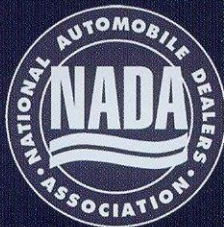


Velocity

The Official Magazine of the Florida Automobile Dealers Association



APRIL IS
NATIONAL CAREER MONTH

PRSRPT STD
US POSTAGE
PAID
TALLAHASSEE, FL
PERMIT NO. 801

Responding to Fixed Operations Warranty Audits

By Alex Kurkin and Marc Brandes

KB

KURKIN BRANDES



Alex Kurkin



Marc Brandes

During these challenging economic times, vehicle dealerships tend to rely more heavily on the stability of their fixed operations. To complement their efforts, the Florida Automobile Dealers Association has aggressively attempted to secure increased revenue for dealers by establishing clearer remedies for the recovery of retail rates for warranty parts and labor, which could cost the manufacturers millions of dollars in the coming years. So it will be to nobody's surprise when the factories begin to increase their scrutiny of dealer warranty work through more frequent and aggressive audits. However, by effectively contending with the increased warranty audits, dealerships will be able to avoid major charge-backs and business disruptions.

Inevitably as a result of most warranty audits, which can only review work from the last 12 months, dealerships will need to aggressively respond to factory demands for charge-backs. It will be imperative to take advantage of last year's legislation, which requires that the manufacturer representatives meet with the dealership either in-person, via telephone or video conference. The factory must provide a detailed explanation and the supporting documentation for each of the charge-back items. Because this can be a highly detailed and intensive procedure, the factory must also give the dealership ample time (not less than 45 days) to review and respond to their findings.

As the dealership then begins its research on the claims, they can be assured that the factory can no longer create a moving target. Once the factory identifies the basis for a charge-back item, it cannot change or supplement that basis unless it receives new information.

Dealers should not rush their investigation, nor hesitate to tell the manufacturer how much time they will require. Once the research is complete, the next step is to review each and every requested charge-back item with the auditors.

By challenging them on every detail and forcing them to justify every finding, dealers can prevail in reversing or adjusting the original findings and claims. Some of our clients have been successful simply by exhausting their patience and tiring them out.

Additionally, dealers should not accept any threats from the factories to secure the charge-backs by tapping the dealer's open account. One major Florida dealer routinely cautions the factories that if they tap their open account, the dealer will file a civil theft lawsuit against the manufacturer that could result in treble damages (a legal term for triple the reward). Maintaining control of the funds throughout the process is crucial, as any payments would be difficult to recoup.

Keep in mind that the factories typically take the "easy" approach to an audit by performing an assessment on a random sampling and extrapolating the results to determine an appropriate charge-back. While a dealership may agree to an extrapolation, it is not required. If the dealer believes that the factory does not wish to engage in a comprehensive audit and/or the sampling was not representative, it should object to the extrapolation method. Force the manufacturer to examine every R.O. regarding the matter in question.

Throughout the process, dealers should avoid any unnecessary and unwarranted hostility with the factory. They should simply understand that the manufacturers perform warranty audits to uncover and assess charge-backs, and it is incumbent on the dealership to dispute their findings in order to avoid any unjustified losses.

Kurkin Brandes P.A.

Tel.: (305) 929-8500

Fax: (305) 675-0564

E-mail: info@kurkinbrandes.com

Inevitably as a result of most warranty audits, which can only review work from the last 12 months, dealerships will need to aggressively respond to factory demands for charge-backs.