Spring 2023

TENNESSEE DEALER NEWS

Est. 2007

THE SOURCE

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Chief Editor Phyllis Sartin

This publication has been around for 16 years and our staff has a combined experience of 60+ years in this industry. One thing we have learned is that car dealers are some of the most resilient and savvy business people in the world.

They need to be with the news that comes at them fast and furious:

Carfax finds 2.5 million vehicles that are tagged “do not drive or park outside”-

55% of buyers are waiting for used car prices to lower-

Used car inventory is older and more expensive-

Subprime loans are shrinking and delinquencies are rising-

These are just a few of the recent headlines that impact your day to day operations.

Please reach out with any questions and let us know if we can help in any way.

Disclaimer:

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By: Steve Stauning

Sell One Today

For many valid reasons (too many other duties, too many subordinates, wrong pay plan, etc.) and some invalid reasons (lazy, apathetic, schadenfreude – look it up), automotive sales managers often struggle to properly motivate their charges to reach stretch goals.

Of course, this should be their primary duty. That is, ensuring their salespeople maximize their true sales potential. Let's see if this scenario sounds familiar to you:

• Salesperson sets a goal of 18 for this month after selling 17 last month.

• The salesperson is now left alone to sink or swim for the next 30 days.

• On the 15th of the month, the salesperson has 12 out.

• When the month ends, the salesperson sold between 16 and 18 units.

All this, despite the fact he or she was pacing 24+ at mid-month.

Rinse, lather, repeat.

One Small Change

Interestingly, with just one small change in the sales manager's leadership approach, that salesperson would've sold 30. The one small change? Asking, *"How can I help you sell one today?"* and then, of course, acting on this.

The concept of 'sell one today' is not new. It's how most automotive salespeople selling 30+ approach each day. They challenge themselves to sell one today.

For the 20-car (or worse) folks on your team, it's up to you the sales manager to instill this in their daily routine. It's also – and this is the most important part of driving sales success – squarely on your shoulders to help everyone on your team sell one today.

Sell One Today

This begins as soon as the salespeople arrive to start their shift. Don't let them mill about for an hour; don't' wait for them to get in their groove; don't let them join the vaping circle; don't even let them get their coffee!

But Steve, I have a lot on my plate when I get to the dealership. It's impossible for me to meet with the team until about 10 or 11!

Get there early. If you can't get there early, then save the admin stuff for about ten minutes while you hold a quick meeting at the desk with all salespeople – yes, even the 30-car guys and gals. You only need to say one thing (and mean it) at this meeting:

"Everyone needs to *sell one today* – whatever it takes. After you've sold one, then your goal is to sell one more. After that, one more. The great news is that as soon as I finish (the morning paperwork/ordering cars/whatever), I'm going to help each of you *sell one today.* Now, go find that one sale you're going to make today and invite them in for an appointment."

Now What?

Now we do a little something that's been successful for decades: MBWA – management by walking around. This means, when you're done with whatever administrative duties you're saddled with every morning, you get up and walk around.

You take a couple of minutes with each of your sellers – at their workstations – and you become a Show Me Leader:

YOU: "Do you have at least one sale planned for today?"

SALESPERSON: (It doesn't matter what the salesperson replies.)

YOU: "Great! Show me."

While not obvious at first, eventually your salespeople will know what "show me" means. If they just told you they can't find any good prospects, they'll show what they've been doing, and you'll help them find someone to sell by pointing them in a new direction (database, internet lead, be-back, service drive, etc.).

If they just told you they've got an appointment scheduled for today, they'll show this prospect. Congratulate them and then challenge them to set two more appointments. Also, tell this salesperson you'll help them find these two additional prospects if they cannot.

Attitude and Activity

Congratulations! You're now executing on the two most important factors that lead to automotive sales success: Attitude and Activity. Your attitude: that every salesperson can and should *sell one today*, is driving their activities. Additionally, you've instilled in them an attitude that they must *sell one today.*

The idea that I will *sell one today* is a powerful driver of success, and a much better goal than the goal the salesperson set for themselves at the beginning of the month.

The result? Most of your team will sell one or more units today… and tomorrow… and the next day… and the next. Your 17-car seller with the 18-car goal will look up at the board on the last day of the month and see 31!

Their confidence and their attitude will improve alongside their paycheck. Their life will never be the same again – that is, if you continue to help them *sell one today*, of course.

Good Selling!

Steve Stauning
Founder
Stauning Solutions Group

Steve is the author of Ridiculously Simple Sales Management and Assumptive Selling; as well as a respected automotive industry veteran and founder of Stauning Solutions Group – a leading training & consulting firm – and the free sales video training website SteveStauning.com. Steve's consulting work puts him in dealerships nearly every week, working side-by-side with managers, salespeople, and internet teams to help them improve their sales, processes, and profits. Prior to this, Steve served in various automotive leadership roles, including as the Asbury Automotive Group's (NYSE: ABG) director of ecommerce, the director of the Web Solutions division of Reynolds & Reynolds, and as the general manager of Dealer Web Services for Dominion's Dealer Specialties.

You may contact Steve directly by calling him at 888-318-6598 or via email at Steve@SteveStauning.com

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By: John Summer

What Will OpenAI and ChatGPT Do For Our Industry?

We have all heard the buzz about OpenAI and ChatGPT. For those who have not grasped what these things are, let me define them. OpenAI is just the name of the company that has developed an Artificial Intelligence API that goes by the same name. This API utilizes Chat GPT, specifically GPT-4 (version 4). This is a natural language processor that allows for human-like conversations that are more realistic than any chat bot experience you may have had.

Compare it to what it will do to telephone answering. Now you get a pre-recorded message containing instructions. Imagine if you heard a voice that sounded so real it made you think you were talking to a human. When you ask a question, the voice responds in a natural way.

Now, we all heard Elon Musk and others come out recently warning everyone we should all pause our development of this new language processor for six months to give society a chance to survive. You see, for the first time, man has created something that learns. ChatGPT is learning every day. The fear is that we could get ahead of ourselves and develop something that will overtake us. One big thing worth noting is that their declaration for a pause in development was only for versions greater than Version 4. However, I hate to disappoint Mr. Musk, but that ship has already left the dock! Industries of all types have already developed new and innovative products using ChatGPT and we have not even scratched the surface.

Right away, the team at JTZ Enterprise began exploring ways to put this new technology to use. The first application we found for it will revolutionize how vehicles are advertised! Let's start with the Personal Description of a listing. When adding a vehicle to any dealer portal there is a field where you can put the "little old lady drove it to church" kind of story. That field is there to allow for some personalization about each vehicle. Too often, though, a dealer may get into a rut with their descriptions, and they all start to sound the same. We have a dealer who was saying, "This Nissan looks great and runs even better" then on another listing you would see, "This Ford runs great and looks even better!" Their comments did not add anything to the description and in some ways may have distracted the consumer.

When entering a comment at our portal, you could have a button that reads, "Fetch ChatGPT". When you click on it you get back a description that sounds like the manufacturer wrote it the year that automobile came out! There appears to be no limit on model years! Recently, I purchased a unique Square Body. It is a 1978 Chevrolet K20 full-time four-wheel drive. When we asked ChatGPT to describe this vehicle it knew this was something Chevrolet produced only one year, and that was 45 years ago!

It does not stop there. If you want to be transparent about your advertising, we can get this feature to return a Positive, Neutral, and Negative response about each vehicle.

Next, JTZ Enterprise has begun implementing this Chat GPT feature into our Auto responses to email leads, SMS conversations, and Messenger messages. We will have the ability to program these auto responses to know and communicate all the most popular questions you field every day, such as:
Do you finance?
What are your hours?
What kind of cars do you sell?

And all the while your consumer will think they are talking to a human!

Elon Musk and others have brought up some legitimate concerns. All I can add is that similar concerns came up when we started stretching electric wires all over big urban areas. There was a concern that phones would ruin society. The fear of the unknown is understandable. At JTZ Enterprise, we turn that fear into opportunity! Let us get your Internet advertising on track, today!

John Summer
Owner
JTZ Enterprise, LLC
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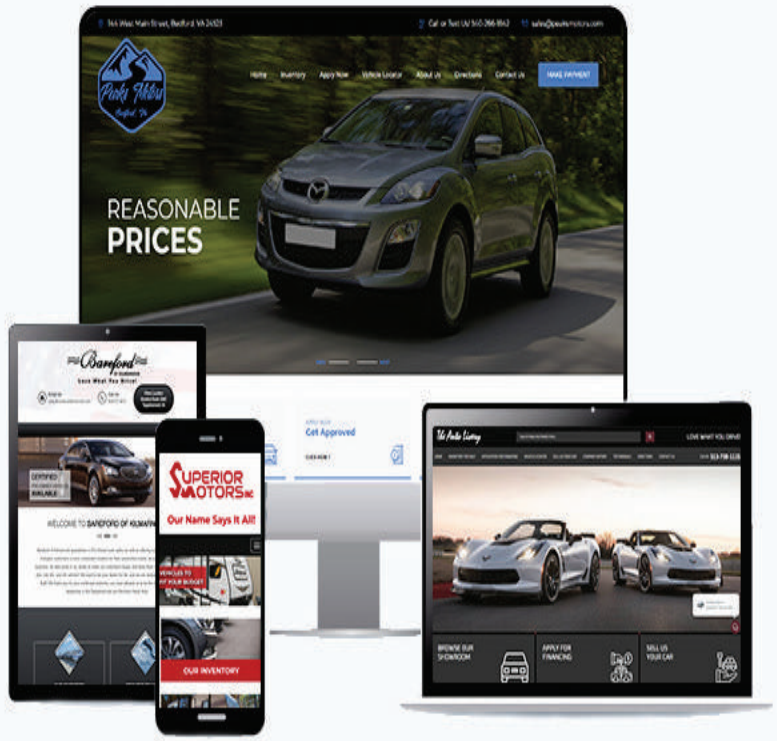

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By: Taylor A. Krowitz

CFPB's Consumer Response Annual Report for 2022 Analyzes Increased Consumer Complaints

The Consumer Financial Protection Bureau (CFPB) recently delivered its Consumer Response Annual Report for 2022. The report includes analyses of complaints across multiple consumer financial products and services, including the auto industry.

In 2022, the CFPB received approximately 1,287,000 complaints, with credit/consumer reporting, savings and checking accounts, debt collection, mortgages and credit cards accounted for 96% of all complaints. A vehicle "loan" or lease product accounted for only 1% of the complaint volume but saw a 16% increase since last year's report. The report notes that complaints are sent to vehicle dealerships for response only if the dealer retains motor vehicle installment sales contracts.

According to the CFPB report:

• credit and consumer reporting complaints accounted for more than 75% of complaints received, followed by debt collection (9%), credit card (4%), checking or savings (4%), and mortgage (2%);

• consumers from Tennessee submitted 386 complaints per 100,000 in population, approximately one-third of the number of complaints received in the state with the most number of complaints (Georgia, with 922 complaints per 100,000 in population); and

• the CFPB received 66,400 complaints from self-identified servicemembers, veterans, and military families.

Consumer complaints saw a trend relating to receiving vehicle registrations, titles, and lien releases. Most of these complaints were allegedly caused by delays outside of the companies' control. In those instances, companies typically provided dates and tracking information for mailed titles.

Consumers also frequently complained about payment assistance denials resulting in repossessions and voluntary surrenders. Despite companies providing additional assistance in some instances, consumers still needed additional relief citing the coronavirus's impact on their income. Companies acknowledged an inability to provide further assistance and asserted that repossessions were conducted in accordance with the provisions of the contractual agreements with the consumers.

In addition, dealerships and finance companies received complaints concerning auto loans. Specifically, consumers asserted they were pressured into loans, loans were opened without their consent, they were presented blank documents to sign, or they did not receive required disclosures relating to finance charges, installment amounts, and recission periods. Finance companies generally punted complaints relating to alleged deceptive sales practices back to the dealerships, citing their independence from those dealerships.

Finally, consumers complained about unfair denial of auto loan applications, with some asserting such denials were a result of discrimination based on race and other factors. The report notes that many of these complaints were on template forms and cited the Truth in Lending Act and Equal Credit Opportunity Act. In response, companies denied discriminatory practices and maintained they followed all federal and regulatory laws.

The increase in vehicle loan and lease complaints can most likely be traced to the rise in consumer demand for new and used cars during and after the coronavirus pandemic. Although demand has dipped, there is no sign of a downturn in the historically high prices for cars. Given these factors, combined with indications of an impending recession, auto dealers should expect further increases in consumer complaints in 2023. Finance companies and dealerships who retain retail installment sales contracts should prepare for the likelihood that the CFPB will relay consumer complaints their way.

** Taylor Krowitz is an associate in the Portland, Maine office of Hudson Cook, LLP.*

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By: Eric Johnson

The CARLAWYER©

Federal Developments

On February 9, the **Federal Trade Commission provided its annual letter to the Consumer Financial Protection Bureau summarizing the Commission's enforcement actions, research and policy initiatives, and education efforts in 2022 related to the Equal Credit Opportunity Act.**

On February 14, the **Consumer Financial Protection Bureau released a report examining debt collection tradelines on consumer credit reports from 2018 to 2022.**

On February 23, the **Consumer Financial Protection Bureau announced in a blog post that it issued "market-monitoring" orders to nine large auto financing companies requiring that they submit certain data about their auto financing portfolios.** The Bureau's sample letter sent with each order states: "Information provided in response to the Order is intended to be used for monitoring the risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services, although the Bureau reserves the right to use and share internally the information for any purpose permitted by law."

On February 23, the **Consumer Financial Protection Bureau announced that it issued a consent order against title lending company TMX Finance LLC, otherwise known as TitleMax.** The consent order alleged that, between October 2016 and September 2021, the company made at least 2,670 auto title loans to covered borrowers that exceeded the Military Lending Act's 36% rate cap. The Bureau also alleged that the loans included mandatory arbitration clauses and notice provisions prohibited by the MLA. According to the Bureau, the company also withheld information about military families' rights under the MLA and changed borrowers' personally identifiable information so they would not be identified as servicemembers or covered dependents in the MLA database maintained by the Department of Defense. In addition, the Bureau alleged that the company violated the Consumer Financial Protection Act by unfairly charging borrowers non-file insurance fees when the product provided no coverage or benefit. Finally, the Bureau alleged that the company violated the Truth in Lending Act and the CFPA by failing to properly disclose non-file-insurance fees as part of the finance charge and APR on certain loans. In its press release, the Bureau labeled the company a "repeat offender" because the company had been subject to a 2016 consent order, although the Bureau did not allege that the company violated this prior order. The company did not admit or deny these allegations, but it agreed to the entry of a 5-year consent decree that includes a $10 million penalty, a $5.05 million redress plan, and requirements to implement and maintain robust controls to ensure future compliance.

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Continued from page 16

The CARLAWYER© Case(s) of the Month

By: Eric Johnson

Dealership Liable for Violating Maryland Consumer Protection Act and Breaching Implied Warranty of Merchantability by Mispresenting that Vehicle Had Been Reconditioned: An individual bought a used minivan from a dealership. Incorporated into the purchase price of the minivan was a "reconditioning fee." Before the purchase, the buyer noticed animal hair and an odor inside the minivan and notified the dealership. The dealership represented before the purchase that it could completely remove the odor in the minivan. After the sale, the dealership could not remove the odor. The buyer then took the minivan to an independent detail shop, which found a mouse infestation in the minivan but could not remove the odor. The buyer then hired a biohazard cleaning company to remove the odor, but it was unsuccessful as well. The buyer later traded in the minivan for a used vehicle at another dealership. The buyer sued the dealership for violating the Maryland Consumer Protection Act and for breach of the implied warranty of merchantability, among other claims. The trial court found in favor of the buyer and awarded her damages and attorneys' fees and costs. The **Appellate Court of Maryland** affirmed. First, the appellate court concluded that the trial court did not err in finding a violation of the MCPA. The dealership argued that there could be no MCPA violation because its promise to eliminate the odor from the minivan was not a misrepresentation but merely a promise to do something in the future. The appellate court disagreed, stating that "[t]he misrepresentation that the trial court found was not about [the dealership's] promise to remove the minivan's odor in the future. Rather, [the dealership's] misrepresentation was that the minivan had been 'reconditioned,' a representation [the dealership] made when it 'incorporated' a $1,295.00 'reconditioning fee' into the sales price. Even if 'reconditioning' meant only a 'thorough cleaning,' [the buyer] saw animal hair in the vehicle at the dealership, an observation that led the trial court to conclude that the minivan had not been 'thoroughly cleaned' prior to sale."

The appellate court rejected the dealership's argument that the buyer did not rely on the misrepresentation because she bought the minivan knowing of the odor. The evidence showed that "while [the buyer] knew about the odor before purchasing the minivan, it was [the dealership's] misrepresentation that it could 'completely remove' the odor that 'substantially induced' [the buyer] to make the purchase." Next, the appellate court concluded that the trial court did not err in finding a breach of the minivan's implied warranty of merchantability. The appellate court found that the dealership was not entitled to a second chance to remediate the minivan's odor. According to the appellate court, when the buyer accepted the minivan, it was a nonconforming good for which she expected a cure within a reasonable amount of time. The trial court concluded that the dealership's one opportunity to cure was reasonable based on the totality of the circumstances, and the appellate court agreed. See **Rich Morton's Glen Burnie Lincoln Mercury v. Williams-Moore**, 2023 Md. App. LEXIS 36 (Md. App. January 12, 2023).

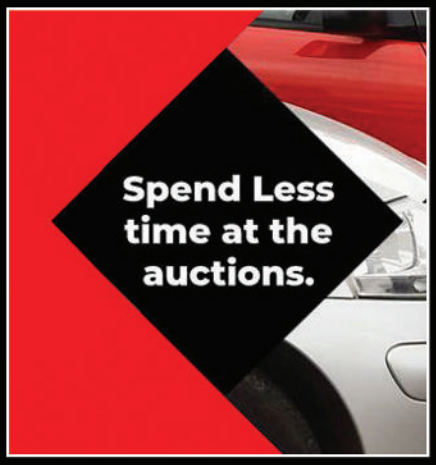
This Month's CARLAWYER© Compliance Tip

Our Case of the Month is an interesting one; not from the Seinfeld like odor that won't go away, but from the aspect of ensuring that if you're charging the consumer a fee for a service you provide that you confirm you're able to provide that service. By including a reconditioning fee into the sales price, the dealership made a representation that the minivan had been "reconditioned." Even if the "reconditioning" meant only a "thorough cleaning," the buyer in this case reportedly saw animal hair in the vehicle at the dealership, an observation that led the trial court to conclude that the minivan had not been 'thoroughly cleaned' prior to sale." It's time to take a long hard look at the fees and charges you assess consumers at the time of sale to ensure that the services you're charging are actually provided to the consumer (and provide value).

So, there's this month's roundup! Stay legal, and we'll see you next month.

Eric L. Johnson
Partner of Hudson Cook, LLP

Eric (ejohnson@hudco.com) is a Partner in the law firm of Hudson Cook, LLP, Editor in Chief of CounselorLibrary.com's **Spot Delivery®**, *a monthly legal newsletter for auto dealers and a contributing author to the* **F&I Legal Desk Book**. *For information, visit www.counselorlibrary.com.* *©CounselorLibrary.com 2023, all rights reserved. Single publication rights only to the Association. HC# 4888-3800-0211.*



Auction Comparison's

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TDN STAFF Process & Procedures

10 Quick Car Salesman Training Tips

1. Get customer names upfront (and remember them)-Your first inclination may be to approach a customer and say, "Welcome to XYZ Dealership, I'm John. What can I help you with today?" That, however, is wrong. Never forget the Dale Carnegie quote from How to Win Friends and Influence People: "Remember that a person's name is, to that person, the sweetest and most important sound in any language." Get the customer's name immediately — "Welcome to XYZ Dealership, I'm John – and you are?" — remember it, and use it throughout the entire sales process.

2. Listen more than you talk-You probably got into sales because you're a people person, and you love engaging in a good conversation. Top salespeople don't just talk, though — they listen. And they listen even more than they speak. If you throw the ball into your customer's court and actively listen to what they're telling you, there's a greater chance you'll have a better understanding of what they want and need.

3. Look customers in the eye-Eye contact creates a connection, and when you're purposely or subconsciously avoiding that contact, it creates a disconnect with customers. There's a happy medium, though, because too much eye contact can seem too intense and condescending. Aim to make eye contact about 30-60% of the time during a conversation — more when listening, less when speaking.

4. Be patient, not pushy-You want to make the sale, and you want o make it now, but that should never be the vibe you give off when working with customers. Purchasing a car is a big decision, and if a person feels pressured to make a quick decision, they may just decide to walk off your lot. Give people space and let them feel supported.

5. Know the product inside and out-Car salesman training tips are usually so focused on how to speak to people, that they forget to include an important fact: you need to know what you're talking about. Prove to the customer that you're more than "just" a fast-talking salesperson — you know your inventory inside and out and can share fascinating information. Take the time to educate yourself regularly and you'll find your knowledge builds trust with customers.

6. Don't say negative things about other car dealers-If a customer comes in and starts telling you about a negative experience they had at another dealership, fight the urge to be negative. You can certainly acknowledge their feelings, but quiet confidence goes much further with customers than trash-talking competitors.

7. Don't tell customers what they want to hear-This can be a tough pill to swallow, especially for people-pleasers, but keep it real with customers. If you're going to need an extra 30 minutes to get their car ready, don't tell them it's only going to be 15 minutes. When you overpromise and under-deliver, customers will begin to doubt your trustworthiness.

8. Keep your desk clean-At some point in the sales process, you'll probably bring a customer over to your desk. Is it covered in piles of paper, protein bar wrappers, and photos of you partying with your friends? Clean up your act. Take as much pride in your desk as you do in your appearance because a messy desk can signal to a customer that you're scatter-brained and will probably let some details slip through the cracks.

9. Do unto others-Most people know the "Golden Rule," but they don't stop to think about it in daily life. You may get so focused on your job and making the sale, that you forget your customers are real people. They are making a significant investment, they may be stressed out, there could be a lot going on at home — you just don't know what they're up against in the current moment. If you treat others the way you would want to be treated in a dealership, you'll find many more return customers and referrals coming your way.

10. Follow up-Want a customer to think you don't care about them and were just interested in making a sale? Don't follow up. Following up, whether by phone, e-mail, or even snail mail, shows you care that they are satisfied with their purchase — not just taking their money.

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