

HIDDEN GRATUITIES

[Excerpt from a memorandum dated November 6, 1996 sent to all ADAI Dealer Members from then ADAI Executive Vice President Jim Olsen]

“HIDDEN LIABILITY IN EMPLOYEE’S ACCEPTING UNKNOWN GRATUITIES

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....Dealers could be ... deceived by vendors who offer employees ‘under the counter’ incentives.

Dealership employees who are receiving any form of gratuities from suppliers/vendors or are taking it upon themselves to accept or make additional income without your knowledge can carry unknown liabilities. You need to be aware of this problem and take the steps described below.

Consider the consequences of an employee taking a gratuity from a supplier/vendor unbeknownst to you, and chances are you will be the last to know. Other dealership personnel may be aware of the ‘under the table’ payment causing a pervasive attitude among employees: You don’t care if Joe or John is getting ‘spiffed;’ so it’s all right if I supplement my income. Employees may think its alright to make personal long distance phone calls, use your postage meter for personal mail or even curb-stoning cars.

..... Your customer, (or employee) through the Attorney General’s Office or the Bureau of Motor Vehicles, may file a complaint which will lead to your settling a dispute that should never have begun in the first place.

Put simply: If companies who provide products or services to your dealership intend to offer any type of gratuities be they cash, travel, small appliances ... anything except an occasional lunch, game of golf or sporting event tickets ... you, the owner, should know in advance. **NO EXCEPTION!** This should apply to all employees.

Attached is a specimen which should be included in your dealership employee manual and also an affidavit which each and every one of your suppliers/vendors should be required to sign. Any legitimate company should not have any objection to assuring you they will not be providing any incentives to your employees that you are not aware of and have formally approved.”

FOR EMPLOYEE MANUAL

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Employees compensation agreement does not include additional compensation from Customers or Suppliers.

Employees are prohibited from accepting Cash, Gifts of any kind including but not limited to: Free Travel, T.V.'s or other appliances or any other free offer from a Company doing business with this Dealership. Exceptions, if any, are to be processed formally through management.

RESOLUTION

WHEREAS, _____ (Name of Supplier) is providing certain products or services to _____ (Name of Dealership) and,

WHEREAS, _____ (Name of Supplier) will not provide any gratuities, i.e. cash incentives paid to any of _____ (Name of Dealership) employees either in the form of cash, travel, small appliance, etc. (with the exception of an occasional meal, sporting event tickets or recreation date), without the express written and dated approval of the owner of _____ (Name of Dealership).

NOW THEREFORE HEREBY BE IT RESOLVED, that if _____ (Name of Dealership) at any time discovers that _____ (Name of Supplier) has provided any dealership employee with any of the above mentioned gratuities without express written and dated approval that _____ (Name of Supplier) will agree to an out-of-court, non-arbitrated settlement of \$20,000 cash to be paid immediately to _____ (Name of Dealership).

Accepted by:

Name of Supplier

Date: _____

Witness:

Date: _____

Accepted by:

Name of Dealership

Date: _____

Witness:

Date: _____