acworth, GA 30101
770-975-1107
9:00am Tuesdays
iaai.com

Manheim Atlanta

4900 Buffington Rd.
College Park, GA 30349
404-761-9211 / 800-856-6107
Every Tuesday 12:30pm
manheim.com

Manheim Georgia

7205 Campbellton Rd
Atlanta, GA 30331
404-349-5555 / 888-766-7144
GM | GM Financial Closed Sale
Tuesdays - Bi-Weekly at 12:30pm
Open Sale, 9:30am
manheim.com

Rawls Auto Auction

2818 Pond Branch Rd
Leesville, SC 29070
803-657-5111
10:00am Dealer Sale
GSA Sale Public & Dealers
Call for Details; 8:30am Salvage Sale
rawlsautoauction.com

Vemo Auto Auctions, LLC

441 Dunbar Rd.
Warner Robbins, GA 31093
478-449-3232
4:00pm
vemoauctions.com

WEDNESDAY

ADESA Atlanta

5055 Oakley Industrial Blvd
Fairburn, GA 30213
770-357-2277
10:00am Dealer Sale
adesa.com

America's Auto Auction - Greenville

2415 Hwy 101
Greer, SC 29651
864-801-1199
3rd Wed RV & Marine Sale,
9:00am
americasautoauction.com

Augusta Auto Auction

1200 E. Buena Vista Ave
N. Augusta, SC 29841
800-536-3234
9:15am Dealer Sale
9:30am Last Wed of Month INOP
augustaautoauction.com

America's Auto Auction- Savannah

1712 Dean Forest Rd
Savannah, GA 31408
912-965-9901
9:00am Dealer Only
southeasternaa.com

Carolina Auto Auction

140 Webb Rd
Williamston, SC 29697
864-231-7000
10:00am Dealer Sale
9:00am Salvage Sale
carolinaautoauction.com

Greater Atlanta Auto Auction

849 Jackson Trail Rd.
Winder, GA 30680
470-275-0422
greateratlanta.com
10:00am Wednesdays

Houston Auto Auction

4599 Pio Nono Ave
Macon, GA 31206
478-788-6947
Wednesday 11:30am - Dealer
Sale; Wednesday & Saturday
6:00pm - Dealer/Public Sale
haamacon.com

IAA ATLANTA SOUTH

1930 Rex Rd
Lake City, GA 30260
404-366-2298
9:00am Wednesdays
iaai.com

Manheim Atlanta

4900 Buffington Rd
College Park, GA 30349
404-762-9211 / 800-856-6107
Exotic Highline Event
4th Wednesday at 9:30am
manheim.com

Manheim Georgia

7205 Campbellton Rd.
Atlanta, GA 30331
404-349-5555 / 888-766-7144
Fiat Chrysler Automobiles Closed
Sale Bi-Weekly 10:00am
manheim.com

New Calhoun Auto Auction

417 Lovers Lane Rd.
Calhoun, GA 30701
706-624-1944
7:00pm Dealer & Public Sale
newcalhounautoauction.com

V.I.P. Auctions Unlimited

4600 Browns Bridge Rd.
Cumming, GA 30041
678-889-7776
2:00pm Dealer Sale
myvipauctions.com

THURSDAY

Albany Auto Auction

1421 Liberty Expressway SE
Albany, GA 31705
229-435-7708
3:00pm Dealer Sale
albanyautoauction.net

Augusta Auto Auction

1200 E. Buena Vista Ave.
N. Augusta, SC 29841
800-536-3234
Dealer & Public Sale, Thursday,
6:30PM
augustaauction.com

AutoNation Auto Auction Atlanta

2491 Old Anvil Block Road
Ellenwood, GA 30294
855-907-2622
Thurs. 2:00pm
autonationautoauction.com

Dealers Auto Auction of Chattanooga

2120 Stein Dr.
Chattanooga, TN 37421
423-499-0015
9:00am Dealer Sale
dealersauto.com

IAA ATLANTA EAST

1045 Atlanta Hwy SE
Winder, GA 30680
877-868-4544
9:00am Thursdays
iaai.com

Manheim Atlanta

4900 Buffington Rd.
College Park, GA 30349
404-762-9211 / 800-856-6107
9:30am Dealer Sale
Every Thursday
9:30am Salvage Sale
manheim.com

Manheim Georgia

7205 Campbellton Rd.
Atlanta, GA 30331
404-349-5555 / 888-766-7144
Closed Ford Factory Sale Every
Other Thursday, 10:00am
Call for Toyota & Nissan sale
manheim.com

Oakwood's Arrow Auto Auction

4712 Flat Creek Rd
Oakwood, GA 30566
770-532-4624
4:00pm Dealer
oakwoodaaa.com

Rebel Auction Company

1175 Bell Telephone Rd
Hazelhurst, GA 31539
912-375-3491 / 800-533-0673
2nd Thursday of Each Month
9:00am Dealer & Public Sale
rebelauction.net

South Georgia Auto Auction

1407 Silica Rd
Albany, GA 31705
229-439-0005
11:00am Dealer Sale
sgaauction.com

FRIDAY

America's Auto Auction - Atlanta

444 Joe Frank Harris Pkwy
Cartersville, GA 30120
770-382-1010
9:00am Dealer Sale, INOP 2nd &
4th Fri 8:00am
americasautoauction.com

America's Auto Auction - Greenville

2415 Hwy 101 South
Greer, SC 29651
864-801-1199 / 800-859-3393
10:00am Car Sale
americasautoauction.com

Charleston Auto Auction

651 Precast Lane
Moncks Corner, SC 29461
843-719-1900
10:00am Dealer Sale
charlestonautoauction.com

Copart Auto Auction

2568 Old Alabama Rd.
Austell, GA 30168
770-941-9775
9:00am Dealer & Public Sale
copart.com

Georgia-Carolina Auto Auction

884 East Ridgeway Rd.
Commerce, GA 30529
706-335-5300
Dealer only Wed, 3:30pm
gcautoauction.com

IAA ATLANTA

125 Old Hwy 138
Loganville, GA 30052
770-784-5767
8:30am Fridays
iaai.com

IAA SAVANNAH

348 Commerce Drive
Savannah, GA 31326
912-826-1219
9:30am Fridays
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Rome Auto Auction powered by Manheim

3824 Hwy 411
Kingston, GA 30145
2:00pm Fridays
470-339-2255
manheim.com

Tallahassee Auto Auction

5249 Capital Circle SW
Tallahassee, FL 32305
850-878-6200
10:00am Dealer Sale
bscamerica.com

SATURDAY

Houston Auto Auction

4599 Pio Nono Ave.
Macon, GA 31206
478-788-6947
Wednesday 11:30am – Dealer
Sale; Wednesday & Saturday
6:00pm – Dealer/Public Sale
haamacon.com

OTHER AUCTIONS

ACV Auctions

800-553-4070
acvauctions.com

Auctions Unlimited, Inc

678-753-2562
auctionsunlimitedonline.com

CarMax Auctions

888-804-6604
Dealers Only Auctions –
For Locations, Dates & Times
carmaxauctions.com

Copart Auto Auction

6089 Hwy 20
Loganville, GA 30052
770-554-6366
copart.com

Eblock

212 Battery St Ste 3
Burlington, VT 05401
833-817-7247
eblock.com/en-us

Gleaton's, Inc

100 Clover Green
Peachtree City, GA 30269
678-489-4928
gleatons.com

JJ Kane Auctioneers, Inc.

678-840-4914
See web for sale dates
jjkane.com

Ritchie Bros Auctioneers

4170 Highway 154
Newnan GA 30265
770-304-3355
Industrial Equipment Auction
rbauction.com

TAC Auction Services

3481 S Hwy 29
Newnan, GA 30259
678-329-4279
Equipment auction
tacauctionservices.com

Turn Automotive

866-887-6227
turnautomotive.com

Weeks Auction Group, Inc.

2186 Sylvester Hwy.
Moultrie, GA 31768
229-890-2437
Check website for dates and times
weeksauctiongroup.com

Choosing a Business Structure

BY PEACHTREE PLANNING

In March 2020, about 804,398 new businesses had been created in the preceding year.¹ All individuals pursuing the dream of exercising their entrepreneurial muscles, will face the same question, "Which business structure should I adopt?"

Each strategy presents its own set of pros and cons. To complicate matters a bit, the 2017 Tax Cuts and Jobs Act created several key changes that may benefit certain business structures. For example, the new law added a 20-percent deduction of qualified business income for certain pass-through entities. However, service industries (e.g., health, law, professional services) are generally excluded, except where income is below \$315,000 for joint filers and \$157,500 for other filers. This provision is set to expire December 31, 2025.

This overview is not intended as tax or legal advice and may not be used for the purpose of avoiding any federal tax penalties. Please consult legal or tax professionals for specific information regarding the most appropriate business structure for your organization.

SOLE PROPRIETORSHIP/ PARTNERSHIP

This structure is the simplest. But it creates no separation from its owner. Income from the business is simply added to the individual's personal tax return.

Advantages: Easy to set up and simple to maintain.

Disadvantages: Owners are personally liable for the business' financial obligations, thus, exposing their personal assets (house, savings, etc.). It does not offer the prestige or sense of permanence of a corporation or LLC.

C-CORPORATION

A C-corporation is a separate legal entity from its owners, making it easier to raise money, issue stock, and transfer ownership. Its life is perpetual and will survive the owner's death.

Advantages: There may be tax advantages, including more allowable business expenses. It protects owners from personal liability for the company's financial obligations and may lend a measure of prestige and permanence.

Disadvantages: More expensive to set up, the paperwork and formality are greater than for a sole proprietorship or LLC. Income may be taxed twice, once at the corporate level and once when distributed to owners as dividend income.

S-CORPORATION

After forming a corporation an owner may elect an "S-Corporation Status" by adopting a resolution to that effect and submitting Form 2553 to the IRS.

The S-corporation is taxed like a sole proprietorship, i.e., the company's income will pass through to shareholders and be reported on their respective personal tax returns.

Advantages: S-corporations avoid the double taxation issue associated with C-corporations, while enjoying many of the same tax advantages. Owners are shielded from personal liability for the company's financial obligations. It provides the prestige of a corporation for small businesses.

Disadvantages: S-corporations do not have all the tax-deductible expenses of a C-corporation. The cost of set up, the paperwork, and formality are greater

than for a sole proprietorship or LLC. S-corporations have certain restrictions, including a "100 or fewer" shareholders requirement. Shareholders must be U.S. citizens, and the business cannot be owned by another business.

LIMITED LIABILITY COMPANY

An LLC is a hybrid between a corporation and a sole proprietorship, offering easy management, pass-through taxation, and the liability protection of a corporation. Similar to a corporation, it is a separate legal entity, but there is no stock.

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Disadvantages: Typically, more expensive to form than a sole proprietorship, LLCs require more paperwork and formalized behavior.

Remember, the choice of business structure is not an irreversible decision. You may amend your business structure to accommodate your changing needs and circumstances. ■

1. Bureau of Labor Statistics, 2020

The content is developed from sources believed to be providing accurate information. The information in this material is not intended as tax or legal advice. It may not be used for the purpose of avoiding any federal tax penalties. Please consult legal or tax professionals for specific information regarding your individual situation.

We Help Independent Auto Dealers Protect, Grow, and Pass on Their Business



Matt Justice, Vice President

O:404.260-1649 | M:404.384.4140

matt_justice@peachtreeplanning.com



David Gibson, MBA

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How to Keep Your Dealership Out of Legal Trouble

By Bill Springer



Please note that the information in this article is for informational purposes only; it does not and is not intended to constitute legal advice. For legal advice relating to this information, please contact a licensed attorney.

Most dealerships today operate honestly, and wrongdoing is much rarer than it used to be. With that in mind, you would think dealerships are fairly safe from any legal trouble.

However, from service departments to F&I, dealerships must follow a myriad of regulations to stay within the law, and even honest dealers make mistakes. Even without ill intent, a law broken is still a law broken, and costly legal action can follow. If a customer or employee files a formal complaint, it doesn't make much difference to the government that the law was only broken accidentally.

To make matters worse, there are of course still people with unethical intentions. Sometimes it's a single employee trying to cut corners or get ahead, and sometimes this behavior grows like a cancer in your company, where multiple people are working together. They'll lie to customers, telling them optional purchases are mandatory, or add in hidden costs for products the customer didn't want.

In the service lane, issues often stem from a lack of designated safety responsibilities or neglecting to set up a formalized safety system. Employees are often tempted to ignore safety violations to save time, and these can cause major legal issues if left untreated. (This is an unnecessary step for profitability, which can just as easily be achieved by expanding service lane capacity or increasing its efficiency)

To steer clear of these issues, dealers need to learn the most common mistakes to avoid, understand their own products better, and practice a level of transparency that might seem counterintuitive to some.

Let's go over some of the most common areas to keep an eye on, and some steps you can take to prevent investigations and lawsuits from happening.

Where do legal issues happen most at dealerships?

Financial Protections for Customers

Most dealership-related regulations today focus on F&I, in part because there are so many more opportunities for scams to happen there. These issues are usually handled by your state's Attorney General (AG), who has a great deal of authority to issue penalties for deceptive or unfair practices.

The second area dealerships get into trouble, usually with the Federal Trade Commission (FTC), is for misleading advertising practices.

Some common legal issues include:

- Discriminatory interest rate quotes
- Payment packing (such as adding F&I products or services into a monthly vehicle payment, when the customer didn't ask for them)
- Engaging in unlicensed car sales
- Selling unroadworthy vehicles or "lemons"
- Making false statements about products, services, or payments to a customer (such as claiming it's mandatory to buy gap insurance)
- Running deceptive advertising
- Inflating a customer's income on a credit application (legal action here can even target managers who didn't have direct involvement)

Employee Health & Safety

Separately, there are protections that expand to employees, such as by the Occupational Safety and Health Admin (OSHA). OSHA investigations usually happen when someone reports an imminent danger, or if a serious accident occurs on your premises. Most OSHA violations are fairly easy to fix proactively, but are often overlooked.

When OSHA comes to investigate, they don't give you prior notice, so it's especially important to stay compliant, even if you consider your workplace safe. Some of the most common OSHA violations Service Directors should be aware of include:

- Lack of slip and fall precautions (from lack of appropriate signage and equipment to unaddressed oil slicks on the shop floor)
- A service bay hoist that doesn't meet safety standards
- Insufficient ventilation in the paint shop (or anywhere with gasses, vapors, smoke, aerosols, etc.)
- Improper forklift use (such as not adhering to rules on maximum loads, vehicle speed, load balancing, operator training)
- Improper installation or labeling of electrical wires (such as a lack of warnings)
- Unlabeled or improperly labeled chemical containers (acids, disinfectants, glues, paints, etc.)
- Lack of safety guards on machinery
- Fire code violations (these can extend to other areas of your dealership too, such as file boxes stacked dangerously high, or blocked exits)

How to Keep Your Dealership Out of Legal Trouble

While there's plenty you can do to reduce your risk of encountering legal trouble with the AG, FTC, or OSHA, it can mostly be broken down into 3 central areas: transparency, education, and proactively putting systems in place.

Transparency (Externally and Internally)

When it comes to customer protections, the best way to avoid trouble with the law is to be as transparent as possible. As a rule of thumb, anything that misleads customers has the potential to get you into serious legal trouble.

This requires you to honestly present terms and conditions of any transaction, for starters. If a customer might encounter any surprises that could lead to a complaint, that surprise is worth addressing.

On the admin side, transparency requires you to keep your deal jackets updated and accurate, showing any documentation and

signoffs. If investigators arrive from the AG's office, this will be the first thing they look at, and doing these correctly can be what saves you.

Where the FTC is concerned, deceptive dealer advertising is low-hanging fruit. If they accuse you of it, you may not even have the funds on hand to mount a solid defense. Any misleading claims in your advertising is highly risky, no matter what your competitors are doing.

Education (About Your Products, and About the Law)

Sometimes when everyone has the best intentions, employee ignorance still causes issues. We're all human after all, but oftentimes this ignorance is addressable.

For instance, less than 10% of F&I employees who present a contract to customers have actually read the contract. How are you supposed to accurately explain a contract if you don't know what's in it?

Learning proper compliance is essential. It may seem like a chore to review your products and contracts, or the relevant regulations in the industry, but it's a much better use of time and resources to proactively learn how to be compliant now rather than deal with a lawsuit that might negatively impact your business later on.

F&I managers in particular need to educate themselves about the products they're offering, because again, ignorance of the law doesn't grant you immunity from it. For instance, legally you must itemize a customer's monthly payments for their car, separate from any extras. Failure to do so can have serious consequences.

In the service center, the same rule applies. Learn about the equipment your team is using, and the associated regulations with who can use it, how to use it, and the safety precautions you need to take.

Proactively Setting Up Systems to Stay Compliant

Sometimes, in the event of a violation, investigators are more likely to forgive you (or reduce penalties) if they can tell you're making a genuine effort to stay compliant.

An example of this might be setting up a system to handle customer complaints. This way, you can resolve problems before they get more serious, such as leading to the involvement of law enforcement. Mistakes happen, but they're more likely to become real problems if negligence is to blame.

When it comes to workplace safety, the same principle applies. Many dealerships establish a safety committee to designate who is responsible for monitoring potential violations. Ultimately, OSHA wants to see commitment to safety. When you can present them with training records, formalized written programs, and evidence of an established culture of safety, a one-off mistake becomes less of a problem. The absence of these practices is a big red flag for investigators.

Safety training programs need to stay up to date, and include any new hires along the way. An oversight here increases the risk of an accidental violation, such as when you fail to train a new employee on correct safety procedures or forget to update your training programs regularly.

Transparency is More Profitable Than You Might Expect

Practicing fair and full disclosure is the best way to proceed. Failing to do so can not only cause expensive legal issues, but the bad experience also ruins customer trust in your company. It will get publicized, and it will be embarrassing.

While some shady individuals might chase short-term gains in F&I, an honest and transparent culture leads to greater profits over the long term. This can seem counterintuitive, because many people falsely believe that compliance gets in the way of profitability.

However, consider for a moment the reputation of dealerships among consumers. People are distrustful, and have learned to expect some level of deceit. But when you stay compliant with laws, over-disclose costs, and avoid pushing products a customer doesn't need, you get a massive credibility boost. People realize they can trust you, and as any seller can attest, a customer who trusts you is more likely to buy from you — whether it's a new vehicle or an optional F&I product. ■

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Dealers Auto Auction Group Acquiring VIP Atlanta Auto Auction

Franklin, TN – Effective September 1, 2022, the Dealers Auto Auction Group expands into the Atlanta market with the acquisition of VIP Auto Auction. Jim Smith, owner and operator of V.I.P. Auction has served the greater Atlanta area dealers since its inception in 2005. Jim will have a partnership interest as well as assuming the role and responsibility of General Manager and Vice President of DAA Atlanta. His knowledge, skill, and experience, combined with DAAG's processes and economies of scale, will provide auction customers with continued growth and development of competitive automotive markets and services.

After adding the 4600 Browns Ridge Rd, Cumming, Georgia location, DAAG expands its footprint to nine locations throughout the southeast.

Jim Smith commented about the acquisition, "David Andrews' reputation, experience, brand, and his proven team at Dealers Auto Auction Group are a great fit for me and my team to grow. The timing of this acquisition is great for dealers and commercial clients looking for an auction offering high-level, personalized service in the Atlanta market.

David Andrews, CEO of Dealers Auto Auction Group said, "We are very excited about the acquisition of the VIP Auto Auction and entering the Atlanta market. As a premier auction service provider, DAAG listens to our customers, and continues to expand DAAG's ability to provide services and facilities to additional key markets across the United States." Mr. Andrews also

emphasized, "DAAG continues to leverage traditional auction venues with new technology to create strong participation and interaction between our In-lane and On-line buyers and sellers".

Warren Byrd of Keyscore Consulting was instrumental in putting this deal together. Byrd, a veteran auction industry advocate, spent decades negotiating acquisitions and building auctions. Warren commented, "The work on the VIP Auto Auction acquisition has been very gratifying, putting two experienced partners together under the Dealers Auto Auction Group".

Dealers Auto Auction Group was started in 2001, with their first auction in Horn Lake, MS. In addition to Dealers Auto Auction Atlanta, DAAG's now nine auction locations in the Southeast also include: Dealers Auto Auction of Jackson, Dealers Auto Auction of Memphis, Dealers Auto Auction of Murfreesboro, Dealers Auto Auction of Chattanooga, Dealers Auto Auction of Huntsville, Dealers Auto Auction of Mobile, Dealers Auto Auction of Columbia SC and Dealers Auto Auction East Tennessee. For more information please visit dealersauto.com. ■

*About Dealers Auto Auction Group, LLC
(dealersauto.com)*

Dealers Auto Auction Group, LLC, a National Automobile Auction Association (NAAA) member auction, based in Franklin, Tennessee, is a leading independent wholesale auto auction group providing comprehensive services to connect buyers and sellers of used vehicles in-lane and on-line throughout the southeast.

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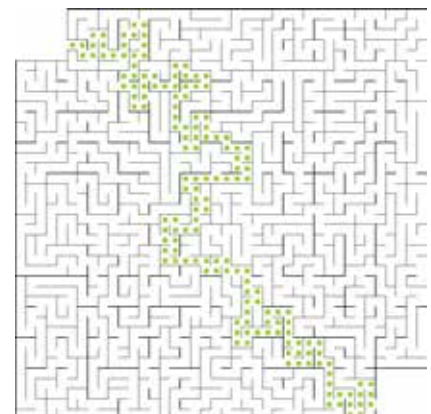
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CORN MAZE ANSWER KEY

From page 20



**Georgia Independent
Automobile Dealers Association**
6903 Oak Ridge Commerce Way SW
Austell, GA 30168

Return Service Requested

A composite image featuring a woman on the left and text on the right. The woman has long dark hair, is smiling, and wearing a dark blue blazer over a red top. The background is dark with a faint grid pattern. The text on the right includes the "Frazer" logo in a stylized yellow and red font, followed by "Powerful Dealer Management Software" in yellow, the tagline "Simple. Reliable. Smart." in yellow, and the phone number "888-963-5369" and website "Frazer.com" in white at the bottom.

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