

REAL DUE DILIGENCE ... AND THE MVDA

The Motor Vehicle Dealers Act (MVDA) contains some very specific disclosure requirements and dealers hear a lot about what they must declare and how to satisfy their legal obligations.

No doubt, much of the advice comes from a sincere desire to help dealers comply with the law. However, selling more reports may be the motivation behind some of the "advice" dealers receive.

Due Diligence

The words "due diligence" are used a lot, but what do these words mean?

Put simply, due diligence means that dealers must use their best efforts ... with the tools reasonably at their disposal ... to gather information about a vehicle, **before** selling it, in order to disclose any important information to the next buyer.

Is an Internet Search all the "due diligence" you need?

It would be nice if it was. It would be easy, fast and reliable. Your job would be done in 30 seconds!

Sadly, that isn't the reality. Despite what dealers may be told by companies hoping to profit from the illusion of "one-stop due diligence", there simply is no such thing.

Will **any** internet search tell you:

- if a car has had panels replaced?
- if it needs engine repairs?

- the amount a vehicle owner paid to repair collision damage without going through insurance?
- the cost to repair damage that a rental car may have suffered?

Probably not.

Dealers can't rely solely on an internet search to provide **all** the information that they must disclose about a vehicle.

Real Due Diligence

Performing a search for information about a vehicle is just one part of real due diligence. Many accidents and other problems are never reported to insurance companies and won't show on any internet search ... that's a fact.

This means a physical inspection of the vehicle (including the use of a paint tester), gathering information in writing from the prior owner and performing one or more vehicle information searches are all essential.

Not only does this process help to satisfy the MVDA's "disclosure requirements" about prior accidents, past use, liens and many other important issues, if done before purchasing a vehicle or taking it on trade, it also helps determine a fair purchase price or trade allowance for the vehicle.

Vehicle information searches should absolutely be a part of your due diligence to help protect yourself from liability ... they are critical.

But don't make the mistake of thinking that by doing a search ... any search ... you've done all you need to do!

No Free Lunch

It's not a new company, nor is it a new concept. Wholesale Car Connection has offered an on-line wholesale vehicle sales service since 2008.

However, we have had recent complaints from several members, about the company's "no obligation free trial" process. We've contacted Wholesale Car Connection about the members' concerns.

Dealers sign on for the service with a credit card, but the on-line promo suggests you will not be billed for the first 60 days, so you can try the service out free of charge.

Some members have complained that their cards were charged during the free trial period, or after it ended, and they were having difficulty getting those charges refunded.

The company says dealers must cancel their subscription on-line before the 61st day or they will be billed. Some of the members who have complained told us they were not aware of this, despite the fact it is in the documentation they signed.

We have asked the company to make the cancellation policy clearer in their documentation, to outline **HOW** a dealer can cancel. However, this is a reminder that members must always be careful to read and understand what they are agreeing to ... before signing on the dotted line.

If any members have similar concerns, please feel free to contact us and we'll try to work with the provider to iron things out.

No More Spam!

As of July 1, 2014 (Canada Day) "Spam" is off the menu in Canada!

On that date, Canada's new anti-spam legislation, more formally known as the Electronic Commerce Protection Act, comes into effect and Canada will have some of the harshest laws in the world restricting commercial electronic messaging by text, email or social media.

ANY electronic message sent for a commercial purpose (this includes offers or coupons, alerts to a business opportunity or sales) **MUST** have the consent of the recipient. This applies to business to business communication as well as business to consumer.

Consent can be obtained in two ways:

1. Implied - if your company has a prior business relationship with the recipient in the previous 2 years, you can send the message.

2. Express - you have obtained written consent from the recipient to include them on your communication list.

Note: *Every outgoing message MUST include an "unsubscribe" option to give all recipients a chance to change their minds at any time in the future.*

Exceptions of interest to dealers are warranty recall, safety, or security information for the vehicle the customer owns, but those communications are restricted to those issues **ONLY** and dealers should not view that as a means to include other types of messaging.

Don't Delay

With a few months to go, dealers might want to think about how they will ensure electronic communications are not sent without consent. Date tracking customers who have done business with you in the last two years, obtaining express consents and thinking about how that consent will be obtained are all good ideas at this stage.

You are allowed to ask for express consent up to July 1, 2017, but after that date even **ASKING** for consent through electronic communication would be a violation of the Act, so get started now! And remember, if you do this, a form with a box already checked "yes" is not sufficient, the recipient must opt-in actively and reply.

Note: *It is unlikely that the privacy consents most dealers have on their bills of sale will satisfy the express consent requirements of the new law.*

Penalties ... this is the most surprising ... and scary ... part of the new law. After July 1, 2017 fines can be levied up to a maximum of \$1 million for individuals and \$10 million for organizations (and officers and directors). This is not to mention the possibility of private or class actions that might be brought by individuals or groups against spam creators and their officers and directors.

Curbsider Round Up

OMVIC's efforts in prosecuting curbsiders continues, with some significant recent convictions and fines to report on.

- Philip Chappleau of Staples, Ontario pleaded guilty on February 3, 2014 to one count and received a fine of \$4,000. The same fine was given to Thayaparan Parameswaran on January 29, 2014, in Goodwood.
- On January 27, 2014 a four year saga finally ended with large convictions against Everton Campbell after a trial in Markham, Ontario and a resulting sentence on two counts of \$15,000 and \$20,000 respectively.

- Frank Nelson of Windsor, pleaded guilty and received a fine of \$5,000 on January 22, 2014.
- Ibrahim and Georges Aoun of Gatineau, Quebec pleaded guilty to two counts each of curbsiding on January 10, 2014. Ibrahim received a suspended sentence on one count and a fine of \$6,000 on the other.

Georges received a suspended sentence on one count and a fine of \$8,000 on the other.
- Timothy Little of Brantford pleaded guilty to one count of curbsiding on January 7, 2014 and received a fine of \$5,000.
- Auto Speed Inc. stood accused, since 2011, of selling a large number of vehicles to consumers that were previous salvage vehicles. On December 18, 2013, OMVIC obtained a conviction and Auto Speed Inc. was ordered to pay a fine of \$20,000.
- Cigerhum Karhan was found guilty at trial in Scarborough, on December 18, 2013, of one count of curbsiding and fined \$10,000.

Up-to-date OMVIC curbsider convictions can be viewed at: <http://www.omvic.on.ca/portal/DealersSalespersons/EnforcementCompliance/InvestigationsandProsecutions/CurbsiderConvictions.aspx>

Discipline Updates

A dealership has had its wallet lightened by \$10,000 after a full panel hearing on the issue of failing to declare vehicles, in writing on bills of sale, as previous daily rentals.

This fine was assessed based on the sale of four such vehicles. The dealer presented evidence that each of the consumers knew they were buying daily rentals, even though it was not written on the bill of sale.

Nevertheless, OMVIC expects the paperwork to be done properly. The large fine sends a message to dealers that verbal disclosure is not enough. Even if consumers are not misled, accurate paperwork has become an absolute necessity for dealers to avoid this type of penalty.

In another case, it only took ONE ad for a dealer to face a fine of \$6,000! In this case, the dealer advertised one used vehicle and compared its price to the MSRP for the same vehicle when it was new.

This is an offence under industry advertising guidelines for two basic reasons. It is:

- Misleading (suggests savings where none truly exist);

- Illogical (MSRP has no rational connection to the value of a used vehicle).

Current and past OMVIC Discipline Decisions can be viewed at: <http://www.omvic.on.ca/portal/DealersSalespersons/EnforcementCompliance/DisciplinaryProcess/DisciplineDecisions.aspx>

NEW ... Advertising Opportunity for Members

Starting in the next issue of the UCDA's Ontario Dealer magazine there will be an opportunity for members to advertise their related businesses ... repair facilities, collision repair shops, etc., to other dealers.

The page is set up so that if your business is in the 519 area code, your ad will appear in the 519 section. This will ensure that any prospective new customers will know that you are in the area.

The ads will be in full colour and will be available in two sizes ... small: 2.375" wide by 1.25" high and double: 2.375 wide by 2.625" high. Contact Terry Coster at The Ontario Dealer: 416-360-0797 for more details and pricing.

CLASSIFIEDS

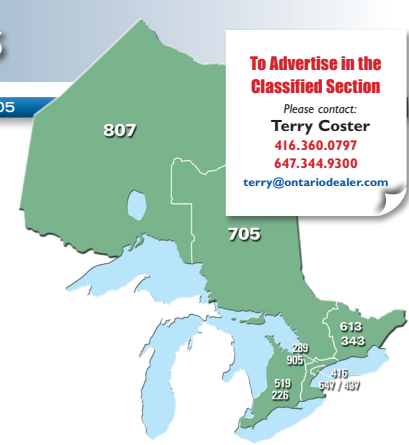
GTA - 416 // 437 // 647 // 905

To Advertise in the Classified Section

Please contact:
Terry Coster
416.360.0797
647.344.9300
terry@ontariodealer.com


Your Company Name


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www.company.com



Joe's Auto Body and Service

647.555.1212





AREA CODE 807 // 613

AREA CODE 705 // 249

your ad
single space

your ad
single space

your ad
double space

AREA CODE 519 // 226

your ad
single space

your ad
single space

your ad
single space

ONTARIO DEALER



PROUD PROVIDERS OF THE



AUTOMOTIVE CERTIFICATION COURSE

The three pillars on which the UCDA has been established are Education, Representation and Mediation.

This is why we're very pleased to now offer a 1-day education course for OMVIC Certification. This course for new dealers and salespeople is administered by Georgian College and taught by Bob Pierce, the UCDA's Director of Member Services.

Now you can take the course, write the test the same day and know within 48 hours if you've passed. The registration fee includes the course text book, 1-day course, lunch and the test for only \$365.

Current available dates are:

- May 23rd – Wye Management
Woodbridge, ON
- May 30th – OMVIC
Toronto, ON
- June 11th
Ottawa (venue to be announced)
- June 18th – Georgian College
Barrie, ON
- June 19th – Wye Management
Woodbridge, ON

Call **Valerie MacLean** at **1-800-268-2598**
for more information, or to register!

For those who do not wish to take the full classroom course, off-site, self study is also available.

Registration for self-study is handled directly by
Georgian College:
Call **1-877-722-1513**



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...Announce their new:

Salesperson Training Course

This new Sales Training course is a 1-day workshop (specifically for new Salespeople) designed to teach you how to approach your customers, negotiate and close the deal and do it all the right way (including the paper-work!)

The next two available class dates are May 12th and June 20th. Both are held at the Wye Management Centre in Woodbridge, ON at 55 Wings Road.

Salespeople will learn:

- ◆ How to get started in the auto industry
- ◆ Sales skills and the steps to a modern sales process
- ◆ How to close a sale and deal with difficult objections
- ◆ How to negotiate a sale
- ◆ How to ensure success

UCDA Members: \$150 + HST **Non-Members:** \$300 + HST

Call **Valerie MacLean** at **1-800-268-2598**

PAY FOR 2 - GET 3RD FREE

During the Spring UCDA Campaign, Carpages.ca will be offering a “Pay For 2, Get 3rd Month Free” to new dealer sign-ups. Take advantage of this incentive to get your inventory on Carpages.ca! Offer available April 1st 2014 to May 31st 2014.

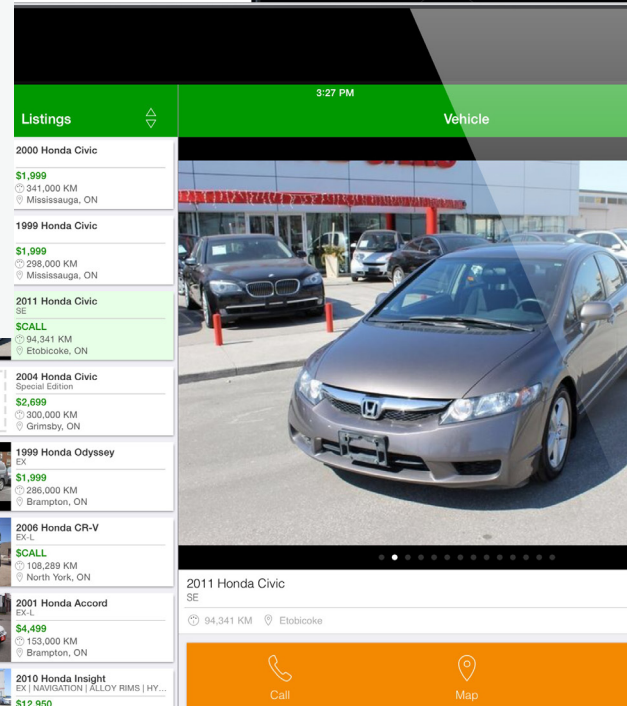
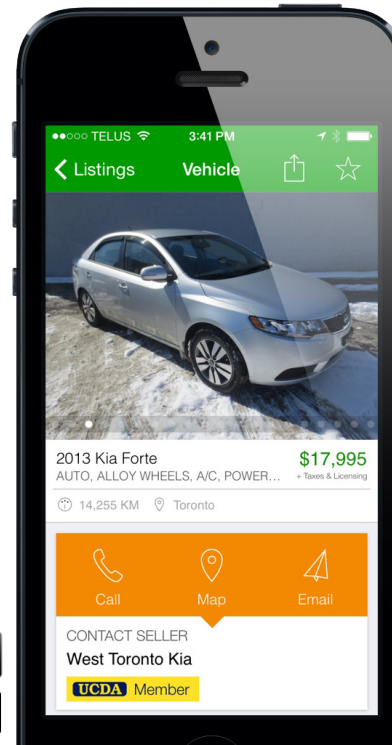
Your vehicles will be displayed on:

- The Carpages.ca website (www.carpages.ca)
- The Carpages iOS App (iPhone and iPad)
- The Carpages Android App
- Your own “DealerSite Free” website

Consumers can use our mobile apps to find your inventory from anywhere, on any device - smartphones, tablets, laptops or desktops.

“ Carpages is a great website which will have a brilliant future in this industry. I would highly recommend Carpages.ca to all dealers, even those who are beginners, as they have changed my company by broadening my online presence and helped project K Motors to a new level. ”

Moneer Koban, owner of K Motors in Burlington



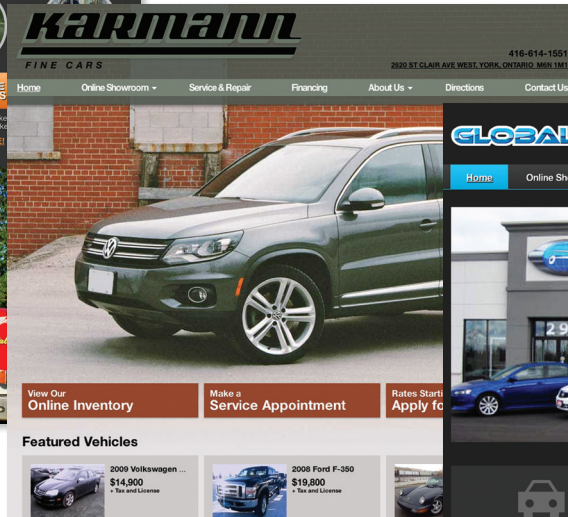
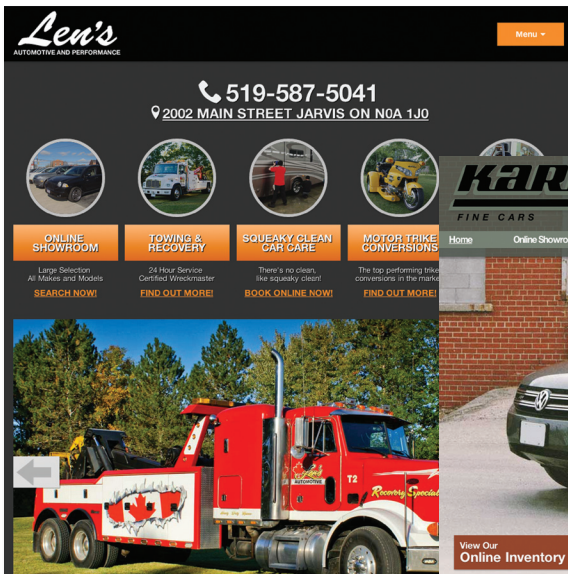
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Email us: dealers@carpages.ca

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DealerSite Plus Dealer Websites:

- Custom websites for dealers
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- Automatic Inventory Updating
- Competitive Pricing

“ I just wanted to let you know how happy I am with my new custom web site...the team delivered everything on time as promised and met all of my needs. I have been in business for over 20 years and have gone through three different web sites, and I feel like now I finally have the online presence that I have been looking for...Your customer service team is second to none and I would recommend any dealer, that is looking to improve their online presence, consider building a Dealer Site Plus with Carpages. We are looking forward to many years of continued online growth with your team. ”

Kevin Bavelaar, Auto Showplace

For more information about DealerSite Plus:

Call us: 1-866-567-2437

Email us: dealers@carpages.ca

Visit our website: www.carpages.ca/signup

dealersite+
by CARPAGES.CA