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GM dealers urged to be vigilant on new sales efficiency measures

Dealer attorney Mike Charapp says "silence not golden" in these matters

This summer, all GM dealers received notices concerning their Area of Primary Responsibility (APR) and, where applicable, their Area of Geographic Sales and Service Advantage (AGSSA). Some dealers challenged those market assignments, but many did not and that reality may now be coming back to bite them as the company issues retail sales efficiency ratings, or Retail Sales Index (RSI) scores for the first half of 2011 that show them underperforming.



Dealer attorney Mike Charapp says there are a number of reasons why a dealer's RSI numbers may be deficient that have little to do with the dealer's ability to sell vehicles. He cautions GM dealers concerned about their RSI calculation to take action. "GM is not sending these notices as an academic exercise. GM is papering its file for potential future action. You must respond and paper your file with GM," he says.

Among the issues that should be raised by a dealer who believes his/her RSI is incorrect are:

- **Design of the APR and AGSSA.** Despite the fact that General Motors reinstated a number of rejected dealers following its bankruptcy, there remain many geographic areas that are unrepresented by General Motors dealers. Because it is GM's practice to try to assign those areas to someone, it may well be a dealer can become responsible for sales in a geographic area where it does not have a sales advantage, and see its RSI performance decline.
- **Retroactive Application.** Even though dealers did not receive their new APR and AGSSA definitions until June 2011, GM may be using them to calculate RSI for the entire first

half of 2011. If dealers did not know of their responsibility, they cannot be expected to take steps to penetrate the new areas for which they are responsible by direct mail and other methods.

- **Allocations.** Many GM dealers feel they are not getting enough vehicles to sell what they can, and most dealers report severe shortages in important segments. There clearly have been shortages in some critical model segments where dealers need vehicles to meet the expected results. Dealers who cannot get vehicles cannot sell vehicles.
- **Bailout Controversy.** The GM bailout-fueled bankruptcy “sale” is still highly charged politically. Accordingly, political sentiments in a dealer’s market can impact buyers’ decisions in favor of or against GM products.
- **Localized Factors.** The same localized factors that affect sales penetration calculations for dealers of any brand may also be involved. Many dealers are affected by geographic and demographic issues that make it more or less likely that they will perform at the same level as other dealers in the state.

Charapp cautions GM dealers that if they are unhappy with their RSI notification to not be silent. “Silence is not golden in franchise matters. Make your concerns known,” he says.

“Make sure also that you respond in writing. Identify the reasons why you feel that the RSI letter does not accurately reflect your dealership’s hard work, and let GM know why its calculation does not tell an accurate story about your dealership’s performance,” he said.

Dealers cautioned on worker classification

Federal government launches enforcement effort on misclassification

WANADA members are advised that now more than ever, dealerships should act with caution when deciding whether to classify workers as “contractors” as opposed to “employees.”

Following several recent unsuccessful attempts by Congress to legislate the issue, the Obama administration is making worker classification an enforcement priority. Misclassifying “employees” as “independent contractors” risks serious liabilities, including unpaid federal, state, and local income tax withholdings; social security and Medicare contributions; wages, including overtime; workers' compensation and unemployment insurance premiums; employee benefits; and penalties.



Late last month, the Internal Revenue Service (IRS) and Department of Labor (DOL) agreed to a coordinated enforcement effort on employee misclassification. The stated goal of this \$30 million plus effort is to ensure better protections for employees and to level the playing field for law-abiding employers.

The IRS also has launched a Voluntary Classification Settlement Program (VCSP) aimed at encouraging employers to step up and confess to past worker misclassifications. In addition, several states are focusing enforcement resources at worker misclassification, in part motivated by the potential for additional tax and premium revenues. Lastly, there recently has been an

increase in the number of unemployment insurance and workers compensation claims brought by “independent contractors” arguing that they should have been classified as “employees.”

The heightened level of federal and state scrutiny in this workplace area warrants that dealerships carefully review and document how their workers are classified. When making worker classification decisions, dealerships should be careful, and be prepared to document, document, document...

The IRS, the DOL, and the states use multi-factor legal standards and tests to evaluate whether workers are “employees” or “independent contractors.” Of greatest importance: the level of control employers exercise over workers as measured by the means and manner of the work performed. Both the DOL and the IRS have helpful fact sheets on their websites addressing this issue. They can be read [here](#) and [here](#), respectively.

WRAP elects WANADA’s John O’Donnell as 2012 chairman

Group’s SoberRide program reaches 50,000 user milestone

The Washington Regional Alcohol Program (WRAP), begun with the support of WANADA in 1982, held its 29th Anniversary Luncheon Meeting and *WRAPPY Awards* ceremony last week to recognize community members and organizations that have made significant contributions to reducing drunk and impaired driving in the National Capital Area. The group also elected a new chairman for the coming year, WANADA’s John O’ Donnell.

WRAP’s efforts to reduce drunk driving, which include the SoberRide program that offers free taxi rides on holidays for those who may have consumed too much alcohol to be driving, the Safe and Vital Employees (SAVE) program that offers safe driving classes at the workplace and cooperative efforts with area law enforcement organizations. Taken together, these efforts have reduced impaired driving fatalities in the region by 16 percent over the past three years and more than 25% since the organization was formed in the 1980s.

“The reduction in impaired driving fatalities is a testament to what a determined group effort can accomplish,” said WRAP’s new chairman John O’Donnell, adding that his goal for the coming year was to “keep our eyes on the prize for safer roads throughout the Washington region.”



From left to right;

Alexa Kaufman, (AT&T) 2011 WRAP chairman; John O’Donnell, (WANADA) 2012 WRAP chairman; Kevin Reilly, (Alexandria Hyundai) WANADA SoberRide representative; Gerard Murphy, (WANADA president) 1986 WRAP chairman; Kurt Erickson, WRAP president

To that end, WANADA renewed its annual support for WRAP with WANADA Board member and SoberRide advocate Kevin Reilly, Alexandria Hyundai, presenting outgoing WRAP chairman Alexa Kaufman with a \$5,000 check to fund the SoberRide program.

With WANADA's O'Donnell taking the helm of WRAP, the association will have led the group twice since it was created. WANADA president Gerard Murphy co-founded the Sober Driving Coalition in 1982, becoming its chairman in 1986.

Squeezing people into cars, the 2011 version

As long as there have been cars there has been an effort to see how many people can be squeezed into one. During the 1960s and 70s in the U.S., the Volkswagen Beetle was the car of choice for this pastime. In England, it was the original Mini; In France, the Citroen Deux Chevaux (CV2).



More recently in Carlow Ireland, 86 students from the Institute of Technology crammed themselves inside a VW Camper. That was followed last year by 27 Penn State students who set a new Guinness World Record by squeezing themselves in a New Beetle.

In October of this year, some employees at VW Communications decided they would see how many people can be squeezed into the company's newest product, the smallish city car, the VW Up!

The Up! is about nine feet long and normally holds four, but after much twisting, turning, and contorting, 16 found their way into the little car. With the doors shut they managed it by putting one person on the dashboard, two in the trunk, four in the front seats, seven in the rear bench seat and two people in the footwells.

Position Wanted- Service Director

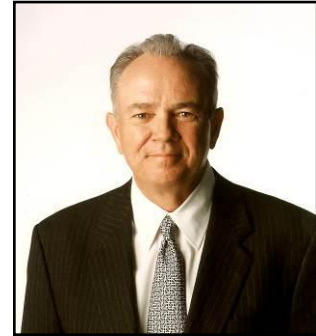
An individual with significant experience as a service director is seeking a similar position in the Washington area. For additional information, contact John O'Donnell at 202-237-7200, or jod@wanada.org.

AutoNation's Mike Jackson to headline WANADA Annual Luncheon

Event set for Dec 7, 2011, Mayflower Hotel

The WANADA Annual Meeting & Luncheon will be headlined by AutoNation's effervescent and well-spoken chairman, Mike Jackson. The venue is the Mayflower Hotel, the "grand dame" of downtown Washington hotels.

Jackson is warmly remembered by many WANADA members as the managing partner of Euro Motorcars of Bethesda, Maryland, at which time he was active as a WANADA Board member and officer. He was recruited from Euro in the early 1990s by Mercedes-Benz USA where he served as president and CEO, before joining AutoNation in 1999.



Mike Jackson

WANADA's Annual Meeting & Luncheon will begin with a reception at 11:30 am, on Dec. 7, followed by lunch at Noon. The association will then hold its annual business meeting, to include a metro Washington car market update and election of new board members and officers. Mr. Jackson will speak thereafter and take questions. The program will conclude by 1:40 pm.

Seats for the luncheon are \$125 each and tables of 10 are available at a 10% discount (\$1,125). To register for the event, please click [HERE](#), complete the form and fax to 202-237-9090.

For more information, contact Kristina Henry, 202-237-7200 or kh@wanada.org

WANADA Annual Meeting and Luncheon *at a glance*

The Renaissance Mayflower
1127 Connecticut Avenue, N.W.
Washington, DC 20036

- Reception: 11:30 am
- Lunch: 12:00 - 12:45 pm
- Business Meeting: 12:45- 1:00 pm
- Keynote presentation: 1:00- 1:40 pm
- Cost: \$125 each / \$1,125 table (10% discount)

Staying ahead...

The important work of moving the world forward does not wait to be done by perfect men.

--George Eliot