

Be Wary of Overly Aggressive Sales People By Gil Van Over

Consumers don't generally care for aggressive sales people. Bosses who are involved in a sales type environment tend to tolerate, and perhaps welcome, aggressiveness amongst their sales forces because often times they equate aggressiveness to production and to profits. Within the last 48 hours, I received calls from two dealers with two different situations that could potentially damage their bottom lines.

Call Number One

It was early afternoon on a cool Tuesday. The dealer on the other end of my cell phone had a simple question (they're all simple or innocent when calls like this come in).

"Gil, is it against the law to take a credit application over the phone?"

I've learned over the years that seemingly simple questions become more complex once the facts are extracted, just how a simple toothache becomes a molar extraction.

"Tell me more." I implore.

It seems that someone living quite a distance from the dealership called to see if her credit would be approved to buy a car before making the trip to the store. She was willing to provide her personal, non-public information over the phone to a sales person she did not know. And, the sales person, eager to sell a car, wanted to take the information.

My pearls of wisdom as to what posture the dealer should adopt?

Absolutely, positively *do not* accept credit applications over the phone for the following reasons:

- Assume that the caller is a professional identity thief who just found someone's pay stub in the bank's trashcan. This thief is now trying to figure out if the person's identity whose personal, non-public information she has is worth stealing. If the sales person pulls a credit report and informs the caller that she can buy any type of vehicle she wants, the thief has a keeper. In addition, your dealership's inquiry is on the credit bureau report around the time the identity was stolen. Supplying this person with this information is raising the dealership's exposure and who do you think is going to ultimately get sued should this land up before the courts?
- The Fair Credit Reporting Act requires that two conditions must be precedent to pulling a credit bureau report: The dealer must have a permissible purpose and the dealer must have the person's consent. Most prudent dealers interpret consent as the customer's signature on a signed credit application. How on earth do you have someone sign a credit application over the phone?
- The Gramm-Leach-Bliley Act (Privacy and Safeguards) requires that you provide a copy of your organization's privacy policy when you accept a prospect's personal, non-public information. Almost every dealer I know gets the customer's

signature on a Privacy Notice and keeps a copy in the file to affirm they met the obligation. How is the phone caller going to get a copy of this Privacy Notice?

Call Number Two

This call came to me on a blustery Thursday morning. I could sense the desperation in the dealer's voice.

"I just got a call from someone who says we pulled her credit without her permission and she is going to sue. Does she have a leg to stand on?"

I restrained from being my normal sarcastic self. I wanted to say, *"She has enough legs to stand on to make a table."* Instead, I invoked my compassionate side. *"Dealer,"* I asked, *"how did this happen?"*

A recently hired sales person brought a list of people he had sold cars to at his prior dealership. He pulled credit bureau reports on everyone on the list and was calling them to get them to come to his new home and buy another car.

The woman who called the dealer threatening a lawsuit was one of those previous customers. She declined the sales person's offer because she had a suspended driver's license and had no use for a car at the time. But, something must have clicked in her mind. She checked her credit report and lo and behold found the inquiry from the dealership!

My advice for this dealer?

Call your attorney and be prepared to defend yourself as your newly hired overly aggressive sales person potentially violated:

- The aforementioned Fair Credit Reporting Act. He did not have a permissible purpose to pull a credit report and certainly did not have the woman's consent.
- The Federal Trade Commission's Safeguard's Rule. A dealership not only has an obligation to safeguard a customer's personal, non-public information once it receives the information, but it should also make it a policy that newly hired sales people are not permitted to bring personal, non-public information from the customers of their previous dealerships.
- His state's Unfair and Deceptive Practices Act. I can just see the dark side offering up a conspiracy theory asserting mental anguish and emotional stress. *"My client has a suspended driver's license, which she is still stressed out over, and then she gets a call from a car salesman telling her she has been approved for a car that she can't drive! She cried for five days straight."*

Aggressiveness has its place in the auto industry. Just make sure overly aggressive sales people don't put you in the courtroom. Have systems and processes in place that protect the many who tow the line from the few who don't. Propose a standardized approach for all to follow and don't allow for deviations. Copyright 2004 by gvo3 Consulting, LLC. All rights reserved.