

UNDERSTANDING AUCTION ARBITRATION ... PART 1

Just as with any sale from one dealer to another, when you sell a vehicle at a dealer auction, you are legally required by the *Motor Vehicle Dealers Act, 2002* ("MVDA") to disclose 21 specific items if they apply to the vehicle being sold.

Common disclosures include Daily Rental, Accident Damage over \$3,000.00 and Out-of-Province vehicles, but there are 18 more. The MVDA Disclosure list is included with this issue of Front Line.

When you buy or sell at a major dealer auction, you are also agreeing to abide by the auction's arbitration rules, which generally mirror National Auto Auction Association ("NAAA") arbitration policies. A copy of the rules can be picked up at the auctions or you can find the Adesa rules here: <http://tinyurl.com/hyqneek> and Manheim's here <http://tinyurl.com/jzlp4>. Dealers need to be aware of the specific disclosure rules and time limits for requesting arbitration.

Disclosure of Total Loss Vehicles

The auctions are seeing a significant increase in the number of vehicles being entered that have previously been purchased at salvage auctions. The seller is typically an insurance company that has deemed these vehicles as a total loss.

Unfortunately, some dealers who have purchased and repaired these vehicles are then entering them at Manheim or Adesa with a simple "accident repair" disclosure and nothing more.

Accident Repair is NOT sufficient disclosure for total loss or structurally damaged vehicles.

For a total loss vehicle sold by an insurance company, the required disclosures that may apply could include:

- Total Loss –Branded (Salvage or Rebuilt)
- Accident damage over \$3,000.00 and the claim amount if you know it... (Auto Check, Carfax, or CarProof may have this information ... or they may not)
- Deemed Total Loss by an Insurance Company – Not Branded (many total loss vehicles are not branded)
- Frame Damaged or Repaired
- 2 Adjacent Body Panels changed (if they were)

These disclosures, to be made by the selling dealer, are required by the MVDA ... and by the auctions.

The NAAA Rules require disclosure of specified mechanical repairs that will cost more than \$750.00 to repair. A buyer has 7 days to arbitrate for non-disclosed repairs.

Discretion in Arbitration

Auctions have discretion to go beyond the strict arbitration deadlines. This is especially true when an auction determines that the seller has intentionally failed to make required disclosures.

Sellers should not be surprised, if the auction believes the circumstances warrant, to have a sale questioned and arbitrated weeks after the standard arbitration period has ended ... especially where the non-disclosure materially affects the value of a vehicle and deception is involved.

We'll have more on understanding auction arbitrations in the next issue of Front Line.

Summer Camp of Hope



Fiona Fisher, Director of Fundraising for Camp Trillium, is presented with a cheque from the UCDA's Charitable Donations Committee on behalf of the UCDA's 4,800 members. Left to Right: UCDA Executive Director, Warren Barnard, Jim Hamilton, Legal Services Director and President Steve Peck.

They call themselves "a camp like no other", and that's for sure.

When a child is diagnosed with cancer it affects everyone. With treatments and medication, it's very hard for a child to enjoy what other kids take for granted, and for the parents, siblings and extended family it can be a daily grind of hospital visits, stress and expense.

That's why Camp Trillium was created in 1984, with a simple vision: to reach children with cancer by providing them and their families with fun and enriching recreational opportunities.

Members of the UCDA Charitable Donations Committee and our Executive Director, were pleased to meet with Fiona Fisher, the Director of Fundraising for Camp Trillium, on June 29th to personally present her with a donation on behalf of the used and new vehicle dealer members of the UCDA.

Our support went to "OuR Island", officially the Camp Trillium Odd Fellow & Rebekah Island (formerly Garratt's Island), on West Lake near Picton, the permanent home of Camp Trillium since 1989.

The UCDA's donation specifically benefited the "Body Shop" package providing a variety of campers' needs like sunscreen, sanitizers, epi-pens, medicines and basic first aid products.

Coming just as family camp was starting for the summer season, our donation was timely. Family camp gives kids and parents a chance to meet new friends, try

new things, reconnect and leave with memories for a lifetime. There are activities for all ages including swimming, archery, fishing, sailing, canoeing, kayaking, arts and crafts, high and low ropes, camping and more.

Fast Facts

- Camp Trillium, officially The Trillium Childhood Cancer Support Centre, offers year-round recreational experiences to children with cancer and their families.
- Camp Trillium held its first camp at the Circle R Ranch in London in 1984. Camping at Garratt's Island (now OuR Island) started in 1989.
- Camp Trillium raises money to provide programs to 3,100 campers every year.
- Camp Trillium offers 54 different programs at its two residential camps.
- A team of medical staff, including oncology nurses, serve the camp around the clock.
- The camp is run at no cost to campers and is supported entirely by donations from individuals, service clubs, businesses and foundations.
- Camp Trillium is accredited by the Ontario Camping Association and follows guidelines set out by the Canadian Association of Pediatrics Oncology Camps.

Costly Errors

When taking a trade-in, why not develop a basic checklist?

Before you even get to the point of appraising the vehicle (and wasting valuable time) ask to see the permit. Is the vehicle in the name of the customer who wants to trade it in?

If not, STOP.

In order to offer a vehicle on trade the buyer has to "own" it, if it's not in the buyer's name then it's not theirs to sell!

If the vehicle is in the buyer's name, then of course you can proceed with your normal appraisal process, do a lien search, have the customer complete a UCDA trade-in appraisal form, run your accident searches, check the vehicle over with a paint tester and so forth.

The dealer who does none of these things will be left to deal with the fallout.

In a recent case, one of our members took a trade-in without checking the registration permit or running a lien search. The dealer made a straight trade for \$39,000. Only later did the dealer discover the trade-in actually belongs to the man's father and has a lien on it for \$36,000!

The buyer has gone underground with the dealer's vehicle and instead of a normal deal the dealer now has a major headache.

Trouble With Alberta Vehicles

The Alberta Vehicle Registration System can create problems for out-of-province vehicle buyers, including Ontario dealers, when it comes to obtaining vehicle registration documents. Alberta has very different registration rules than our members are used to in Ontario. Essentially, there are none.

If you are purchasing from a private individual who is an Alberta resident, you need to ensure that they have the registration documents (ownership) in their name. Without the registration documents, you will not be able to register the vehicle into your name in Ontario.

Auction Problems

Adesa, with auctions in Calgary and Edmonton, has told us that they cannot guarantee that a purchasing dealer will receive the registration from the selling dealer when you buy on-line.

Adesa's bill of sale clearly indicates that the auction assumes no responsibility for assisting the buyer in obtaining the registration documents from the seller. Buyers will need to contact the selling dealer to try and get these documents. This could take weeks and in one case we've been informed that the Alberta dealer could not be located and the vehicle could not be registered in Ontario. It had to be re-sold in Alberta.

Manheim Offers Some Help.

For an additional \$100 fee, to cover processing and courier costs, Manheim's auction in Edmonton will assist a purchasing Ontario dealer to obtain a vehicle's registration from the seller. However, again, it could take weeks before the registration arrives.

Service Ontario is very strict when it comes to registering vehicles from out-of-province in Ontario. You will need the registration documents, or a bill of sale and a chain of title, to prove that the dealer is actually the owner of the vehicle. Service Ontario will not accept the auction bill of sale showing the seller's name as proof that the vehicle is legally owned by the dealer selling it in Alberta.

Compliance Quiz

Here's this month's compliance quiz. The answers are on page 4. Good Luck!

- Under the new safety rules in effect as of July 1st, 2016 all MVIS stations need to have a tint meter by January 1st, 2017.

True False

- The *Motor Vehicle Dealers Act, 2002*, requires dealers to provide the following on the sale of a certified vehicle to a consumer:
 - a bill of sale and a copy of the safety certificate
 - an accident search
 - a Used Vehicle Information Package
 - a spare tire
 - all of the above

True False

- A Salesperson can only work for one dealer at a time.

True False

- A dealer plate may be used for personal use, on vehicles owned by the dealer,
 - except after 6 p.m.
 - except on weekends
 - except on commercial vehicles (like pick-up trucks)
 - except on the 407 highway

True False



Don't Forget Your Tint Meter & Vehicle Inspection Reports

The new Safety Standards Inspection regulations took effect on July 1st.

Have you, or the repair facility you use to do your safeties, ordered the required Passenger/Light Duty Vehicle Inspection Report forms and Tint Meter yet?

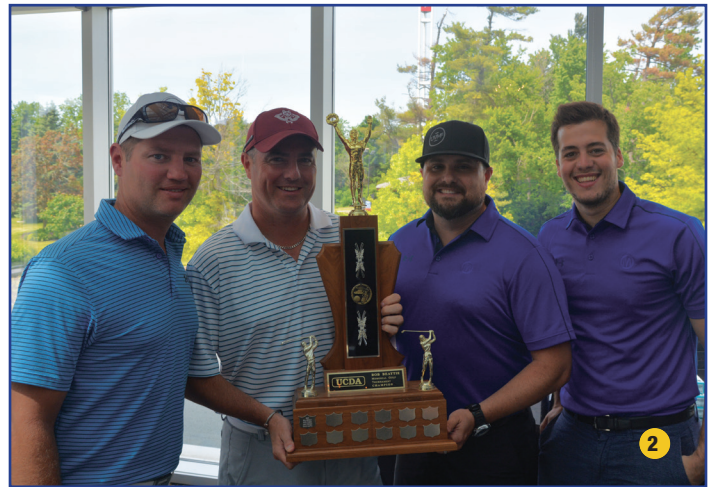
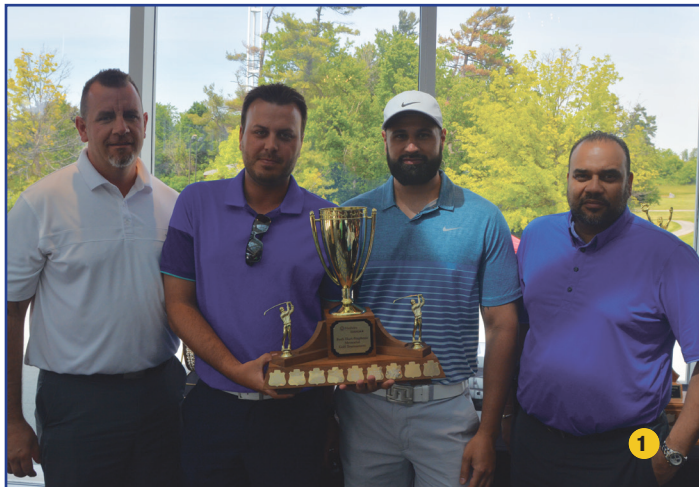
All Motor Vehicle Inspection Stations need them and the UCDA has them for you.

Contact Margi for more information and to order

m.muru@ucda.org or 1-800-268-2598

Annual Ruth Hart-Stephens/Bob Beattie Memorial Golf Tournament

Held at Lion Head on Friday, June 10th, 2016



- 1 Ruth Hart-Stephens Trophy ... (L to R) Matt Gardy, Jeetu Virk, Joe Tirone, Navin Kotecha
- 2 Bob Beattie Trophy ... (L to R) Ryan Brown, Gerry Johnson, Blair Goodwin, Taylor Lush
- 3 Team Baird MacGregor
- 4 Team Next Gear
- 5 Team Desjardins ... Lead Sponsor

Quiz Answers

1. **False.** The regulations require all MVIS passenger vehicle inspection stations to have a tint meter as of **July 1, 2016**.
2. **The answer is (a.)** While it may be a good idea to provide the other items, especially (b), the only items on the list that the MVDA requires be provided to a consumer is a copy of the bill of sale and the safety certificate.
3. **False.** With written authorization from two or more dealers, submitted to OMVIC, a salesperson is entitled to buy and sell on behalf of all dealers who have signed the authorization.
4. **The answer is (c.)** There are no time of day or day of week restrictions on personal use of dealer plates and certainly no reason a dealer plate cannot be used on the 407 Electronic Toll Route. However, a dealer plate may not legally be used for personal use on a commercial class vehicle, like a pick-up truck or cargo van.
5. **False.** A Garage Register may be kept in electronic form, as long as it can be printed off for inspection on request by an OMVIC or MTO inspector, or police officer.

MVDA Used Vehicle Disclosure Requirements

1. If the vehicle is a used motor vehicle, the total distance that it has been driven if the dealer can determine the distance.
2. If the vehicle is a used motor vehicle and the dealer cannot determine the total distance that the vehicle has been driven but can determine the distance that the vehicle has been driven as of some past date, a statement of that distance and date, together with a statement that the total distance that the vehicle has been driven is believed to be higher than that distance.
3. If the vehicle is a used motor vehicle and the dealer can determine neither the total distance that the vehicle has been driven, nor the distance that the vehicle has been driven as of some past date, a statement that the total distance that the vehicle has been driven is unknown and may be substantially higher than the reading shown on the odometer.
4. If the vehicle's odometer is broken or faulty, has been replaced, has been rolled back or is in miles, a statement to that effect.
5. If any of the following is true of the vehicle, a statement to the effect that the vehicle was previously,
 - i. leased on a daily basis, unless the vehicle was subsequently owned by a person who was not registered as a motor vehicle dealer under the Motor Vehicle Dealers Act or the Motor Vehicle Dealers Act, 2002,
 - ii. used as a police cruiser or used to provide emergency services, or
 - iii. used as a taxi or limousine.
6. If the vehicle has sustained any damage caused by fire, a statement to that effect.
7. If the vehicle has sustained any damage caused by immersion in liquid that has penetrated to the level of at least the interior floorboards, a statement to that effect.
8. If there has been structural damage to the vehicle or any repairs, replacements or alterations to the structure of the vehicle, a statement to that effect.
9. If the vehicle is equipped with an anti-lock braking system that is not operational, a statement to that effect.
10. If any of the vehicle's airbags are missing or are not operational, a statement to that effect.
11. If the vehicle is materially different from the original or advertised production specifications, a statement to that effect.
12. If the vehicle has two or more adjacent panels that are not bumper panels and that have been replaced, a statement to that effect.
13. The make, model, trim level and model year of the vehicle.
14. If any badge or other indication on the vehicle relates to a different model than the model of the vehicle, a statement to that effect.
15. If the total costs of repairs to fix the damage caused to the vehicle by an incident exceed \$3,000, a statement to that effect and if the dealer knew the total costs, a statement of the total costs.
16. If the manufacturer's warranty on the vehicle was cancelled, a statement to that effect.
17. If the vehicle was declared by an insurer to be a total loss, regardless of whether the vehicle was classified as irreparable or as salvage under section 199.1 of the Highway Traffic Act, a statement to that effect.
18. If the vehicle previously received treatment in a jurisdiction other than Ontario that was equivalent to having had a permit issued under section 7 of the Highway Traffic Act or having been traded in Ontario, a statement to that effect and a statement of which jurisdictions, except if one or more permits have been issued for the vehicle under section 7 of that Act to cover at least the seven previous consecutive years.
19. If the vehicle has been classified, under section 199.1 of the Highway Traffic Act, as irreparable, salvage or rebuilt, a statement as to how it was last classified.
20. If the vehicle had been recovered after being reported stolen, a statement to that effect.
21. Any other fact about the vehicle that affects the structural or mechanical quality or performance of the vehicle and that, if disclosed, could reasonably be expected to influence the decision of a reasonable purchaser or lessee to buy or lease the vehicle.