

Automotive News

GM seeks paybacks on incentive program

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General Motors is demanding that some dealers pay back five- and six-figure sums for alleged infractions of its Standards for Excellence incentive program without a chance to challenge the chargebacks.

The dealers waived their right to protest the charges when they signed agreements last year to continue as GM dealers, explained Jeff Watts, GM's dealer mediation chief, in letters sent to dealers in late February. The factory's "participation" agreement says the dealer releases GM from "any and all claims," Watts noted.

The lucrative program was introduced in 1994 to Cadillac dealers and later extended to all brands. It rewards dealers for meeting operating standards, primarily high customer satisfaction scores and sales volume. Dealers can earn bonuses exceeding \$1 million in a year, depending on the dealership's size and the combination of standards met.

Normally, dealers would have the chance to appeal GM's attempt to charge them back for incentives they received -- but not this time.

GM audited the dealers before its bankruptcy. The company put the chargebacks and potential appeals on hold indefinitely during the proceedings.

Now the automaker wants dealers to pay up starting this month, and it's denying them the chance to challenge the results of its audits.

The letter from GM's Watts said dealers could choose to repay GM monthly over three years at 5 percent interest. The money will be debited from the dealership's open account. Dealers who refuse to sign off on the installment plan will be charged the entire amount in a lump sum, he warned.

Richard Sox, a Tallahassee, Fla., lawyer, represents three dealers facing chargebacks in Florida, Texas and New York. Two of them opted for the three-year payment plan. His Florida client -- facing a chargeback of \$815,000 -- is challenging the penalty.

Sox said GM's demand for payment came too late. "We have filed a protest under the franchise law arguing that the chargeback covers claims outside of the 18-month time limit found in the law," he said.

Sox knows of a California dealer filing a similar protest over a \$900,000 chargeback, though a different lawyer is handling that case.

Tim Jackson, president of the Colorado Automobile Dealers Association, said a dealer in his state faces an \$80,000 chargeback. "The dealer wanted to know what rights they have, if any," Jackson said.

GM spokesman Tom Henderson said in a statement that the company issued chargebacks to a "very small" number of dealers.

"Each dealership was given the opportunity to provide supporting documents to substantiate their claims," Henderson said. "Any information received from them was given thorough consideration before final decisions were made."

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