



COMMONWEALTH of VIRGINIA
Motor Vehicle Dealer Board

December 20, 2011

Scott Painter, CEO
TrueCar Inc.
225 Santa Monica Blvd, 12th Floor
Santa Monica, CA 90401

Dear Mr. Painter:

I understand that *ZAG.com* is now known as TrueCar. I am writing to remind you that Virginia law prohibits dealers from compensating anyone in connection with the sale of a motor vehicle who is not either licensed as a motor vehicle dealer or a salesperson.

Virginia Code Section 46.2-1537 states:

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.

In a letter I wrote to you dated August 13, 2010, I quoted the above section of Virginia law and I also referred you to the Virginia Motor Vehicle Dealer Board's "Internet Task Force Policy" report (ITF Report) that was published in January of 2001. I have enclosed a copy of my August 13, 2010 letter to you.

Page 6 of the ITF Report states:

D. Unlicensed Third-Party Vendors, Including Brokers and Dotcoms.

*The ITF [Internet Task Force] supports the idea that an unlicensed third-party vendor may establish a website that includes the inventory of different dealers, so long as consumers must visit the dealer where a vehicle is located to purchase the vehicle. This situation includes, but is not limited to, "referrals" sent to dealers from the unlicensed third-party. However, the ITF limits support of this model to situations where payment for this service from the motor vehicle dealer to the unlicensed third-party vendor is not "transactional." **That is, the ITF supports the idea that licensed motor vehicle dealers may only 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. [Emphasis/bold added.]***

The ITF report may be viewed and/or printed from our WEB site at www.mvdb.virginia.gov and click on "About Us", then on "Reports" and then on "Internet Task Force Policy".

It is my understanding that under TrueCar's current business model, Virginia dealers pay a fee to TrueCar based on the number of searches by vehicle model conducted by consumers within a given radius of a participating dealer. In the past, the MVDB has determined that similar models would be in violation of Virginia Code Section 46.2-1537 in that any search that resulted in a sale would mean the dealer has compensated an unlicensed individual in connection with the sale of a motor vehicle. (For example, not too long ago, a newspaper established an on-line listing of vehicles for sale where the dealer paid the newspaper each time a consumer "clicked" on one of the dealers' listed cars. The Board deemed this model to be in violation of Virginia Code Section 46.2-1537.) This model would also be contrary to the long standing policy statements noted above.

It is my understanding that TrueCar's pricing model also includes a component that establishes a monthly fee tied to the number of consumers who submit their contact information to the dealership via your WEB site during the previous three months. This component would appear to be in violation of Virginia law in that any search that resulted in a sale would mean that the dealer has compensated an unlicensed individual in connection with the sale of a motor vehicle.

Lastly, it is my understanding that TrueCar's Virginia pricing model includes a component that establishes a monthly fee tied to the dealer's "lead-to-sales close rate" for consumers who made contact with the dealership via your WEB site during the previous three months. This component is clearly compensation paid by the dealer to an unlicensed entity based on a transaction (sale).

In summary, Virginia motor vehicle dealers may only pay third parties a “flat fee” for advertising. Models that set dealer fees tied directly or indirectly to a transaction appear to constitute a dealer compensating an unlicensed entity in connection with the sale of a motor vehicle.

Several Virginia dealers have stated to me that representatives of TrueCar have stated to them that the Virginia Motor Vehicle Dealer Board has “blessed” your pricing model. To the best of my knowledge, the Virginia Motor Vehicle Dealer Board has never “blessed” or otherwise “approved” the business or pricing model of any entity. If I am mistaken and the Virginia MVDB has “blessed” or approved your pricing model, please provide me with documentation.

It is my intent to present the pricing models as described above to the MVDB Advertising Committee on January 9, 2012. You are welcome to attend the meeting that will begin sometime after 9:00. Please let me know if you plan to attend. (MVDB Committee Meetings begin at 9:00. The Advertising Committee meeting is the third of four committee meetings.) Our meetings are also broadcast live over the Internet. A link to the live broadcast will be on our home page on January 9.

If the Committee and Board agree with my analysis, I will implement a plan to notify Virginia dealers that they could be assessed civil penalties or their license could be suspended or revoked if they compensate an unlicensed entity under any and all of the scenarios I have outlined in this letter.

Do not hesitate to contact me if you have any questions or comments.

Sincerely,



Bruce Gould
Executive Director

c: Kevin Reilly, Chair MVDB Advertising Committee
Don Hall, Virginia Automobile Dealers Association
Gerry Murphy, Washington Area New Automobile Dealers Association
Lois Keenan, Virginia Independent Automobile Dealers Association



COMMONWEALTH of VIRGINIA

Motor Vehicle Dealer Board

August 13, 2010

Scott Painter, CEO
ZAG.com
525 Broadway; 3rd Floor
Santa Monica, California 90401

Dear Mr. Painter:

Two years ago, we wrote to Heather Berendt of ZAG.com explaining to her that in Virginia it is unlawful for dealers to compensate anyone other than a licensed salesperson in connection with the sale of a motor vehicle. See the enclosed letter to Ms. Berendt.

Recently, it was brought to my attention that ZAG charges dealers on a per sale basis. I reviewed your WEB site and it does state that "Zag only charges when a sale is transacted". This model appears to be contrary to Virginia law. Virginia Code Section 46.2-1537 states:

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.

For additional information, please visit our WEB site at www.mvdb.virginia.gov and click on "About Us", then on "Reports" and then on "Internet Task Force Policy".

If a Virginia dealer pays you a fee in connection with the sale of a motor vehicle, that dealer would be in violation of Virginia Law and could be levied a civil penalty of up to \$1,000 and possibly have their license suspended or revoked. I urge you to discontinue making your service available to Virginia dealers until such time as it is been modified to be in compliance with Virginia law.

Mr. Scott Painter
August 13, 2010

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If you have any questions, do not hesitate to call me at 804-367-1100; ext 3002.

Sincerely,

Handwritten signature of Bruce Gould in black ink.

Bruce Gould
Executive Director

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Attachments