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The annual F&I Workshop
May 24
WANADA headquarters

Dealer diligence advised in relations with franchisor(s)

The case of the MBUSA dealer renewal process

In response to sharp dealer group reaction to a franchisee renewal process implemented recently by Mercedes Benz USA (MBUSA), the manufacturer reversed itself on a controversial waiver of dealer rights provision that arguably was in violation of the franchise protection laws in most states.

The renewal process included a "due diligence compliance review" of the dealership prior to the issuance of succeeding dealer agreements. The signature page for the dealer franchisee with acknowledgments, is where the offensive waiver verbiage appeared. Dealer lawyer and WANADA Kindred-line member Mike Charapp in a client alert on point this week about the MBUSA dealer agreement renewal process said that a Mercedes Benz dealer who signs the MBUSA application and the acknowledgements "agrees that MBUSA may offer or not offer (them) a dealer agreement in (MBUSA's) sole discretion and the dealer waives all rights under law."

Upon hearing from their dealers on the provocative waiver provision, MBUSA today followed up with their dealer body notifying them that they were striking the offensive waiver language from the dealer agreement renewal process paperwork reassuring dealers that no harm was intended.

The May 13, 2011 MBUSA notice to their dealers from Niles Barlow, Jr., gm of strategic retail development, put it as follows: "We, as a distributor, are aware and respect the rights granted to you under state franchise laws and in no way are attempting to strip you of them. It is MBUSA's responsibility to gather information during the renewal process that allows us to assess any risks

that may exist with a particular entity or entities and develop or adjust any training that may be necessary.”

Mike Charapp’s client alert reportedly got the attention of the right people at the right level at MBUSA that caused the automaker to revise its approach to the dealer agreement renewal process. “While MBUSA is within its rights to request information so it can review what it has on file for its dealers prior to issuing renewal agreements, it has no right to demand that dealers sign acknowledgements waiving all of their rights to that renewal or acknowledging that MBUSA, contrary to state law, may renew or not renew at its sole discretion,” Charapp said.

The MBUSA dealer agreement renewal process situation, noted above, is a current example of why dealers must proceed carefully in their franchise relationships with the automakers. Kudos to Mr. Charapp for identifying the issue and getting the word out for the benefit of MBUSA and its dealer network!

Jim Koons Automotive: “Best Place to Work”

Jim Koons Automotive has been named as one of The Washington Business Journal’s 2011 “Best Place to Work” winners. The annual survey by the business newspaper spotlights those businesses cited by their employees as having a positive and encouraging workplace environment, where employee input is encouraged and rewarded. The eight Koons franchises are located throughout the metropolitan Washington region.



WANADA congratulates Jim Koons Automotive on the positive recognition!

Tech training graduate recounts “road to success” in WANADA’s ADEI program

Juan Salguero is one of more than 200 area students who have become successful as a result of their participation in WANADA’s Automobile Dealer Education Institute (ADEI) NATEF Certified Technician Training Program. Mr. Salguero went through the unique and nationally recognized, two-year program, which involves a mentored fulltime job with a WANADA member dealership and one full day per week of in-classroom study, from 2008-2010.

Last week Mr. Salguero, who works at DARCARS, joined ADEI representatives Archie Avedisian and Wil Desjardin for a luncheon with the Silver Spring Rotary Club to express his thanks to the Rotarians for their support of his ADEI experience. “My time in the ADEI Tech Training Program was my road to success on a career in the auto industry,” said Mr. Salguero.



From the left; Juan Salguero, ADEI graduate and Todd R. McFarland, president, Silver Spring Rotary Club

Silver Spring is one of a number of area Rotary clubs which contribute to the ADEI's tool fund. Students in the ADEI program who successfully complete the first semester of the program receive a tool kit as part of the program, which enables them to fully participate in the technician on the job training part of ADEI training.

ADEI recruits, interviews and helps place post-high school students with WANADA member dealerships throughout the Washington metropolitan region and partners with Montgomery College and NOVA Community College to provide its NATEF approved curriculum.

ADEI currently has 30 student/technician candidates available for the upcoming fall semester. WANADA dealer members are encouraged to contact Jake Kelderman, director of ADEI, at 202-237-7200, for more information on lining up one of these qualified applicants.

Abandoned brand owners seldom return to parent company products

An analysis by online auto information site Edmunds.com indicates that Ford and GM's hopes for keeping owners of Pontiacs, Saturn's and Mercury models in the fold, now that those franchises have been abandoned, aren't going as well as they might have wished.

Edmunds.com looked at Pontiac, Saturn and Mercury owners returning to the market for a replacement vehicle and found that two thirds typically abandoned the manufacturer altogether, choosing instead to buy a model from a different automaker. Edmunds.com found that about 70% of customers who traded in a Pontiac this year replaced their car with a non-GM model, and that for Saturn owners that number rose to 71%. Ford, which gave up its Mercury division last year, isn't doing any better. About 65% of the Mercury owners who have bought new cars this year have defected to automakers other than Ford. Edmunds.com says about a third of the abandoned brand owners opted for Japanese brands

GM offered extra discounts of \$1,000 to owners of its defunct-brands in January and February, which stemmed the defection tide some, but the effort was controversial as Wall Street questioned whether the incentives were a sign that GM had returned to the old strategy of pushing market share over profits.

GM North America President Mark Reuss defended the incentives, arguing that they threw off competitors and helped GM hang onto existing customers at a critical time. Edmunds.com noted that 57% of customers trading Pontiacs bought another GM product in the time period.

WANADA F&I Certification Workshop **Regulatory roadmap for dealership professionals, May 24**

Once again, WANADA has scheduled the popular Finance and Insurance Certification Workshop for dealership professionals put on by JM&A. With the ever increasing regulatory focus of regulators on dealership F&I practices, this workshop is as important as ever. The topics covered include the following:

- ✦ Unfair and Deceptive Trade Practices
- ✦ The Tax Reform Act 1984 and FinCen Form 8300
- ✦ The Truth in Lending Act - Regulation Z
- ✦ Consumer Leasing - Regulation M
- ✦ Rate Spread Issues
- ✦ Equal Credit Opportunity - Regulation B
- ✦ Fair Credit Reporting & FACT Act
- ✦ The Gramm-Leach - Bliley Act
- ✦ The Magnusson-Moss Warranty Act
- ✦ The USA Patriot Act & OFAC

Date: Tuesday – May 24, 2011
Time: 9:00am – 5:00pm (Registration begins at 8:30am)
Where: WANADA Headquarters
 5301 Wisconsin Avenue, NW, Suite 210
 Washington, DC 20015
Cost: \$199.00 per person

Workshop participants will take an exam at the conclusion of the workshop to ensure they have gained a working knowledge of the information. Certificates will be distributed to all who pass.

For more information, contact Kristina Henry at 202-237-7200, ext. 18 or kh@wanada.org. Register here by downloading the form: http://www.wanada.org/2011-events/F&I-Certification-Workshop-Registration-Form_05-24-11.pdf.

MADA post 2011 Maryland legislature legal/regulatory briefing

May 25, Gaithersburg Holiday Inn

MADA will present a special briefing on May 25, 2011 covering the new legislation passed during the 2011 Maryland General Assembly. Dealers will also be updated on the variety of complex legal/compliance issues they must face in their day-to-day operations.

Topics covered include:

- Dealer processing fees
- Issuance of temp tag with pending insurance violation
- Advertising compliance
- Prior use disclosure
- Protecting against liability from class action lawsuits

Dealer lawyer Mike Charapp of Charapp & Weiss, LLP will join Peter Kitzmiller, MADA CEO, in rolling out the presentation. WANADA senior staff will be on hand as well.

The cost is \$99 per person. Click to download the MADA registration form [Registration Form](#)

Staying ahead...

There is nothing so useless as doing efficiently that which should not be done at all.

--Peter Drucker