

Documenting Two-Dealer Transactions

Transactions with second-party dealer financing continue to be a problem. When one dealer is selling a vehicle and the financing dealer wants to secure their position, it should not be done on the purchase agreement or APV9T transfer form.

The financing dealer should use recognized financing practices

- Finance the sale and file a security agreement in the Personal Property Registry against the vehicle just like a bank, or
- Arrange with the first dealer to take an assignment of the contract, with the buyer's consent.

When the financing dealer appears on the purchase agreement or APV9T

- They are responsible for providing the required declarations under the *Motor Dealer Act (MDA)*
- They must assure the vehicle meets the minimum safety requirements of the *Motor Vehicle Act*
- There may be breaches of the off-site sales requirements of the *MDA*.

A side agreement with the buyer does not work

- An acknowledgment by the buyer that only financing is being provided will not be binding
- A term that says a dealer is not selling to a buyer cannot create a legal fiction when the dealer is on the title and the purchase agreement as the seller
- Dealers cannot avoid the responsibility under the *MDA* for making declarations and selling a safe vehicle with conditions in a contract.

If there is a consumer complaint

A consumer complaint about a two-dealer transaction will be directed to the dealer on the sale and transfer documents. Any resulting administrative penalties or required consumer restitution will be assessed to the last dealer in the chain of transfer. Recovery of any substantiated losses due to errors made by the selling dealer will not be the responsibility of the VSA. To speed the processing of consumer complaints, both dealers in the transaction will usually be notified of the complaint.



Dealer Numbers and Names Must Be Accurate

Recent consumer complaints reveal purchase agreements and transfer forms with incorrect dealer numbers and names. Whether this is the result of a two-dealer transaction with financing, when a vehicle is provided from another dealer within a dealer group or if old forms are used, the result is the same; this is a misrepresentation, as the consumer will not know which dealer is responsible. In the event of a substantiated consumer complaint, both dealers may be assessed penalties or required to provide restitution.

Note: There may also be provincial and federal tax implications for dealers associated in any way with inaccurate agreements and transfer forms.

Three New VSA Board Members

The VSA welcomes James Carter, Ward Fraser and John Macdonald to the Board of Directors!

James Carter is currently Dealer Principal at Northshore Carter GM. James has been extremely active in the industry for over 30 years. Currently a board member for the Chor Leoni Men's Choir and the Economic Partnership



North Vancouver, he also served on the board of the North Vancouver Chamber of Commerce and St. John Ambulance. James' artistic ability is well known as a member of the Chor Leoni Men's Choir for 23 years, the Vancouver Chamber Choir and, more recently, the Phoenix Chamber Choir.

Ward Fraser is the General Manager of Voyager RV Centre in Lake Country in the beautiful Okanagan. He has been on the management team there for 23 years. Ward has served on the board of the



RVDA of BC for 11 years and is currently serving on the executive of that board. He is looking forward to sharing the issues and knowledge of the RV industry and the Recreational Vehicle Dealers Association as a member of the VSA board of directors. Ward enjoys the great Okanagan life style with his wife Connie and their two grown children.

Currently, the General Manager of ADESA Vancouver for over 10 years, John has also held the positions of Sales Manager, Operations Manager and Assistant General Manager. With over 20 years



of auto auction experience, John is well versed in the many facets of the industry. He thrives on the auction energy and you can find John on the block every Thursday helping his customers build their businesses. A strong believer in giving back, John provides support to a number of local charities by donating his time to host live auctions for the Richmond Society for Community Living, JDRF, Variety Club, Special Olympics and others.

Retiring from the VSA Board of Directors is Jack Bell, John Chesman and Don Nixdorf. Thank you for your service to the VSA!

Thank you