

September 8, 2011

Mr. Rick Blankin
Zone Manager
Subaru of America
District of Columbia Office
30 Corporate Center
10440 Little Patuxent Pkwy
Ste. 900
Columbia, MD 21044

Dear Mr. Blankin:

The Virginia Automobile Dealers Association represents the interests of the franchised motor vehicle dealers of the Commonwealth of Virginia, including Subaru dealers.

We have been contacted concerning the Subaru Advantage Insurance Program and the announcement by Liberty Mutual, Subaru's partner in the program, that it will compensate dealership salespersons for any insurance referral.

We have concerns that the program does not comply with Virginia law and that it will put Subaru dealers in compromising positions.

Potential Violation of Virginia Law

Payments for referrals as outlined in your program will necessarily involve compensation to individuals who do not have appropriate insurance sales licenses. Virginia insurance law allows referral fees to be paid to unlicensed individuals under certain narrow circumstances. Section 38.2-1821(1)(B)(8) of the Code of Virginia provides as follows:

-Any person who refers a customer who seeks to purchase any insurance product to a licensed agent and receives compensation for the referral of a customer, provided that:
- a. The referral does not include a discussion of specific insurance policy terms and conditions;
 - b. The compensation is in the form of a one-time nominal fee of a fixed dollar amount for each referral; and
 - c. The compensation does not depend on whether the referral results in the purchase of insurance by the customer.

Additional guidance from the Virginia State Corporation Commission provides that the "one-time nominal fee" cannot exceed \$25 per referral.

Under the Subaru Advantage Insurance Program, the compensation to salespersons is \$50 per referral. This is in excess of the guidance provided by the SCC.

Additionally, the memo distributed to dealers outlines "some key auto policy features and unique enhancements". Any discussion of this information with customers puts the activity of the dealership salespersons outside the exception for licensing in the statute.

To make matters worse, these are not "one time" fees. This is an organized, continuing program of referral fees to unlicensed individuals.

Finally, this program is designed with dealer involvement in mind. It is the company employing the potential recipients of illegal compensation under a program of which it is

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aware and in which it is arranging its employees' participation. That implicates dealers themselves in these potential violations of Virginia law.

The insurance company with whom your company has this insurance arrangement surely has a compliance department that is aware of the limitations placed on it and its agents under state law. Designing a program involving potential violations of Virginia state law is bad enough. Unleashing it on your dealers without warning of the potential dangers to them and their employees defies logic.

Compromise of Dealers' Position


Because dealers and their sales employees are generally not licensed as agents for sale of liability and comprehensive insurance coverage, they are advised by our organization and others to steer clear of such insurance product sales activities. Your program flies in the face of that advice. It places dealers squarely into transactions through their employees' referrals to your designated insurance partner.

Once again, you provide no guidance in the program materials that we have reviewed to prevent dealers from being caught up in controversies involving improper insurance sales practices or allegedly defective or improper insurance coverages.

We ask that you review this program, clarify how this program complies with Virginia law and the guidance of the Virginia State Corporation Commission, and clarify for dealers how they can avoid being placed in compromising situations as a result of this program.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Donald L. Hall". The signature is written in a cursive, slightly slanted style.

Donald L. Hall
President

cc: VADA Subaru Dealer Members