

Article from **Dealer Magazine** (http://www.imakenews.com/dealercomm1/e_article001500711.cfm?x=b11,0,w)

July 28, 2009

Fine, penalties and chargebacks

by *Gil Van Over*

Everyone is looking for money. Feds, lenders, Feds, manufacturers, Feds, DMV, Feds. Here are some of the horror stories I've heard over the last few months of people trying to fill their coffers with your money.

Feds

Apparently, this overly-active group has ramped up FIN-Cen 8300 audits and is trying to hit dealers with \$25,000 fines per non-reporting occurrence.

Don't wait on the Feds on this one. Make sure your process is buttoned down to fully comply with the 8300 reporting requirements.

Lenders

Reports are that some lenders are putting their portfolios through intense scrutiny looking for either power booking on used cars or misrepresented MSRPs on new cars. The amounts requested have exceeded a quarter of a million dollars.

If you get a list of deals to buy back, review your dealer lender agreement and see if the lender complied with its responsibilities under the agreement. If one of your managers did power book a deal, there isn't much you can do, but on the other hand, if the lender is trying to get you to pay back a deal because the car did not have alloy wheels on it when it was repossessed, it is possible that the customer replaced the alloys with hubcaps before the car was snatched.

Manufacturers

Rebate and incentive audits have moved from a causal function to what appears to be a profit center. I am aware of the results of a few of these audits where the requested chargebacks are in the six figures.

If you are hit with a rebate and incentive audit, be sure to carefully review the findings with an eye on the over-zealous auditor. I found a number of deals where the auditor was requesting a chargeback because the date of the recontract did not match the date of delivery. The dealer did have a rescission agreement dated the date of the recontract, and the recontract was within the incentive period to begin with.

DMV

Dealers are reporting that the DMVs in some states are becoming aggressive on Used Car Buyer's Guide audits. The potential FTC fine under the Used Car Rule is \$16,000 per occurrence.

Here there really is not an excuse. Make sure someone walks the lot every morning and looks at each used car and demonstrator. Each one of these vehicles must have a FTC approved Used Car Buyer's Guide prominently displayed.

And if you advertise "Se habla Espanol", you'd better have FTC approved Spanish version prominently displayed as well.

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