

Experts Offer Best Repo Tips

By Jim Stickford
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HOUSTON – Repossessions are a fact of life in the buy-here, pay-here business.

How dealers can get back their vehicles in a safe, legal and cost-effective manner was a topic at the recent Buy-Here, Pay-Here Collection Conference sponsored by the National Alliance of Buy-Here, Pay-Here Dealers.

Legal questions about making collections are among the most important issues dealers grapple with, said NABD founder Ken Shilson.

Joseph S. Taylor spoke to the audience about how they can make their collections legally and safely. He founded the Florida Alliance of Certified Asset Recovery Specialists in 2001 and was recently reappointed to another four-year term with the Florida Department of State Security Council.

He is also a licensed fire and casualty insurance agent and specializes in coverage for collateral recovery specialists, private investigators and private security.

When making recoveries, Taylor said, dealers must make sure their recovery agents are insured.

“As a creditor, you are liable for the acts of your recovery agents,” Taylor said. “If you send your own employee, you are liable for his acts too.”

If legal problems occur, Taylor said, a lawyer will ask what formal training the recovery agent has.

There are few recognized training programs, Taylor said. Despite this fact, judges will still hold someone liable if there’s a problem.

“That’s why your recovery agency should have insurance,” Taylor said. “You are the deep pockets in this situation. Clinics have been set up by attorneys so lawyers can find avenues to sue you.”

There’s a difference between recovery agents having a bond and having insurance, Taylor said. The bond only covers loss if the recovery agent absconds with funds or collateral.

Collection agent education is a good idea for several reasons, Taylor said. There are five different federal laws alone that directly impact repossession agents and dealers. Each state has statutes covering the self-help repossession process, with rules covering items such as breach of peace, assault and trespassing.

“I’ve been an expert witness in four trials where a recovery agent killed a debtor,” Taylor said. “If there is a dead person, you will lose the lawsuit. All four of them were settled and sealed before they got near a judge. The latest case was settled in excess of \$10 million prior to trial.”

When he saw these lawsuits, Taylor said, he saw the need for a college-level curriculum to educate and certify recovery, so he founded Matrix Educational Systems Inc.

The organization has developed training seminars for lending institutions as well as a national, comprehensive professional training and certification program for the collateral recovery industry.

Taylor calls it Certified Asset Recovery Specialist (CARS) National Certification Program. In 2002, Florida gave approval for CARS to be used as an alternative to classroom training for the state’s mandatory education requirements for collateral recovery agent licensing.

CARS is recognized by national trade associations, insurance carriers, lawyers and lenders, Taylor said.

Trial lawyers have discovered the deep pockets of car dealers, he said.

“They are after your money,” Taylor said. “They’ve found you. In the 1960s and 1970s there was no such thing as repossession insurance because someone suing a recovery agent would have been laughed out of court.”

That’s why it’s important for dealers to use recovery agents who are trained.

“Make sure your agent has insurance,” Taylor said. “Ask to see a copy of it.”