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## **Optional products must be...optional**

*by Gil Van Over*

My son recently bought a new vehicle. Naturally, he called dad for advice. As he went through the process, I received an alarming phone call. "Dad, they told me my loan was approved, but the bank required that I buy Gap."

Now, this stupid F&I Manager knew that I am in the compliance business. And she still decided to pull the old "Bank requires it" scam.

Optional products must be optional, and not just because I say so. Dealers run the risk of violating the federal Truth in Lending Act when they require certain products as a condition of the deal.

Here's how.

TILA requires the proper disclosure of an Annual Percentage Rate (APR). This rate must be calculated using a formula which is difficult to comprehend, but thankfully programmable by programmers. A significant part of the APR calculation is the finance charge.

One of the basic definitions of a finance charge is any fee that is charged to a credit customer that a cash customer does not have to pay.

Optional products that are required fall into this category. By telling my son that the lender required Gap on his loan made the Gap premium a fee that he would not have had to pay if he obtained his own financing or wrote a personal check. And since the gap premium was not included in the APR calculation, she violated the Truth in Lending Act.

So, what is a dealer to do? As the owner of a multi-million dollar business with other revenue producing departments like service, parts and sales, you cannot sit in on every close or turn performed by an F&I Manager.

You can't expect your GSM to monitor every conversation that takes place in the dealership.

I doubt very seriously that the owner of this dealership is training his F&I Managers to tell customers that optional products are required as a condition of financing. I also equally doubt that the company who provides Gap and other optional F&I products has this word track as part of its selling techniques.

The first step is to include a prohibition against using these types of statements in the dealership's policy and procedure manual.

Next, ensure that your product provider provides the proper type of selling technique training. Most of the providers in today's market take compliance seriously and will gladly help to train on proper sales closes.

Finally, be alert to potential red flags of a rogue employee. Unusually high product penetration, customer complaints, and high cancellation rates on a particular F&I Manager are just a few tips that something might be astray.

Gil Van Over is the President and founder of gvo3 & Associates, a nationally recognized F&I, Sales and Red Flag Rule compliance consulting and training firm ([www.gvo3.com](http://www.gvo3.com)).

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