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Governor Northam Appoints New Board Members

The MVDB is pleased to announce the Governor appointed 3 new Board members. Dennis Ellmer, Owner, CEO, and President of Priority Automotive. Mr. Ellmer has Franchise dealerships throughout the Commonwealth, and has Toyota, Infiniti, Acura, Hyundai, Chevrolet, Ford, Nissan, Honda, and Mazda. Mr. Ellmer will be on the Licensing, Advertising, and Transaction Recovery Fund Committees. Andrew Wiley is Owner, President, and Dealer-Operator of Consumers Auto Warehouse, Inc., an Independent automobile dealer in Staunton, Virginia. Mr. Wiley is also the President of the VIADA. Mr. Wiley serves on the Dealer Practices, Licensing, and Transaction Recovery Fund Committees. Mark E. Riblett is the Board's Citizen appointment. Mr. Riblett currently works as an Assistant District Engineer at the Virginia Department of Transportation. Mr. Riblett serves on the Dealer Practices, Advertising, and Transaction Recovery Fund Committees. Please join us in welcoming our newest Board members!

Who Needs a Sales License?

The MVDB considers all Dealer-Operators, F & I Employees, Sales Managers, and any person paid to sell vehicles, as salespersons, and must have sales licenses. Legislation in 2006 expanded the definition of a motor vehicle salesperson to include those functions performed by the sales manager, dealer-operator, and dealer employees who are in the "F&I" side of the automobile sales industry. Anyone who performs functions as described in the following definition must have a salesperson's license. **Regardless of the working title an individual has, if they fit the definition, they must have a salesperson's license.** Section §46.2-1500, Definitions. "Motor vehicle salesperson" or "salesperson" means (i) any person who is hired as an employee by a motor vehicle dealer to sell or exchange motor vehicles and who receives or expects to receive a commission, fee, or any other consideration from the dealer; (ii) any person who supervises salespersons employed by a motor vehicle dealer, whether compensated by salary or by commission; (iii) any person, compensated by salary or commission by a motor vehicle dealer, who negotiates with or induces a customer to enter into a security agreement on behalf of a dealer; or (iv) any person who is licensed as a motor vehicle dealer and who sells or exchanges motor vehicles. For purposes of this section, any person who is an independent contractor as defined by the United States internal revenue code shall

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Starting Compliance

We have all heard the Chinese proverb saying, “A journey of a thousand miles begins with a single step.” Well, you are going to hear it once again today!

I am often asked, “how do I start a compliance program at my dealership?”

So, to start your compliance program, put your commitment in writing.

This will be more important than ever as the new administration has nominated an “enforcer” to head the Consumer Financial Protection Bureau (CFPB).

Alan Wingfield, attorney at Troutman Pepper says, “companies that are subject to close regulatory oversight can get a lot of value in implementing a Compliance Management System. With a little bit of paperwork, you can document what you are already doing anyway that a regulator will like.”

The most important notion of what Alan says is this: If it’s not on paper, it doesn’t exist.

That’s the truth of the automobile business. “He said,” or “she told me,” doesn’t cut it. Everything has to be in writing. See the example below.

Motor vehicle sales and financing vehicles have extensive regulations, so it is import you have strong compliance processes. Your Compliance Officer will be responsible for internal review, monitoring, and appropriate remediation of your policies and procedures to protect consumers. The Officer should report to the Board on a regular basis. That’s it. Start now. Commit to this in writing, appoint a Chief Compliance Officer, and move forward.

Remember, if it’s not in writing, it didn’t happen.

Tom Kline www.BetterVantagePoint.com

CONSUMER PROTECTION COMPLIANCE CHARTER

Purpose:
The Chief Compliance Officer assists the Board of Directors in the oversight of _____’s Compliance Program. Its duties and responsibilities are to:

- Design a Compliance Program to help prevent and/or detect violations of the law or the standards of business conduct;
- Oversee and monitor adherence to the policies and procedures and Compliance Program;
- Ensure that communication of the Compliance Program is disseminated to all staff;
- Review reports and actions taken resulting from compliance investigations or audits;
- Oversee and monitor the resources assigned to the Compliance Program to assess their adequacy;
- Review materials that are presented to the Board regarding compliance;
- Review the compliance education and training program;
- Perform such other duties and responsibilities as may be requested by the Board.

Reporting Structure:

- The Chief Compliance Officer reports quarterly to the (Owner or) Board of Directors.

Members:
The Chief Compliance Officer is _____. The Members of the Board to whom he reports are _____.

Insert signature lines here.

Here’s more:

RESOLUTION RELATING TO THE
CONSUMER PROTECTION
REGULATORY MANAGEMENT PROGRAM

WHEREAS, the Board of Directors exercises general oversight authority with respect to the Company’s programs, policies and procedures for legal and regulatory compliance; and

WHEREAS, in light of increasing scrutiny by regulators of business practices in the motor vehicle sales and finance industries, it is desirable at this time to reaffirm the Board’s oversight with respect to the Company’s regulatory management programs relating to U.S. federal and state consumer financial protection laws;

NOW, THEREFORE, BE IT RESOLVED, the Board hereby delegates authority to the Chief Compliance Officer pursuant to its Charter to provide reasonable assurance that the Company maintains appropriate ethical and legal consumer compliance programs and review of its effectiveness;

FURTHER RESOLVED, that the Board hereby approves the Statement of Consumer Protection Policy (which you will need to write) and the Company’s consumer protection regulatory management program (the “Program”) described therein and presented at this meeting to the Board, including the summary of risk oversight to govern the material risks, issues and resolution regarding the Program; and

FURTHER RESOLVED, that the Chief Compliance Officer’s general oversight with respect to the Company’s regulatory compliance programs, policies and procedures, significant legal or regulatory compliance exposure, and material reports or inquiries from government or regulatory agencies shall include without limitation, the Program; and

FURTHER RESOLVED, that the appropriate officers of the Company are authorized to do all things necessary or appropriate to carry out the purpose and intent of the foregoing Resolutions.

Insert signature lines here.