

Contractual Issues For Third-Party Central Stations

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Many alarm dealers that are large enough to have their own central stations are deciding instead to engage third-party central stations to monitor their accounts. Generally, these dealers are more sophisticated and, given the size of their account base, have far more leverage than the typical alarm dealer of the past.

This trend creates significant opportunities for third-party central stations; however, to capitalize on these opportunities and attract these sophisticated dealers, third-party central stations may need to consider the following:

Flexibility on Negotiating Your "Form" Monitoring Agreement.

A sophisticated dealer will seek to negotiate a number of provisions in your form monitoring agreement. Generally, a third-party central station can accommodate these proposed revisions without exposing itself to significant liability, as long as the limitation of liability and third-party indemnification provisions remain in the final negotiated agreement.

Representations and Warranties.

Many "form" monitoring agreements state that a third-party central station should not make any express or implied representations or warranties.

You should, however, expect a sophisticated dealer to insist that you

make certain representations and warranties, such as:

- Being listed by a Nationally Recognized Testing Laboratory (NRTL), such as FM Global, Intertek/ETL or UL.
- Being designated as a CSAA Five Diamond Central Station.
- Having all material licenses and permits to perform the required monitoring services.

Related covenants requiring you to remain in compliance and maintain your NRTL-approved listing, your CSAA Five Diamond Central Station status and required licenses also are likely to be requested.

No Co-mingled Lines. While co-mingled lines are attractive from an economic perspective, they do make it more difficult for dealers to swing their accounts to another central station. A sophisticated dealer is likely to require that you monitor its accounts on lines dedicated exclusively to and, under certain circumstances, owned by that dealer. If a dealer has not required you to monitor its accounts on an exclusive line, in most cases, its lender will.

In a typical secured loan transaction, the lender will provide debt financing to a dealer, and the lender will be granted a first priority perfected lien on all of the dealer's monitoring contracts.

To that end, the dealer will convey to the lender all of its rights in the telephone lines and IP addresses that are used to transmit the dealer's alarm signals to the central station. The lender will need to know that such conveyance has been made without any encumbrance, e.g., a co-mingling of the conveyed telephone lines.

Special Covenants for Significant Dealers.

Dealers with a significant account base may request additional covenants from you, including:

- Not soliciting the dealer's customers during the term of the monitoring agreement and for a three- to five-year period thereafter.
- Acknowledging that your monitoring arrangement is not exclusive, and that the dealer may obtain monitoring services from other third-party central stations.
- Agreeing to keep your fee fixed during the term of the monitoring agreement.
- A "most favored nations" provision that requires you to reduce your fee and/or match certain other material terms that you may have previously negotiated with other dealers.

Obviously, the extent to which a third-party central station is willing to accommodate such requests will depend upon its perceived value of that dealer.

Lender Requirements. Sophisticated dealers are likely to have secured lenders, and most lenders will require that their borrowers obtain certain assurances from you.

Assignment and Modification Agreement.

Many lenders get the comfort they need via the execution of a three-party *Assignment and Modification Agreement* among the dealer, central station and lender.

Under an *Assignment and Modification Agreement*, the central station acknowledges the lender's rights and interests in the telephone lines that have been pledged or "assigned" to the lender.

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CSAA Welcomes New Members

CSAA is proud to welcome the following new members.

North American Members:

American Alarm Systems, Santa Ana, Calif. American Alarm Systems is a 40-year-old, privately owned company. It is a UL-listed, full-service company providing residential and commercial services for fire, access control, video, energy management, home automation and other monitoring services. American Alarm is proud to be a leader in California for the Green Monitoring Movement. www.800amalarm.com.

Buckeye Protective Service, Canton, Ohio. Buckeye Protective Service offers nationwide, wholesale monitoring for its customers. It also offers digital video storage and transmission, criminal background checks and multi-level responses. All of its operators are CSAA Level 1-trained; the company also is a Charter Member of the ASAP program. www.buckeyeprotective.com.

Moon Security Services, Pasco, Wash. Moon Security Services has been protecting homes and businesses since 1957. It has more than 5,000 installed burglar/fire alarms, CCTV surveillance systems and controlled access-related systems in Southeastern Washington and Northeastern Oregon. Services include alarm patrol response, professional answering services, uniformed guard service, 24-hour central dispatch service and medical alert emergency monitoring. www.moonsecurity.com.

Redwire Security Solutions, Tallahassee, Fla. Redwire offers verified video and burglary security, including firewalling technology, intrusion detection/prevention systems, unified threat management, encryption, data loss prevention, and security incident and event management. www.redwire.com.

Safeguard Security and Communications, Scottsdale, Ariz. Safeguard Security and Communications, founded in 1958, offers burglar alarms, surveillance camera systems, television and satellite distribution systems, data/broadband distribution infrastructure systems, and professional sound/video systems. It also installs and monitors fire protection systems and manages access control and Safepass remote systems. www.safeguard.us.

USA Central Station Alarm, Port Chester, N.Y. USA Central Station Alarm has three UL-listed monitoring facilities in Port Chester, N.Y., Milford, Conn., and St. Paul, Minn. It provides video response and storage, two-way interactive voice monitoring, remote streaming and clip video, enhanced verification, industry respected answering service, dealer billing service, and dealer and subscriber software access. www.usacentralstation.com

VirSec (applicant), Troy, Mich. VirSec provides remote video monitoring, remote access control management, and hosted security services via its new VirSec Operations Center, which is staffed by experienced patrol officers. VirSec central station operators are licensed and trained security officers. www.virsec.huffmaster.com

Watchlight Corp., El Cajon, Calif. Since 1987, Watchlight has serviced San Diego County in home and residential burglary, fire and video. The company owns and operates a UL-listed central station, and is a UL-approved installation company. In recent years, Watchlight has expanded into national markets, including installation, service, remote monitoring, managed security and remote technical support. www.watchlight.com.

Associate Member:

CapitalOne Bank, Commercial and Specialty Finance, Bethesda, Md. CapitalOne Bank is expanding into the security and defense industry. It will offer day-to-day banking services, as well as special loans and lines of credit to the security industry. While this is an expanding area for this financial group, the representatives are veterans to the industry, and have years of knowledge to assist with multiple financial needs and services. www.capitalone.com CSAA 1.

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The monitoring agreement also is amended or "modified" by the *Assignment and Modification Agreement*. Under certain circumstances, if an event of default exists under the dealer's financing arrangement, the lender has the right to sell or assign the telephone lines to a third party.

The *Assignment and Modification Agreement* also gives the lender the assurance that the central station will continue to perform all of its obligations under the monitoring agreement as long as the lender causes the dealer to continue to make the monthly payments due to the central station.

The alarm industry continues to move toward a model whereby fewer alarm dealers monitor their own accounts. This shift will continue to create significant opportunities for third-party central stations, especially those that are willing to be flexible in how they structure their relationships with the larger, more sophisticated alarm dealers. 

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