

## **'I Don't Remember that Deal'**

by : *Gil Van Over*

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One of the lawsuits I helped a dealer defend against had a memorable exchange between the dark side attorney and the salesperson on the deal.

*Attorney:* Tell me, Mr. Salesperson, do you remember selling my client his car?

*SP:* Yes, I do. And I know I did everything right.

*Attorney:* How many cars do you sell a month?

*SP:* Fifteen to 20. And we always do things legally.

*Attorney:* And you sold this car three years ago?

*SP:* Yes.

*Attorney:* So, in the three years since you sold my client his car, you've sold maybe 500 or 600 cars?

*SP:* Sounds right.

*Attorney:* And you remember selling my client his car?

*SP:* I sure do. And we did everything legally.

*Attorney:* What color shirt was my client wearing?

*SP:* I don't know.

*Attorney:* Was it raining or was the sun shining?

*SP:* I don't remember.

*Attorney:* Was there anyone with my client when he bought the car?

*SP:* Ummmmmmmm.

*Attorney:* How can you really sit there and tell me you remember this deal when you can't even remember anything else about that day?

### **Case closed**

As soon as the salesperson admitted that he could not recall any other details about a day three years back, the rest of his testimony was tainted. He thought he was helping the dealership defend itself in the lawsuit, but instead created a headache for the dealer's attorney.

### **Admit you don't know**

You must admit you don't remember the deal, but you do know your processes and testify to how you do things.

### **The paper trail**

If you want the deal jacket to be your defense witness instead of an employee who may or may not still be employed with your dealership three or four years down the road, you must believe in and require a paper trail.

This paper trail must show definitively that you sold the vehicle and ancillary F&I products in a transparent fashion.

A typical paper trail (except in California), will include the four square or selling document, a preliminary buyer's order, a menu, a final buyer's order, a retail installment sales contract and certificates for every F&I product sold.

Not only do these forms need to be in the deal jacket, but also they must flow. It must be readily apparent to the six jurors in the box, whose math skills vary from guzintas to statistics, whose reading pleasures range from comic books to Shakespeare, whose musical tastes may include rap and classical, that you didn't hide anything when you sold the vehicle.

### *Selling document*

It doesn't matter whether you use a manual four square or a desking system or whether you work the trade difference instead of payments. Most dealers use some sort of selling document to start the deal. The agreed upon transactional details are normally transferred to a preliminary buyer's order.

### *Preliminary buyer's order*

This form is used to affirm the customer's purchase intention and to provide F&I with the agreed upon deal.

The vehicle purchase price, down payment, trade-in information and payment amount and term are some of the transactional details contained on the PBO.

### *Menu*

This is the form that helps F&I to memorialize the sale. The cash sales price, the down payment and trade-in information must match the PBO. If payment and term were quoted, they must match the base payment information on the menu.

### *Final buyer's order*

The terms on the final buyer's order, including optional F&I products purchased and the premiums for these products, must be consistent with the menu.

### *Retail installment sales contract*

The amount financed on the RISC must match the amount due on the buyer's order. The final term, payment and APR on the menu must match the term, payment and APR on the RISC. The F&I product premiums must match on all three documents.

### *Product certificates*

The premium for each of the products as disclosed on the certificates must match the menu, final buyer's order and RISC.

### **Common sense**

I know this sounds like common sense, but don't fool yourself. Either through operator error or inadequate computer programming, these simple paper trail elements may be missing from your deals.

### **Call to action**

Go ask your F&I manager to print a test deal for each lender that requires a separate RISC (normally your captive and the generic contract the rest of the lenders accept). Review each of the documents discussed above and see if the paper trail passes the common sense test. If not, you know where to start your corrective actions.

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