



A Dealer's Playbook for Handling Complaints

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A Dealer's Playbook for Handling Complaints

GNYADA Dealer Webinar

Presented by:

LaBonte Law Group
PLLC



Disclaimer

Nothing in this presentation or the oral remarks that accompany it is intended as legal advice.

Dealers should consult with their counsel or the LaBonte Law Group for legal advice specific to their dealership operations.



Seminar Topics

- Objectives
- Key Agencies Impacting NY dealers
- The Lifecycle of a Complaint
- Handling Complaints
- Preventative Compliance Systems
- Turning Complaints into Risk Mitigation



Objectives

- ❑ Understand how NY agencies evaluate complaints
- ❑ Know how to respond professionally and correctly
- ❑ Know the costs of mishandling complaints
- ❑ Learn how to preserve reputation in a heavily regulated NY market



Key Agencies and their Authority

- Multiple agencies regulate overlapping dealer conduct
 - New York State Department of Motor Vehicles (NYS DMV)
 - New York State Attorney General's Office (NYS AG)
 - New York City Department of Consumer and Worker Protection (NYC DCWP)
 - New York State Department of Consumer Protection (NYS DCP)
 - Federal Trade Commission (FTC)



The Lifecycle of a Complaint

- The Complaint Escalation Ladder
 - Within the Dealership
- The Direct Customer Complaint
 - Written to Dealership, Social Media, Better Business Bureau
- Regulatory Complaint Received
 - Consumer writes directly or the Regulatory agency has reason to address the issue with the dealership



Handling Complaints

Common Dealership Mistakes

- ❑ Failing to acknowledge receipt of complaints promptly
- ❑ Overexplaining and getting defensive
- ❑ Missing deadlines
- ❑ Altering or destroying records
- ❑ Immediately sending records
- ❑ Contacting the complainant or the Regulatory agency without thorough review of the matter or guidance



Handling Complaints

- Intake: When you receive a complaint or inquiry, immediate actions include, but are not limited to:
 - Give it to the centralized point of contact
 - Calendar a deadline
 - Log in the complaint or notice
 - Preserve all relevant documents and records
 - Identify any deadlines and response requirements
 - Acknowledge receipt and advise that you are reviewing the matter, or have your counsel assist you



Handling Complaints

- Anatomy of a Response:
 - Before any response is submitted, it is vital to conduct your internal investigation
 - Your response should be a factual explanation with a clear factual timeline
 - Supported by organized documentation and employee statements, which can be referenced,
 - Concluded with a professional closing, and if you have any questions discuss with legal counsel

Handling Complaints

- Written response should have a tone and approach that is professional and respectful, non-defensive and factual.
 - You should avoid admissions unless reviewed by counsel

- Acceptable language includes:
 - We take this matter seriously
 - We are reviewing the transaction
 - We are cooperating fully

- Unacceptable language includes:
 - The customer is lying
 - This is not our fault
 - They misunderstood

Handling Complaints

- Common Types of Complaints and processes:
 - DMV Complaints and Investigations:
 - Common DMV issues include Title delays, plate misuse and advertising violations, and warranty and service complaints
 - Regulatory Investigations –DMV compliance investigations, DMV audits
 - Enforcement is typically in fines, suspensions and revocations after a DMV hearing

Handling Complaints

- Common Types of Complaints and processes:
 - NYS AG Complaints and Investigations:
 - Common NYS AG issues include misrepresentation, hidden or mandatory add-ons, lease or finance deception, price deception, or dealer fees
 - AG can conduct investigations –to determine if it is a practice at the dealership, or they can request broad range of deal jackets over several years
 - Enforcement is typically in civil penalties, restitution to consumers or consent decrees and sometimes litigation

Handling Complaints

- Common Types of Complaints and processes:
 - NYC DCWP Complaints and Investigations:
 - Common NYC DCWP issues include failure to honor advertised prices, undisclosed fees, misleading lease offers, violations of their rules –parking on sidewalk, failure to display buyer’s guides, failure to display price on used vehicles
 - DCWP can conduct investigations –often onsite but can also conduct audits of dealership’s records
 - Enforcement is typically in civil penalties, fines and suspensions after OATH hearings

Handling Complaints

- Special Considerations:
- Audit Requests & Surprise Visits
 - Typically triggered by multiple consumer complaints alleging the same issue (advertising, pricing), inconsistent or incomplete responses to agency inquiries, late or missing documentation, prior violations, and if in NYC random audits are conducted
 - Typically request deal jackets, plate logs and title records
 - Best practices are to have a centralized audit response, one point of contact, meet deadlines, document corrective actions and contact counsel for guidance
 - Repeat violations are a problem and subject a dealership to suspension or revocation



Preventative Compliance Systems

- ❑ Develop a complaint intake log
- ❑ Standardize your processes –acknowledge timely, and respond
- ❑ Conduct a self-audit regularly (deal jackets, F&I procedure, telephone communications)
- ❑ Continue to train your staff, and do it regularly

Preventative Compliance Systems

Self Audits:

- ❑ Monthly review of 5-10 deals
- ❑ Verify proper disclosure and itemization of all aftermarket products
 - Cash - verify 8300 reporting and OFAC
 - Finance - verify privacy notice, risk-based pricing notice, red flag, aftermarket itemization, Truth in Lending compliance
 - Lease - verify privacy notice, red flag and aftermarket itemization
 - In transit – verify sales tax exemption qualifications
 - Lease Buy Out – verify charges vs original lease terms
 - Advertisements – check 5 ads for recently sold vehicles to see actual sale price. If advertised price was less, verify reasons for revised terms. Review ads for proper and conspicuous disclosures



Preventative Compliance Systems

Here is a list of do's and don'ts to review with all staff and managers:

- ❑ Keep sales records for a period of at least six (6) years
- ❑ Have legal counsel review ads to ensure compliance
- ❑ Maintain employment policies requiring full compliance with all federal, state and local laws and regulations and implement a training program
- ❑ Routinely audit your deal jackets to ensure compliance and to uncover any potential problems before a complaint is filed by a customer
- ❑ Do not sell a vehicle for more than the advertised price (only taxes, title and registration fees may be excluded from an advertised price)



Turning Complaints into Risk Management

- Track Patterns
- Retrain Staff
- Revise Disclosures
- Audits (as noted) –Deal Jackets, Advertising, Communications between staff and prospective consumers
- Improve F&I scripting

Case Studies and Scenarios

Scenario 1: Undisclosed Dealer Fees

- *The Situation:* A customer purchases a used vehicle and later discovers \$1,800 in "dealer processing fees" and "protection packages" that were never verbally disclosed during negotiation. They file a complaint with the NY Attorney General's office citing deceptive business practices under GBL § 349.



Case Studies and Scenarios

Scenario 2: Service Department Audit

- *The Situation:* A DMV inspector conducts an audit of the Dealership's inspection station. Only 1 employee has an inspection station license. The DMV inspector found that the employee made a copy of his license and three employees were using it at the time of the audit. The DMV inspector recommends the dealership for a hearing. The employee and the dealership lose their inspection license for 60 days after a hearing.

Case Studies and Scenarios

Scenario 3: Title Delay Complaint

- *The Situation:* A NJ customer purchases a vehicle and finances it through a third-party lender. Four months pass and the customer still has not received their title. They cannot register the vehicle in their name, have been driving on expired temporary plates, and have received tickets for the expired plates. The customer files complaints with NY DMV, the AG's office, and leaves a detailed negative review on the dealership's Google page. NY DMV opens a formal inquiry.



Turning Complaints into Risk Management

NY is a highly regulated market, with an aggressive enforcement climate. Dealerships conduct paper heavy transactions, and it is apparent that we are now in a complaint escalation culture. With all the tools of the internet at people's disposal, including AI, it is important now, more than ever, to be vigilant with complaints received from consumers and regulators.

Q & A

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The LaBonte Law Group specializes in all aspects of dealership operations, including, employment law, franchise matters, consumer issues, DMV, AG, DCP, DCWP, FTC, BBB complaints, audits, buy/sells, litigation, warranty parts/labor increases and training.