



CATA Bulletin



a biweekly newsletter

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BBB binding arbitration agreement paperwork on CATA Web site

Dealers can obtain lots of advice and many important forms on the CATA Web site, <http://cata.drivechicago.com>, including paperwork for their customers to enter into binding arbitration to resolve disputes without protracted and costly lawsuits.

The site offers two sets of downloadable files for deal-

ers in northeast Illinois and northwest Indiana to enlist their customers into an arbitration program managed by the Better Business Bureau.

Dealers and their customers who sign this form would use an arbiter to resolve disputes arising from the purchase, lease, servicing or repair of a new or used auto-

mobile. "Disputes" also include any disputes relating to vehicle service contracts purchased or provided at the time vehicle was purchased or leased, except for alleged criminal violation.

"Simply put, the BBB has created a forum that is fair, equitable, inexpensive and quick," said Irv Capitel, se-

nior counselor of the BBB-Chicago's alternative dispute resolution division. "We want to see disputes settled smoothly and quickly. Lawsuits are antagonistic."

The downloadable forms can be reached on the CATA site by clicking on "Resources," on the horizontal

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Dawson feted for TMQDA nod

Hanley Dawson III, founder and owner of the Patrick Dealer Group, was among 66 dealers nationwide honored as recipients of the 2006 Time Magazine Quality Dealer Award, at a Feb. 11 ceremony as part of the annual NADA convention and exposition in Orlando, Fla.

The award recognizes new-car dealers for exceptional performance in their business coupled with distinguished community service.

In 1904, Hanley Dawson persuaded Henry Ford to let him sell used Fords on consignment in Detroit, and he was awarded the Midwest's first Ford franchise in 1907.



Hanley Dawson III

The Ford franchise was replaced in 1933 with Chevrolet and General Motors franchises, and in 1951, Hanley Dawson Jr. took over his father's dealership. Hanley Dawson Cadillac operated in Chicago until the early 1990s.

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Carfax bill defeated by 2 votes

Illinois' state and metro dealer associations hope Carfax officials will confer with them over dealer objections to the company accessing the state's vehicle accident reports, after Carfax's third failure in four spring sessions in Springfield to secure the data.

State senators on March 2 killed the latest attempt by Carfax for access to the notoriously inaccurate accident records maintained the Illinois Department of Transportation. Carfax's heavy lobbying helped to sway 28 senators to the company's side, but Senate Bill 1839 needed 30 supporters to pass.

According to IDOT, about half of the state's vehicle accidents are not even re-

ported. In other states where Carfax can review such data, the company admits to discarding more than 40 percent of the reports because of defects in the data.

Nevertheless, Carfax does not guarantee the accuracy of information in the vehicle reports it sells, usually for \$20 each. That is one of several sticking points for the Chicago Automobile Trade Association and the Illinois Automobile Dealers Association, which united to rally senators against SB1839.

"The CATA," said association Chairman Terry D'Arcy, "is on record with its dealer members urging the use of vehicle history re-

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Better Business Bureau to honor Cizek as Torchbearer, its top award



Jerry H. Cizek III

Jerry H. Cizek III on March 21 will be named the 2005 recipient of BBB Torchbearer Award, bestowed annually since 1967 by the Better Business Bureau that serves Chicago and northeast Illinois. It is the bureau's most prestigious award.

Cizek, president of the Chicago Automobile Trade Association, will be honored by the BBB for the CATA's adoption of the BBB-CATA Advertising Review Program and the Third-Party Binding Arbitration Program.

"These two programs," said BBB Vice President of Operations Steve Bernas, "have given us and the dealers great visibility with each other and have given us an opportunity to mutually solve problems that otherwise had been unresolved or difficult to conclude."

The Advertising Review Program, begun in 1996, serves as a sort of firewall between dealers and the Illinois Attorney General's office. Under the program, the BBB scans the marketplace for all automobile advertising, including on the Internet, which is not immune from the state's motor vehicle advertising regulations.

Bernas issues hundreds of notices each year to offending dealers about their noncompliant ads, whereupon most correct their mistakes. If a dealer ignores Bernas's correspondence, or if the dealer commits the same offense three times, the matter is forwarded to the attorney general's office.

See Page 1 of this newsletter for details about the Third-Party Binding Arbitration Program, which launched in 2004.

The Torchbearer Award will be presented to Cizek at the BBB's annual dinner meeting, at 6:30 p.m. March 21 at the Hilton Chicago, 720 S. Michigan Ave. The featured speaker will be Francisco H. Codina, vice president of Ford Motor Co. and president of the Ford Customer Service Division.

Codina will comment on Ford's inclusion in the national BBB Auto Line Program last year. Ford's entry into this program helps solve problems by having the complaints properly handled through the manufacturer. A defective product that cannot be resolved by the dealer must be filed as a complaint against the manufacturer, and that is what the BBB Auto Line Program has been doing since 1980 for almost 23 automobile manufacturers.

The evening's master of ceremonies is Janet Davies of ABC 7 Chicago. For tickets, call Bernas at 312-245-2514.

CATA monitoring trade-in credits

By Dennis O'Keefe

CATA LEGAL COUNSEL

Tax auditors for the Illinois Department of Revenue have identified a recurring issue with dealerships involving tax credits on advance trades. The department has ruled that a third party trade-in cannot be used to offset the purchase where the trade-in and the purchase do not occur at the same time (i.e. an advance trade).

This issue has been magnified because several captive credit companies lately have created a titling entity to facilitate lease securitization financing.

One local Ford dealer has had a hearing with the revenue department and awaits a determination thereon. The Department of Revenue has argued that the "holder" of most of the ST-566s is Cab West, LLC, and that some of the trades applied against these leases are in the name of Ford Motor Credit Co. Inasmuch as the purchaser of the replacement vehicle is technically not the same party that owns or is trading in the leased vehicle, the trade-in credits were disallowed. This is notwithstanding the fact that Cab West, LLC is merely a titling entity and a wholly owned subsidiary of Ford Motor Credit Co., for which Ford Motor Credit Co. is the only beneficiary.

The CATA is informed that Ford Motor Credit Co. has provided legal assistance to the dealer to contest the Department's position. However, it appears that other manufacturers have created similar titling entities, and their dealers could also be at risk. This issue would appear to exist for a certain period of time, for, as in the Ford case referred to above, once the traded-in vehicles are all Cab West vehicles, the issue would disappear.

The CATA is closely monitoring this case, and hopes that the Department of Revenue will see that its preliminary position is at best based upon a technicality, which should not dictate the result. Nevertheless, the CATA wants to alert all dealers to the issue, and recommends that they consult with their individual attorneys as to how to proceed.

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18W200 Butterfield Rd. Oakbrook Terrace, IL 60181-4810
630-495-CATA [2282] phone 630-495-2260 fax

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Listings of items for sale are subject to the approval of the CATA. Candidates for employment must submit a full résumé to the Editor.

Review past editions dating to 1998 or search by subject at <http://cata.drivechicago.com/>

Jerry H. Cizek III President, Publisher
Erik K. Higgins Editor, Director of Dealer Affairs

Dealers make a difference

By Ray Scarpelli Sr.

METRO CHICAGO NADA DIRECTOR

Dealerships are a vital part of the U.S. economy. We provide some 1 million jobs and sell \$700 billion in vehicles and services each year—more than 20 percent of U.S. retail sales. Because dealers are such a huge business force, we have big responsibilities—to our customers, to our communities, and to our fellow dealers.

Dealers are working with the NADA to protect consumers and other dealers from buying flood-damaged vehicles. David Regan, NADA vice president of legislative affairs, recently testified on this issue before a U.S. House of Representatives subcommittee. He called on insurance companies and state titling agencies to provide consumers access to VIN-based data before they buy used cars.

“Armed with total-loss data and a better understanding of vehicle histories, both consumers and dealers will be able to steer clear of rebuilt wrecks and stolen vehicles,” said Regan.

“For too long fraudulent resellers have relied upon a confusing 51-state titling regime to market rebuilt or stolen vehicles with clean titles. Consumers need to know before they buy a car whether it has been totaled; the technology exists today to make this happen.”

Regan said Congress already has granted the Department of Justice the authority to make insurance

companies disclose total-loss data and salvage auction data, and Congress should press the agency to act because “an accurate and publicly accessible total-loss database would curb fraudulent activity dramatically.”

In his remarks, Regan called for:

- **Greater transparency.** “Insurance companies should provide VIN-based disclosure of all totaled vehicles,” he said. Also, “all states should carry forward prior brands when issuing new titles. States should brand registrations as well as titles.”

- **More timeliness.** “The insurance companies should disclose total-loss data at the time the total-loss payout occurs,” he said. “Also, state DMVs should work with the private sector to push title data into the public domain faster.”

- **Better use of technology.** “DMVs should make title data commercially available on a daily basis to the information industry, [which] has the technology to dramatically enhance public disclosure of insurance company information about total-loss vehicles and salvage auction sales data.”

Regan said the combination of electronic access to total-loss data and faster access to DMV data will help consumers and dealers fight motor vehicle fraud.

How else can dealers make a difference? There are more than 104,800 career opportunities available at dealerships across the country right now. It’s imperative that we

promote these job openings in our communities.

One way to do this is to host an open house for local students and their parents and teachers during Automotive Career Month in October. Last year, more than 700 dealerships in 44 states held career events. This year, let’s double the number of participating dealers.

The NADA is working to help dealers by pushing for permanent repeal of the federal estate tax. A planned congressional vote on the issue was postponed after Hurricane Katrina, but the NADA’s legislative office is working hard to get it back on the agenda. Senate Majority Leader Bill Frist (R-Tenn.) said he will call for a vote before Memorial Day on permanent repeal.

“The death tax was unfair before Katrina and it’s still unfair,” said Regan. “It’s a prime example of double taxation, and it should be eliminated.”

For the benefit of all dealers, stay involved with the NADA. Complete the NADA Dealer Attitude Survey every summer and winter. It’s one of the best ways to ensure automakers hear our voices.

The NADA also meets regularly with every automaker to discuss dealer concerns. As the domestic carmakers restructure and some international manufacturers struggle, it’s essential that automakers realize how important all dealers are to the industry’s success.

Save the date!

The annual CATA golf outing is Monday, June 12 at Cog Hill Golf and Country Club in Lemont. Watch this newsletter for more details.

<http://cata.drivechicago.com>

See the CATA’s Web site for Chicago Auto Outlook sales statistics for January. From the horizontal bar along the top of the page, click on Publications for a drop-down menu.

Arbitration

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bar across the top of the home page. From the drop-down menu, select "Dealer Forms (Downloadable)."

The two sets of files include an overview of the BBB binding arbitration program and the arbitration agreement. The sets are identical except for identifying which entity would sit at an arbitration hearing—the BBB office in Chicago, for disputes in northeast Illinois; or the BBB office in Merrillville, Ind., for disputes in northwest Indiana.

Dennis O'Keefe, the CATA's general counsel, said some dealers already employ binding arbitration agreements with their customers. "The one thing that's lacking with those individual dealer agreements," O'Keefe said, "is credibility." Some arbitration processes can be costly, he added.

The BBB-authored agree-

ment is simple to read, to overcome charges that the customer didn't understand what he agreed to, and is brief, on a single page.

It is suggested that customers be presented with copies of both the program overview and the agreement at closing.

Capitel said customers could be encouraged to sign the agreement based on several savings to them, compared to a lawsuit:

- time used to prepare court documents
- time used to prepare depositions
- time spent in court
- attorneys' fees and other costs.

"The key word under the BBB arbitration is *resolution* of the dispute," said Capitel. "Someone wins, someone loses, and everyone gets on with their lives."

Customers who request arbitration pay \$100 to cover the arbiter's expenses. The dealer, in turn, pays \$700 to \$900.

TMQDA

CONTINUED FROM PAGE 1

Hanley Dawson III left his father's business in 1977, moving to Schaumburg to open Patrick Cadillac, named after his youngest son.

The now four-generation family business is Chicago's fifth largest dealer group, with seven franchises and 350 employees.

Dawson and his dealerships have supported a wide range of organizations and causes, with an emphasis on medicine and educa-

tion. He said his most meaningful civic achievement was his election as board chairman of Loyola Academy in Wilmette.

"I believe that education is a basic fundamental right for all mankind and it is a key to a better life for any individual," said Dawson.

A panel of faculty members from the University of Michigan School of Business Administration selected five award finalists from the 66 TMQDA recipients. Bennie Ryburn III of Arkansas was named the award's overall 2006 winner.

Carfax

CONTINUED FROM PAGE 1

ports when selling a used car. But if this flawed accident information is added to the vehicle history company database, we'd be forced to reconsider that advice."

Methods to collect vehicle accident information in Illinois are ripe for error, and IDOT reported that the costs

would be "substantial" to create a system to verify the accuracy of data.

The CATA has sought dialogue with Carfax officials for more than 18 months. Officers of the CATA also plan to meet with the editorial board of the Chicago Tribune. On March 1, the day before the Senate vote, the newspaper wrote an editorial supporting the legislation.

Scam alert

A man who bounced two personal checks for cars at a Skokie dealership has committed a series of deceptive acts in the United States and Canada, according to the FBI.

Karim Asllani lists a Northbrook address as his home. That house, records show, is in foreclosure. Asllani has short hair and is about 5 feet 9 inches tall, about 190 pounds. Arrest warrants have been issued for Asllani in Illinois, California and Canada.

He reportedly issued a \$51,000 check for a new car, then several days later arranged for a used car at the dealership, also with a personal check.

After many calls from the dealership to Asllani, he returned both vehicles overnight to the dealer's lot about 10 days later.

Marketplace

Service Director 36 years' experience, excellent customer service skills, supervision of 70 workers. Increased parts, service grosses annually since 1992. Exceeded GM service department standards; no audits for 13 years. Edmond Pazdzior, 815-482-5222.

Office Manager Manage all aspects of dealer accounting function except financial statement preparation. Supervise accounts payable/receivable personnel plus cashier and switchboard personnel. Proficient in ADP and Reynolds & Reynolds. Kathy Kamba, 708-425-8503.

Résumés of both both candidates are on file at the CATA.