



OADA NEWS

JUNE 2013

a publication of the Ohio Automobile Dealers Association

Legal Alert: Court Strikes Down NLRB Poster Rule

provided by Fisher & Phillips, LLP

The National Labor Relations Board suffered another significant blow this week, when the U.S. Circuit Court of Appeals for the District of Columbia struck down the Board's controversial notice-posting mandate on the basis that it infringed upon employer free speech rights, while otherwise violating the National Labor Relations Act (NLRA). The posting requirement, which was scheduled to take effect back on April 30 of 2012, was invalidated in its entirety. *Nat'l. Assn. of Manufacturers v. NLRB.*

The rule would require the nearly six million employers subject to the NLRA

to post notices informing employees of their rights under the Act. This unprecedented use of rulemaking triggered a severe backlash from the business community by virtue of its seemingly pro-union message. It would also render any posting violation an independent unfair labor practice, and evidence of unlawful motive, as well as toll the Act's six-month limitations period for filing charges.

In its decision, the D.C. Circuit found the rule at odds with free speech protections in the First Amendment and the NLRA, noting that the right to free speech includes a prohibition on government-compelled speech and the right to refrain from speech all together. The court concluded that Section 8(c) of the Act not only gives employers the right to such free speech, but also the right to remain silent, rejecting any attempt to convert a failure to speak (through the mandatory notice) into an unfair labor practice or evidence of improper motive.

The court went on to uphold a

lower court ruling, which held that the notice purports to substantially amend statutory language legislated by Congress, thereby exceeding the Board's authority. Unfortunately, the court chose to bypass the significant question of the Board's underlying authority to engage in such rulemaking.

Nonetheless, the decision and its vindication of employer free speech rights is a major victory for the business community, at least so long as it withstands any further judicial challenge. The Board has said that it would refrain from implementing the rule so long as litigation as to its validity remained pending. The Board has not yet indicated whether it will appeal this decision, and may be waiting on the outcome of a similar appeal before the 4th Circuit Court of Appeals that remains pending. But for now, the Board has been dealt a serious setback in its efforts to impose a new posting requirement.

If you have any questions about this ruling, please contact Rich Millisor or Joe Brennan. ■

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2013 OADA Convention Highlights

The Greenbrier played host to the 80th Annual Convention, April 19 – 22. Over three hundred fifty (350) dealers and sponsors were in attendance to join their peers at the meetings and convention events.

The convention kicked off on Friday evening with great food, beverages, and entertainment at Kate's Mountain with the sounds of country western entertainment. Our own Gregory Stonerock from Taylor Dealerships graciously joined the group "Cimmaron" with his harmonica for many favorite country tunes. Yes, our attendees were kicking up their heels on the dance floor.

Convention Speakers included Reid Bigland, President and CEO of Dodge Chrysler Group LLC, who is responsible for Ram Truck Brand sales strategy, dealer relations and operation, order facilitation, and incentives and field operations in the US, spoke to the methodical system in which Chrysler runs the business, the importance of digital leads and follow up by the dealers, and the continued growth of Chrysler Group, LLC.

Peter Welch, the new President

OADA Convention...

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of the National Automobile Dealers Association addressed the challenges the new car dealers are faced with and the impact the rules by the Consumer Financial Protection Bureau would have on the sale of new vehicles as it relates to financing and add-on products. Steve Gilliland, motivational speaker "Making a Difference" gave new ideas, workable tactics, and useful tools to convention attendees impacting their personal and professional lives.

The Town Hall Meeting focused on a presentation by Tim Doran, President of Ohio Automobile Dealers Association, who discussed the proposed changes to Ohio's sales tax code which are included in the Governor's budget proposal. These changes would add significant cost to the dealers' operation. Mr. Doran discussed OADA's involvement in the formation of the Ohio Service Industry Coalition. He spoke to the importance of DIG and encouraged dealers to contact their legislators regarding the adverse impact H.B. 59 would have on dealerships doing business in the State of Ohio. Zach Doran, Director of Dealer Services, introduced a new program through OADA regarding the VISA/MasterCard class action settlement dollars available to dealers (as merchants accepting credit cards.) Of great significance is the fact that OADA structured

the agreement between the dealer and MCAG in such a way that MCAG is paid for their service only if they are able to secure the dealer more money than the settlement estimate less MCAG's fee.

David Brown of Stockamp & Brown LLC held an afternoon breakout session on the topic of "Avoiding Making a Consumer Complaint a Lawsuit." Chris Campisi of Benefit Administrators spoke to breakout session attendees on the Health Care Reform Act with up to date information regarding the impact on dealerships from small dealerships to large dealerships.

Quotes from convention attendees:

"The OADA convention is worthwhile and a great use of my time. Networking with my peers, vendors and industry experts has helped me to become a better dealer. The information on recovering VISA/MasterCard Settlement payments was worth the trip." - Tim Glockner, Glockner Honda - Toyota, Portsmouth

"It is a tremendous opportunity to learn and interact with the dealers of Ohio." - Pete Pannier, Northgate Chrysler, Dodge, Jeep, Ram, Cincinnati

"Always great to meet and talk to old friends." - Doug Krieger, Krieger Ford, Columbus

"Once again, the speakers were exceptional. Having the NADA President speak makes me feel confident with him as the leader of NADA." - Gene Stevens, Gene Stevens Honda, Findlay

"The OADA Convention was a wonderful combination of seeing friends, hearing inspiring speakers, and learning the latest in industry concerns, all in a comfortable and relaxing environment." - Ed Babcock, Junction Auto Family, Chardon

"I want to thank the team of officers and the staff at OADA for a dialed in convention. I came home feeling a little sharper, more in tune on the things that are affecting our business. It helps to know we have friends and allies on our side, and know who to call in the event of a tough situation." - Dean Blair, Foreman-Blair Buick Cadillac GMC, Springfield.

In a continuing effort to recognize and thank the companies who support the Ohio Automobile Dealers Association, we ask you to extend the same courtesy to the representatives of the companies listed below...when they call on you in your dealership...as they display by their continued sponsorship of the convention meetings and events. ■

Thank You to Our 2013 OADA Convention Sponsors...

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Convention Sponsors...

The Cure for IT Insomnia?

provided by The Gillrie Institute

Most car dealers are not spending sleepless nights worried about their IT and technology but, based on what we are seeing every day, they should be very concerned. Technology requires constant vigilance and a level of attentiveness that just doesn't exist in many auto dealerships.

At The Gillrie Institute, we don't provide any IT services. For over twenty years, we have helped our dealer clients make the right choices when they are negotiating for DMS systems and other related technology. In the course of some recent projects, we have seen startling evidence of the havoc and financial exposure that a lack of cohesive IT policies can cause. This article is our attempt to help dealers understand a few of the major issues of *both security and expense* in simple terms. It is far from comprehensive and dealers should seek professional help as necessary.

Security

In today's world, no dealer would leave the doors open when everyone has gone home for the night. You always lock up because you know you have valuable property to protect. Don't forget to secure your most vulnerable valuable - your data and that of your customers. No theft is more perilous to your reputation and finances in this digital age.

1. Secure every desktop. You must lock them down and prevent the installation of software (including the peer to peer variants), viruses, malware, games etc. We have seen stores where, most users seem

to have replicated their home computer on their workstation. Aside from the obvious distractions and wasted employee time, this kind of open access allows the desktop of even the most honest user's computer to become the portal that invites the intruder. Don't think that "they wouldn't do that". You must have a plan that prevents it or it will happen, innocently or maliciously.

2. Use strong passwords and change them often. It is truly amazing but probably half the computers in the U.S. still use passwords like "Password", "12345" and "User / User". Your passwords should be complex, including numbers, letters and special characters. They should be changed at least every ninety days. And - obviously - don't write them down somewhere on or near the workstation.

3. Install and continuously update protection software. You need virus and malware protection, along with actively managed web filtering software (e.g. Websense). These programs must be kept current as new threats arise incessantly.

4. Provide real wireless security. Most dealerships still use WEP encryption that has not been secure since 2001. Even those who use the more secure WPA protocol, have a single password that everyone knows and you can find written somewhere under most desk pads. Former employees (and anyone else who has ever accessed your system) all leave with the ability to re-enter at will. The only acceptable method to secure wireless is through the use of an Adaptive Network Ac-

cess Control (e.g. Edge Series) that assigns and monitors passwords, even deleting access when a user has left the company. Access to sensitive data is allowed on an "as required" basis only to authorized personnel.

Many dealerships are now also using wireless equipment to make working with customers easier and more versatile. For example, service departments use wireless tablets to write up customers on the drive. However, even this open network could place the customer's information at risk.

5. Control the use of personal tablets and smartphones to access company files.

You must have a Bring Your Own Device (BYOD) policy and enforce it. We know that breaches using these devices are happening now, unknown to Dealers. Consult an expert on implementation of your BYOD policy if you are going to allow the use of private devices.

The consequences of lax security can be truly devastating. The direct and indirect costs associated with a breach of customer data can grow to seven figures and beyond, while further affecting your reputation and the level of trust your customers place in your business. Litigation often centers on the steps a business took (or did not take) to prevent the breach. Auto dealers are considered soft, data-rich targets that will yield exactly the type of information for which a thief is looking. All dealers must have program and culture in place to both prevent the breach and mitigate any ensuing damages. ■

Did You Miss the OADA Health Care Forum? DVD Packages are now Available!

OADA recently held a very successful half day panel discussion on the Patient Protection and Affordable Care Act, and what the impact would be on dealers. The March 20th event garnered attendance from over eighty dealers and their employees from around the state, and was very well received.

Featured speakers from Benefit Administrators, Schneider Downs, Fisher and Phillips, LLP, Anthem, and American Fidelity

came together to discuss responsibilities and choices that dealers are now faced with as the Affordable Care Act is phased in.

We are pleased to announce that a DVD recording of the presentation in its entirety has been produced, and is now available for purchase. Information packets, including the DVD and all related handouts, are available to members for \$125 each.

If you are interested in receiving a DVD package, please make your request to DeAnna Zahniser at 614-923-2231 or dzahniser@oada.com.

Also, stay tuned to www.oada.com as we launch our Health Care Series of webinars, part of the OADA Brown Bag Lunch Webinar Series. Mark your calendars for the first webinar in this series, scheduled for June 19 at 11:00 a.m. ■

Young Truck Sales Wins Pro Patria Award



Young Truck Sales, Inc., a local truck sales, parts and service dealership in Canton, Ohio, was awarded the Pro Patria Award for the small business category at a ceremony in Dublin, Ohio on Saturday. This award was presented by the Employer Support of the Guard and Reserve (ESGR), a Department of Defense operational committee.

The Pro Patria, an annual award, is given to only 3 businesses in the state-- one small business, one large business, and one public sector organization. Each recipient is scored according to how well they support their active military employees.

Accompanying the Pro Patria Award was the Above and Beyond Award, recognizing 30 employers state-wide who have gone above and beyond the legal requirements of maintaining employment for mobilized service members.

Shaun Mosiychuck, a parts department employee at Young Truck Sales, Inc, nominated the company for recognition. Mosiychuck served at the Shindad Air Base in Afghanistan during 2011 and 2012, and returned home this past October. While he was

deployed, Young Truck Sales, Inc. took the initiative to continue some of Mosiychuck's benefits and encouraged employees to keep in touch with him while he was overseas.

Young Truck Sales, Inc., established in Canton, Ohio in 1954, is a premier dealer of Freightliner, Volvo and Isuzu new and used trucks. In addition to truck sales and leasing, Young Trucks also offers an extensive parts inventory and qualified service and body work. Young Trucks proudly claims four locations in the Canton area; the Freightliner/Isuzu dealership, parts and service; the Volvo dealership and service, a Trailer Rehab and Repair Shop, and JayMac Body and Frame Shop, which also welcomes RV's, busses, fire trucks and any type of large frame vehicle in need of body repair or paint. ■

Useful Promotional Products Deliver Value for Advertisers and Consumers

provided by Reynolds & Reynolds

Over the past several years, dealers have been forced to make difficult choices in prioritizing which marketing and advertising channels to use to help build their brand with consumers. As a result, many dealers have chosen to cut promotional item spending as a way to cut expenses and shift limited resources to other brand-building tools.

However, study after study show that promotional items are an essential part of any retailer's marketing and advertising strategy. These products continually deliver results in helping retailers, including dealerships, quickly and cost-effectively claim their space in the hearts and minds of consumers. Consumers benefit, too, when they view branded items as useful.

With that in mind, here are answers to three common questions dealers ask about offering promotional products to consumers:

1. Don't consumers just throw promotional items away when they get home?

No, they don't. It's easy to dismiss branded items as "trinkets and trash" that will disap-

pear as soon as the nearest waste can is found. However, research shows most consumers will keep promotional items they consider useful, such as tote bags and writing instruments. In fact, usefulness often is cited as the most important reason why consumers keep an item.

Also keep in mind when consumers keep a branded item, they tend to keep it an average of one to four years. During that time, your dealership's brand and message are exposed and reinforced repeatedly with consumers, a unique benefit of promotional products over other types of marketing tools.

2. Do people really notice my logo and message on a giveaway?

Yes, and they remember it, too. A study conducted by PPAI Research indicated nearly 90 percent of people surveyed could recall the promotional product they received and the advertiser's name. Nearly 75 percent of people also remembered the intended message. The products with the greatest advertiser-message recall included pens, calendars, coffee mugs, and magnets – all of which also offer

the "usefulness factor" consumers prefer.

3. Will consumers really change their opinion of my business because I gave them a promotional product?

Yes. According to a 2010 global advertising study by the Advertising Specialty Institute (ASI), more than 40 percent of promotional product users have a more favorable impression of an advertiser after receiving an item. Moreover, nearly 40 percent of those same respondents said they would likely shop at a business that distributed a branded item. As you focus on reputation management for your dealership, promotional items offer a tangible way to influence consumer opinion of your brand.

As research shows, promotional products are an important tool in helping your dealership build its brand and reinforce its relationship with consumers day after day, month after month, year after year. Claim your space by offering branded items consumers deem useful to get the best bang for your advertising buck with each impression made. ■

This article first appeared in the Jan. 2, 2013, weekly newsletter from Dealer Marketing Magazine. Reprinted with permission.



ADREVIEW corner

Sign & Drive Lease Advertising:

One item that the Attorney General's office typically pays close attention to in order to ensure compliance is lease advertising. A problem that has recently come up statewide has to do with advertising "Sign & Drive" leases. Stating in an advertisement that a lease is a "Sign & Drive" lease implies that there is zero amount due at inception. These types of advertisements give way to a few problems. First, the advertisement must clearly and conspicuously disclose that the advertisement is for a lease. Accord-

ing to Reg. M and the Ohio Consumer Sales Practices Act, any advertisement for a lease must clearly and conspicuously disclose that a vehicle is being offered for lease rather than for purchase. Simply saying "Sign & Drive" is not enough to put the consumer on notice that the advertisement is for a lease. While it is clear to people in the industry, it is not as crystal clear to everyday consumers so the advertisement must state that it is for a lease.

Additionally, according to the Truth in Lending Act and Reg. M, when certain trigger terms are used, the amount due at inception, among other disclosures, must be stated. The amount due at inception must include all costs except tax, title license and doc fees. Thus, when advertising a "Sign & Drive" lease, the amount due at inception must be zero. There can be nothing due at inception other than tax, title license and doc fees. If there is a first payment, acquisition fee, bank fee, or any other fee due at inception, then you cannot advertise the lease as a "Sign & Drive" lease. ■

"Minor Consent Form" which is form BMV 3751. A minor may *not* give someone power of attorney. Ohio law allows the parent or legal guardian to complete the form in the dealer's presence or to provide identification to the Clerk's Office at the time the application for title is presented. Additionally, always remember that the sale of a vehicle to a minor is rescindable at the discretion of the minor until he reaches the age of 18.

5. Anyone can trade in their vehicle toward someone else's purchase: According to the Ohio Department of Taxation, any person can trade in their vehicle toward the purchase of a new vehicle for any other person and have that person receive a trade in credit. There is no requirement that the two parties be married or even related.

6. "We'll Take Care of It": One item that frequently causes problems and comes up in consumer complaints is when a dealership employee, typically in the sales department, says something along the lines of "We'll take care of _____." You can fill in the blank with whatever you like such as air conditioning or a squeaky noise. However, this is where problems typically begin because it gives the customer the idea that the dealership will take care of the problem no matter what the problem may be. This off the cuff statement can create many problems depending on what is actually wrong with the vehicle. Another aspect of this is when something general is written on the delivery report as still owed, such as "fix bumper." Once again, the customer sees fix bumper and assumes the dealership will fix anything wrong with the bumper. These various problems can be remedied by first putting all promises into writing so that there is no confusion. Secondly, always be as clear and detailed as possible in the writing. Write exactly what is to be fixed so that what is being promised is not open to interpretation.

7. Cost of Repair Exceeds Value of Vehicle: If the cost of repairs exceeds the value of the vehicle, the dealer should state this in writing to the customer. A good way to do this is to note this on the repair order and have the customer initial by the statement acknowledging that they understand and still approve the repair. ■

The Top Seven Legal Reminders for June

1. Off-Site Displays: Under Ohio Revised Code (ORC) §4517.03(B)(1) for new car dealers and §4517.03(C) for used car dealers, motor vehicle dealers may not conduct off-site displays. In relevant part, the sections state "No new/used motor vehicle dealer shall *sell, display, offer for sale, or deal in motor vehicles* at any place except an established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles." This constitutes an outright prohibition against any type of off-site display for any purpose.

2. GAP is a product, not insurance: In Ohio, GAP is considered a product not a type of insurance. Because of this, GAP is taxed and should be added to the taxable price of

a vehicle.

3. Employee Pricing in Advertising: According to the Attorney General's interpretation of the Ohio Consumer Sales Practices Act (OCSPA), a dealer is permitted to advertise a price that is available to employees of a car manufacturer. This is not considered a limited rebate by the Attorney General because it is a fixed price that is stated on the invoice. However, when advertising employee pricing, the advertisement must clearly and conspicuously disclose that the price being advertised is for employees.

4. Minors can buy cars: A minor can buy a car but there are a few items to be aware of. In order for a minor to acquire a vehicle, a parent or legal guardian must sign a

Recycling Compliance vs. Disposal

Auto repair shops must comply with state and federal environmental air pollution regulations. While it is possible to recycle some pollutants, others must be disposed of.

Note the regulations for the following pollutants:

Used Oil

Used oil that is subject to EPA regulations includes engine oil, lubricating oil, brake fluid, transmission fluid, and hydraulic fluid. Proper recycling and disposing is the responsibility of the oil generator. The best oil management system is to send all oil to an off-site recycling company. When storing oil on the premises, good practices include:

- Label all oil containers as *Used Oil*.
- Store oil in leak free containers.
- Contain and clean up any oil leaks.
- Use a transporter with an EPA identification number to ship used oil off-site.

Used Oil Filters

If used oil filters are non terne-plated and have been properly drained of used oil, they do not need to be handled as hazardous waste. Various methods are available for hot-draining. Hot-draining can be completed by a licensed handler on-site, or can be sent to a local oil specialist for recycling.

Antifreeze

Recycling is the best option for antifreeze. Three recycling options are available:

1. Purchase a small in-facility recycling system.
2. Hire a mobile recycling company.
3. Hire a company who will recycle antifreeze at a central facility.

Painting Related Waste

Auto body shops often have waste that includes paint and spent solvents from cleaning and spray booth filters. Determine if the waste is hazardous or non-hazardous prior to disposing of it.

Leftover Paint

The first step to removing paint waste is to reduce the amount of leftover paint.

- Return unopened, unused containers to the vendor.
- Use leftover paint for touch-up work, as a primer, or undercoat.

- Combine left over paint with other compatible paints, re-tint, and reuse.

All hazardous waste must be sent to a permitted hazardous waste facility for disposal.

Solvent Waste

Spent solvents are hazardous waste due to their flammability and/or chemical constituents. The following options all for recycling and disposing of solvents:

- Two-state cleaning process: 1. Reuse solvent for the first bath. 2. Pour off and use clean solvent for the second bath.
- Reuse solvents: Allow solids to settle, and then pour off and reuse the clean solvent.
- Recycle solvent by distilling it on or off-site.

Empty Containers

Empty containers can only be disposed if they are considered "RCRA empty." A can or container is considered RCRA empty if all the material has been removed using practices commonly employed to remove the material from that type of container, and:

- No more than one inch of residue remains.
- No more than three percent of weight by total capacity of the container remains in the container if the container is less than or equal to 100 gallons.
- No more than 0.3 percent by weight of the total capacity of the container remains in the container if the container is greater than 110 gallons.

Metal containers that are RCRA empty can usually be recycled as scrap metal or disposed of in the dumpster as solid waste.

Paint Booth Filters

Determine if the filters are hazardous. Filters with heavy metal pigments may be hazardous. If the filters are non-hazardous, dispose of them as solid waste.

This safety update is provided by KPA, an OADA endorsed partner for Environment & Safety services for auto dealers. If you have additional questions, please contact Glorianna Cooley of KPA at (614) 432-5044 or gcooley@kpaonline.com. ■

OADA Wraps Up Another Successful Seminar Series

The OADA *Annual Workers' Compensation & Safety Management Seminar* concluded its run on April 25, with the final program presented in Cincinnati. With a revised presentation format, and a few new faces, the 2013 annual series was well received, and well attended.

Over 200 attendees in four locations around the state heard the latest on the OADA group rating and retrospective rating programs, and other cost saving measures available for employers to utilize as they try to reduce their workers' compensation costs. This year more than ever, the program really focused on following the life of a claim from the date of injury until the employee returns

to work. These case study analyses involved a panel discussion involving experts from both CareWorks, and CareWorks Consultants Incorporated (CCI), who are involved on a daily basis in claims management for OADA members (your "team"). Debie Spain, the nurse case manager from CareWorks that works with OADA clients, kicked off the panel discussion to explain to dealers what her role is when a claim is first reported to the managed care organization (MCO), CareWorks. From the account representatives to the case specialists, it was clear to all in attendance that CareWorks and CCI really do work together as a cohesive unit when managing a claim for an OADA plan participant.

You won't find that anywhere else!

The annual presentation also included a safety presentation from KPA, OADA's endorsed provider for safety, environmental, and OSHA compliance. We would also like to give a special "thank you" to Stephen Buehrer, the Administrator of the Bureau of Workers' Compensation, who gave a special presentation at the Columbus location.

We would also like to acknowledge our seminar partners for their hard work and effort: Kirsten Gibson, Shawn Combs, and Juliet Walker from CCI; Ron Lucki, Debie Spain, Rebecca Rohner, and Traci Laub from CareWorks; and Glorianna Cooley, Zach Pucillo, and Adam Kulwicki from KPA. ■

KPA Wins Top Marketing Awards at 2013 Colorado BMA Gold Key Awards for Weekly Webinars

KPA, a Professional Services company, has received a 2013 Gold Key Award from the Business Marketing Association. The recognition took place at the annual Gold Key Awards gala, Friday, April 26, at The Seawall Ballroom in the Denver Center for the Performing Arts.

The award was for the "Total B2B campaigns" category, which KPA won with their weekly webinars. For several years, KPA has had a popular webinar series covering issues relevant to their business, prospects, and clients. Originally conceived as a combination of brand awareness, lead generation, and retention program, the series developed into the most successful marketing program at KPA. "The technology and strategy behind our webinars was a lot of fun to develop. We refined our process to be very efficient and scalable, allowing us to deliver webinars on a wide variety of topics with limited time and resources. It's great to see the campaign achieve this degree of success," said Eli Snyder, Webmaster.

In 2012 the webinar program was dramatically expanded and improved with the goal of promoting the webinar program as its own brand, appealing to a larger audience, and promoting KPA webinars as a premier educational resource for vertical

markets. With over 106 webinars in 2012, greater than 25,000 registrations, in a market of 18,000 dealerships, KPA exceeded their goal, thereby winning the Gold award for Total B2B Campaigns.

"Competing against a variety of marketing agencies, the KPA in-house marketing team went above and beyond with their webinar campaign, using a total of 25 internal speakers and 29 guest-speakers, including an EPA speaker, amongst other prominent guests. 60% of participants in Environment & Safety and HR Management webinars were KPA clients, contributing to an all-time high client retention of 93%," said Becky Ross, Marketing Manager, KPA.

The Gold Key Awards is recognized as Colorado's most prestigious competition dedicated solely to business-to-business marketing communications. This year's program had 164 entries from Colorado's top B2B businesses and agencies. Entries were reviewed by a panel of six independent judges from across the country, representing agency and corporate marketing professionals. Only 17% of the entries received a Gold award.

"The BMA Board of Directors extends our congratulations to the winners of

this year's awards program. It is a fiercely competitive program that truly recognizes the very best in business-to-business marketing for 2013," says Marilee Yorchak, CAE, Executive Director, Colorado Business Marketing Association. "With our emphasis on results and the quality of entries, the BMA Gold Key Awards is one of the most coveted by marketers in Colorado."

[About KPA](#)

KPA is a dealer services and Internet marketing provider for over 5,000 automotive, truck, and equipment dealerships and service companies. KPA provides consulting services and software for three industry-specific product lines: Environment & Safety, HR Management, and Internet Marketing. KPA joined the Inc. 500/5000 list of fastest growing companies in 2012.

[About the Business Marketing Association](#)

The Business Marketing Association (BMA) is a national organization that unites professionals who specialize in business-to-business marketing and communications. The Colorado Chapter has more than 475 members and one of the largest and strongest chapters in the country. The BMA Gold Key Awards is Colorado's most prestigious competition dedicated solely to business-to-business marketing. ■

NADA News

A Message from Ohio NADA Director, Bill Reineke, Jr.

CFPB Issue, Support for Franchised Dealer Network Among Topics Discussed at Auto Forum

Industry leaders and analysts were upbeat about the economy in their presentations to the 2013 Automotive Forum, held last month in New York City. They all agreed that auto sales are rising and economic momentum is growing.

Nearly 400 dealers, OEM and supplier executives, analysts, and media convened to look at global issues shaping the auto industry, the state of the economy, and the challenges facing new-car dealers and their customers. The forum was hosted by the New York International Auto Show.

Participants were upbeat about the recovering economy, expanding credit, and a growing demand for newer inventory to replace aging fleets. The consensus among top analysts was that new-vehicle sales will exceed 16 million units by 2015.

The forum - presented by the National Automobile Dealers Association, J.D. Power & Associates, and the Greater New York Auto Dealers Association - included keynote speaker Bob Carter, vice president of automotive operations for Toyota Motor Sales, U.S.A.; Finbarr O'Neill, president of J.D. Power & Associates; and Nariman Behravesh, IHS chief economist. All three were optimistic about the sales outlook for 2013 and beyond.

With historically low rates on auto loans and automakers "bringing out damn good cars." Carter said that Toyota predicts 15.3 million new vehicles will be sold in the U.S. this year.

Maryann Keller, a long-time industry consultant, also delivered a presentation in support of the current franchised dealership model, and argued against Tesla Motors' approach to selling its electric vehicles directly to the public through factory-owned stores.

"Factories have learned that they cannot do a better job than independent business men and women at a retail level," Keller said. "And new startups - many who will come and go - with new systems of selling and servicing retail automobiles will all reach the same conclusion: the dealer network is the best way."

The forum gave NADA an opportunity to directly address another issue of major concern: Recent "guidance" from the Customer Financial Protection Bureau (CFPB) threatens dealer-assisted financing as we know it.

In March, the CFPB released a bulletin that claims indirect lending through dealerships may result in minorities paying more for auto loans.

Dealers are exempt from CFPB oversight, but auto lenders are not. So the Bureau's guidance could drastically change how auto finance sources compensate dealers for arranging auto loans. Keep in mind, no one is accusing anyone of intentional discrimination.

The Bureau issued its guidance based on a theory called disparate impact.

If the auto finance system can potentially result in minorities paying more for credit than non-minorities in the same credit tier, then it is considered unintentional discrimination. And the system needs to be addressed.

But we have no idea how the CFPB concluded disparate impact exists in today's marketplace.

Disparate impact can only be proven through a statistical analysis of past transactions, but the CFPB has not revealed how it is conducting its analysis or what data it's relying upon.

There is also no indication that the Bureau has studied how moving a "flat fee" compensation method would impact the marketplace. Eliminating a dealer's ability to discount the credit rates would ultimately affect the amount consumers pay for credit. Dealer-assisted financing - which is optional - increases access to and reduces the cost of credit for millions of Americans.

Our customers overwhelmingly choose dealer-assisted financing because it's convenient and competitive.

Before this consumer-friendly model is disrupted, the CFPB should explain how it is conducting its analysis. The Bureau also should demonstrate the effect flat fees would have on today's intensely competitive auto financing market.

It also needs to coordinate its actions with the federal agencies that directly regulate dealers. And it should provide the public with an opportunity to comment on its assumptions and proposed actions.

The need for transparency, reliable data analysis, interagency coordination, and public comment are clearly warranted when there are attempts to change the compensation method of a \$783 billion market.

This is an issue that is likely to be at the forefront for some time, so stay tuned. ■



Bill Reineke, Jr.
Ohio NADA Director

Four Sales Truths to Set You Free

provided by John Chapin, Complete Selling, Inc.

If you're going to be successful in sales over the long haul, there are four concepts you need to fully accept and buy into. Missing any one of these will either prevent you from getting off the ground at all, or, if you do get off the ground, missing one of these will sabotage your long-term success and happiness.

Four Ideas to Take Control of your Sales Career

1. It's not about chasing the sale.

Almost everything you chase runs away, and you probably don't want any part of the things that don't run away. It's recently been proven that even Great White Sharks will swim in the other direction if you swim at them and most prospects are far more timid than your average shark.

Instead of chasing the sale, work on the connection and the relationship. Your objective here is to make it all about the other person. And by the way, there is no new relationship selling, it's always been about relationships. The best salespeople, the ones who have had successful careers over the long haul, have not burnt out, and have led happy, fulfilling lives both personally and professionally, have always focused on doing what's right for the other person. That said, are there some sale-chasers out there who have experienced some success? Yes, but it usually comes at the expense of other areas such as: their character, their reputation and their personal life. I'm also guessing they aren't people you like or admire on a personal level. So in order to have a long, happy, successful sales career, take care of people and relationships and instead of having to chase sales, the sales will chase you.

2. You have to be completely accountable.

You need to have several levels of accountability in place to ensure you do what you need to do in order to be successful. The most important is accountability to yourself. That said, even the strongest and most self-disciplined among us will allow ourselves to falter from time to time, so it's important to have a second and perhaps even third layer of accountability. Your second level consists of people you work with and other professionals, this group includes: managers and bosses, coaches and mentors, mastermind groups, and, in some cases, may even include your peers. The third level of accountability includes friends, family, and other acquaintances. All that said, ultimately the buck stops with you. Even with other people checking on you, it's possible to cut corners, lie, and otherwise fudge things in your favor. You've got to push yourself and be willing to do whatever it takes to hold your feet to the fire even if that includes devices such as trap contracts and large fines.

3. You've got to be brutally honest with yourself.

You have to see yourself, and your sales career, warts and all. If you don't have the sales you need, the prospects you need, and the overall results you want, it's probably your fault. Own it and do something about it. This doesn't mean you have to beat yourself up to the point where you feel so badly about yourself that you can't perform. At the same time, you need to get enough leverage on yourself that you push yourself to get the job done every day. There's a happy-medium and balance here, but I find that most people are

not half as tough on themselves as they need to be. Most people will skirt responsibility and point the finger elsewhere when it comes to reasons for their failure. Accept responsibility, grab the bull by the horns, and get to work. Success or failure is completely up to you.

4) You have to get organized and get control of your time.

Getting organized and getting control of your time begins with goals and a plan. Decide what your business goals are for the year and then break them down to monthly, weekly, and daily activity.

Organize, clean up, and set up your work area, files, computer, calendar, and other tools and then get to work. This doesn't have to be complicated but it does take hard work and self-discipline to stick to your plan and do what must be done every day.

When you're at work, work. And when you're working, make sure it's on the items that will give you the most return on your time, effort and energy. You should be working on the 20% of items that give you 80% of your results, all other items should be delegated or eliminated. In sales, most of your time should be spent prospecting, closing, or otherwise chasing business. Continue to improve your organization and time management until you are spending 80-90%, or more, of your time in these three key areas and then put checks and balances in place to keep yourself at that level.

For access to John Chapin's free monthly newsletter, go to: <http://www.complete-selling.com>. ■

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Brown Bag Lunch Webinar Series

presented by
The Ohio Automobile Dealers Association

Selling an As-Is Vehicle: It's Not as Simple as You Think!

This Webinar is being hosted and moderated by OADA. Registration fee is \$30 per connection for OADA member dealers. Non-member fee is \$50 per connection. **The Webinar is scheduled for Wednesday, June 12, 11:00a.m. - 12:00 p.m.**

We've all seen it. The customer comes in with a limited budget, and they need a vehicle. You have a vehicle with high mileage that you just took in on trade, but haven't had time to inspect. Should you go ahead and sell it? What disclosures, if any, do you need? What might the pitfalls of this transaction be?

This is just one of the scenarios that we will discuss in our June 12 webinar. David Brown of Stockamp & Brown, OADA's outside counsel, along with Sara Bruce, Vice-President of Legal Affairs at OADA, will discuss three sides of this increasingly relevant issue: Where are you getting these vehicles? What inspections and checks are you doing to them at the dealership? How are you selling them? What are the consumer's real expectations? How do you temper those expectations? Is "As-Is" really ever "As-Is"?

Quality used vehicles at a reasonable price are difficult to acquire, and with the economy still making its way back, these units are in high demand. While we have seen this trend for awhile now, Hurricane Sandy has made quality used cars a more scarce commodity, not to mention the possibility of flood damage. So where are these vehicles coming from?

- Auctions
- Trade-Ins
- E-Bay and Craig's List
- For Sale by Owner Acquisitions

Once you have the vehicle at the dealership, you need to prepare it for sale. Keeping in mind that this will be an "as-is" transaction, how much or how little is your detail and service center doing to get the vehicle on the lot? We will discuss

- Safety inspections - what is required?
- Service department - how far should you go?

We will also discuss how to sell these vehicles, and how to keep them sold.

- Real world scenarios where the dealer went wrong
- Paperwork
- Oral representations
- Use of the goodwill repair form
- What is considered "material"?

Webinar fee is \$30 per connection for member dealers, and \$50 per connection for non-member dealers. If your dealership sells used cars, register today!

Registration Form

Selling an As-Is Vehicle: It's Not as Simple as You Think!

Registrant

Name (s) _____

Position (s) _____

Dealership Name _____

Address, City, State & Zip _____

Telephone () _____

Fax () _____

E-mail _____

Please register me for the webinar. (*Registrants must provide an email address*)

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Return to: OADA • 655 Metro Place South, Suite 270 • Dublin • Ohio • 43017 **or fax to** 614-766-9600
You can also **register by logging onto the OADA web page** at www.oada.com, or by calling 800-686-9100 x109.



Brown Bag Lunch Webinar Series

presented by
The Ohio Automobile Dealers Association

Health Care Option for Employers with 51+ Employees: Consider ERC Health!

This Webinar is being hosted and moderated by OADA. Registration fee is \$25 per connection for OADA member dealers. Non-member fee is \$50 per connection. **The Webinar is scheduled for Wednesday, June 19, 11:00a.m. - 12:00 p.m.**

OADA is excited to launch the first of several health care webinars, part of our popular *Brown Bag Lunch Webinar Series*. We are pleased to partner with Benefit Administrators, along with ERC Health, to bring this informative webinar to dealerships with over 51 full-time employees.

If your organization has attempted to reduce health insurance costs by changing carriers and reducing plan benefits, only to fail to realize the results that you were hoping for, perhaps it is time for a new approach. ERC Health may be the option you have been looking for! ERC Health, underwritten by Anthem Blue Cross and Blue Shield, is a refreshing change from the status quo. ERC may be right for you if your organization is interested in the following:

1. Preferred Risk Pool
2. Wellness Programs
3. Extended Rate Guarantees
4. Claims Experience Regardless of Group Size
5. Free Gym Memberships for Employees
6. Onsite Wellness Coaches

ERC Health has been around for 14 years through a limited broker distribution channel. Employers in ERC Health, including some OADA members, continue to see renewals that are significantly less than the average market renewal. Why do they see better renewals? The commitment to wellness and getting involved in a program that works!

Please join OADA, ERC Health, and Benefit Administrators for an exciting webinar on June 19. Keep in mind, this program will only apply to dealerships with over 51 full-time employees.

Webinar fee is \$25 per connection for member dealers, and \$50 per connection for non-member dealers. Register today!

Registration Form

Health Care Option for Employers with 51+ Employees: Consider ERC Health!

Registrant

Name (s) _____

Position (s) _____

Dealership Name _____

Address, City, State & Zip _____

Telephone () _____

Fax () _____

E-mail _____

Please register me for the webinar. (*Registrants must provide an email address*)

I have already registered online. My payment is attached/ enclosed.

Return to: OADA • 655 Metro Place South, Suite 270 • Dublin • Ohio • 43017 **or fax to** 614-766-9600
You can also **register by logging onto the OADA web page** at www.oda.com, or by calling 800-686-9100 x109.

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