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Home

Search Articles

Topical Index

Past Issues

Print Current Issue

PDF Issue Archive

Conferences

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About Us

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**Issue Date: November 24, 2003**

**What do your deal jackets say about your F&I compliance**

## *Reviews ensure you aren't setting stage for legal trouble*

When a plaintiff's attorney raises a question about your F&I practices, there's nothing you or your managers can say that will alter the reality of what's on paper.

"It's not he said, she said...it's what the file shows," says Steve Straske, vice president and corporate council for Florida-based Ferman Motor Car Company. At the dealer group's stores, GMs have responsibility to audit every deal to ensure compliance and they're responsible for assigning a deal to the bank (see box at right). "Auditing deals on the spot gives you a chance to correct them," he says.

Straske also cautions that a clerk or administrator in your business office may not be the best person for the latter task. "That's not someone you can hold accountable for a Truth in Lending Act violation," he says.

F&I compliance consultant **Gil Van**

### **A manager's F&I checklist**

The following is a rundown of items GMs at Ferman Motor Car Company use to audit F&I compliance:

- Signed privacy policy. The F&I/sales manager should give the customer a copy and keep a second, signed copy in the deal jacket.

#### **Five square form:**

- The first pencil of payment range is based on the standard dealership rate and term for the customer's beacon score and type of car. (Note: Ferman encourages GMs to do the math to ensure the proper range was used.)
- The form must have customer signature and initials at the bottom and must show agreement between sales manager and customer on payment range.

### **Menu**

- Top page data reflects agreed-upon price, payment, down payment, rebates, trade allowance and payoff that appear on the five square form.
- The customer has initialed the F&I manager's handwritten note "Balance with all fees: \$\_\_\_", which includes a dollar amount.
- Customer signs bottom of first menu page and any menu selections made.

### **Buyer's order**

Over of gvo3 Consulting, Schereville, Ind., recommends that you check deal jackets to ensure you have at least three instances that list and disclose the agreed-upon price for the vehicle and any products you've sold. The documents include the buyer's order, the retail installment contract, an F&I menu and the F&I product enrollment form. "You've got to document your customers' decisions in your deal jackets," he says.

- Form is signed by customer and F&I manager, and customer signature appears in all appropriate places (such as Trade-in and Important Notices sections).

- Prices of all F&I products selected by customer are printed.

### RISC

- Price, down payment, trade info and rebate match up with the menu. If not, GM needs to prepare a new menu and get a customer signature.

- Monthly payment matches the menu, and each F&I product is priced and disclosed.

- Contract is signed by customer and F&I manager.

You might also consider an external auditor to review your F&I documents and look for compliance problems. **Tip:** Have your store's attorney retain the auditor for the work-a move that ensures any findings are sealed from outside eyes due to attorney/client privilege.

Other pointers to ensure your F&I compliance:

- Load a test deal in your system and print it. The deal should include all the products you sell and your review should ensure that rate, payment and terms are listed together to ensure TILA compliance. The exercise ensures your computer and printer systems don't inadvertently cut off mandatory disclosures on forms and create an easy mark for a plaintiff's attorney.

- Establish consistent prices for F&I products. It's becoming standard practice for public dealer groups and forward-thinking dealers-even in the handful of states that don't mandate specific prices or mark-up limits. The reason: The dealers realize consistency will insulate them from charges that they gouged a customer and gave a better deal to another. Some pricing benchmarks: Service contracts (two times the cost you pay to your vendor); GAP (\$495 retail); etch (about \$300). If you need to negotiate, experts like Van Over say you might consider negotiating terms and coverage rather than the price.

- Use a \$10 range of payments if you aren't establishing a base payment at your sales desk. Van Over recommends the \$10 spread as the maximum, noting it's a range the National Association of Attorneys General has stipulated as acceptable.

- Watch out for bank fees. "You should eat them as a cost of sale," Van Over advises. Some

### Ferman's F&I Non Negotiables

The following is a form Ferman Motor Car Company requires F&I managers to sign as a condition of working for the group.

1. GAP, VSC's, maintenance, tire and wheel and Lojack must be individually disclosed as "other charges" on the retail installment service contract (RISC).

- 2 Credit Life and A&H must be individually disclosed as insurance items on the RISC.

- 3 We will not allow our customers to sign blank documents.

dealers build the cost into a deal line item, but the practice may expose you to claims that you've created a hidden finance charge, which is illegal.

- Have managers sign your F&I policy and procedure manuals. Van Over says the documents are useful to keep F&I managers mindful of compliance and, in the event of a claim, they provide evidence that actively encourage compliance. At Ferman, managers sign a list of nine "F&I Non-Negotiables." (See box, at right.)

**Categories:** [F & I](#)

4 Line one of the RISC will reflect only the price of the vehicle we are selling and "hard adds."

5 There will be a product registration signed, priced and dated for each product we sell and product registrations will reflect the price of only the product being registered.

6 There will be a cash receipt in every deal file that reflects the exact amount of cash we report to our lenders as having been received from our customer and we will not collect any more or less from him or her in this transaction.

7 Customers will always be given the "customer copy" of documents they sign.

8 You and our customer will each place your initials in close proximity to every handwritten change made to any preprinted document signed by that customer.

9 You will report any incidents of non-compliance with any of these "Non-Negotiables" to my designate or me\*.

\* Company exec James Ferman also signs the form.

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