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The cost of non-compliance increases

by Gil Van Over

Two noteworthy news items from the last few days accentuate the growing trend of an increased cost to dealers for non-compliance with regulations, statutes, deceptive practices and bank fraud. The first story was in last week's Automotive News about the 79 year-old dealer who bought his first store in 1955 who apparently traded his kingdom for his freedom. The second item was in a press release from the Federal Trade Commission (FTC) increasing potential fine by about fifty percent. Truly, the cost of non-compliance continues to skyrocket.

The Dealer

The background on the dealer story, from what I've been able to gather from news reports, starts with a 79 year old-man who bought his first dealership shortly after graduating from college as a local football hero. He eventually grew his dealer group to six stores. The Federal Bureau of Investigation (FBI) targeted five of his dealerships for potential bank fraud. How the FBI decided to target this dealer is uncertain, but one possible, plausible explanation is that the feds received too many Suspicious Activity Reports from lenders.

Regardless of the reason, the FBI conducted an undercover investigation and ultimately seized customer files from the dealerships.

The allegations of bank fraud include in-house rebates, power booking and falsifying income and job information. A local newspaper editor is also in trouble for allegedly lying to lenders about job verifications in return for advertising. The dealer maintains that he did not authorize or condone any of these activities; the feds didn't care. He was in charge and should have known better, they said.

This dealer's cost of non-compliance?

The negative publicity forced the sale of some of the stores, including his flagship dealership. Another store closed without a sale.

The dealer had to resign management positions at the remaining stores.

He agreed not to step foot on the property of the remaining dealerships for two years.

The restitution figure is in the seven digits.

So...because the dealer may not have had the proper internal controls, policies and procedures and an independent auditing process in place, the employees were running the place, and running him out of his kingdom.

The FTC

As of yesterday, the FTC increased the potential penalties on violations of the various regulations by about fifty percent. These adjustments are based on the increase in the Consumer Price Index.

For example, violations of the Fair Credit Reporting Act (Red Flags, Address Discrepancy) increased from $2,500 to $3,500. Violations of other rules (Safeguards Rule, Privacy Rule, and Used Car Rule) jumped from $11,000 to $16,000.

Each of these rules contain certain elements or components that must be in place in order to comply with the regulations. You may want to review the various FTC rules, ensure you are in compliance and monitor your programs to avoid the governmental fines.

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