COMMONWEALTH of VIRGINIA

Motor Vehicle Dealer Board

Guidance Memorandum to All Virginia Motor Vehicle Dealers
July 12, 2012

TrueCar

TrueCar's billing model for Virginia dealers was formulated over a period of many months and presented for discussion at the July 9, 2012 Motor Vehicle Dealer Board (Board) meeting. The Board discussed this model and adopted the following resolution:

The Motor Vehicle Dealer Board does not believe that dealers participating in the TrueCar model presented at the July Board meeting would be in violation of VA Code Section 46.2-1537.

VA Code Section 46.2-1537 is known as the "anti bird dogging law". This section of the Code prohibits dealers from compensating anyone who is not licensed as salesperson for the dealership. (For your information the law is quoted at the end of this memorandum.)

The Board determined that the pricing model presented at the July meeting did not constitute compensating an unlicensed individual in connection with the sale of a motor vehicle. The pricing model is based on a "flat fee" that may be adjusted every six months and is determined by the location of the dealership and line-make. The actual fee charged by TrueCar and any retroactive billing by TrueCar is not under the purview of the Motor Vehicle Dealer Board.

Dealix

Dealers are reminded that VA Code Section 46.2-1537 states that it is unlawful for any motor vehicle dealer to solicit the sale of a motor vehicle or to compensate any person in connection with the sale of a motor vehicle, unless the person is licensed as a salesperson employed by the dealer. (For your information the law is quoted at the end of this memorandum.) This includes prohibiting dealers from paying third parties on a "per lead" basis. However, dealers may compensate an unlicensed third-party vendor by a flat payment structure (e.g., per month) rather than per sale, per referral or any other transactional basis.

(OVER)

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Recently, it was brought to our attention that *Dealix* may be charging Virginia dealers on a per lead basis. The following are quotes from their WEB site:

- With *Dealix,* dealers pay only when they receive high quality leads from car buyers who are seriously interested in the vehicles they're selling. There are no fixed monthly charges or up-front fees.
- Risk-Free: Pay Only for Leads - *UsedCars.com* [This is one of the WEB address consumers use to search for vehicles through Dealix.] is the only major used car retailing program where dealers pay only when they receive high quality leads from buyers requesting information on a specific vehicle in their inventory

This billing model appears to be contrary to Virginia law. If you have a contract with Dealix (Including *UsedCars.com)*, we urge you to review your contract as it relates to billing.

INSURANCE

Virginia law requires that each dealer license plate issued to you have liability insurance. As part of our routine visits/inspections of dealerships, our field representatives verify that all dealer plates are insured.

We have discovered that many dealers are under insured. That is, the number of dealer plates insured is less than the number of dealer plates issued to the dealership. We urge you to verify with your insurance agent that the number of dealer plates noted/listed on your policy is the same as the number of plates issued to you by the Motor Vehicle Dealer Board. (For example, if you have been issued 20 dealer plates your insurance policy should state you have insurance for 20 dealer plates.)

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§ 46.2-1537. Prohibited solicitation and compensation.
It shall be unlawful for any motor vehicle dealer or salesperson licensed under this chapter, directly or indirectly, to solicit the sale of a motor vehicle through a pecuniarily interested person, or to pay, or cause to be paid, any commission or compensation in any form whatsoever to any person in connection with the sale of a motor vehicle, unless the person is duly licensed as a salesperson employed by the dealer. It shall also be unlawful for any motor vehicle dealer to compensate, in any form whatsoever, any person acting in the capacity of a salesperson as defined in § 46.2-1500 unless that person is licensed as required by this chapter.