

ATTORNEY GENERAL OF THE STATE OF NEW YORK
CONSUMER FRAUDS AND PROTECTION BUREAU

In the Matter of
Investigation by LETITIA JAMES,
Attorney General of the State of New York, of

Assurance No. 21-073

RV RETAILER EAST, LLC, d/b/a ALBANY RV
and BUFFALO RV,

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to Executive Law § 63(12) and General Business Law Article 22-A of the business practices of RV One Superstores, Inc., d/b/a Albany RV, located in Latham, NY, and Buffalo RV, located in West Seneca, New York. The assets of RV One Superstores, Inc., were subsequently acquired by RV Retailer East, LLC. This Assurance of Discontinuance (“Assurance”) contains the findings of OAG’s investigation and the relief agreed to by OAG and Respondent RV Retailer East, LLC. (collectively, the “Parties”).

OAG’s FINDINGS

1. Respondent, RV Retailer East, LLC, is a Florida limited liability company.
2. On December 7, 2018, Respondent acquired the assets of RV One Superstores, Inc., which was the original subject of this investigation and is a party to a separate Assurance of Discontinuance, and since that time, Albany RV and Buffalo RV have been owned and operated by Respondent. Respondent had no ownership interest in RV One Superstores, Inc. nor played any role in the operation of Albany RV and Buffalo RV prior to that time.

3. Combined, the Albany and Buffalo stores sell and service over 2,500 units per year, including new and used popup campers, travel trailers, 5th wheel trailers, and motorhomes (collectively, “campers”).

4. Since December 7, 2018, the OAG has received over 16 complaints against Albany RV and 1 complaint against Buffalo RV. The complaints against Respondent and/or RV One Superstores, Inc., allege a variety of problems¹, including claims that sales associates made false promises during the sales process, Respondent failed to return phone calls from consumers who were experiencing a problem with their campers and subjected them to excessively long wait times for repairs that were covered by warranty.

5. The Better Business Bureau has closed 67 complaints concerning Albany RV in the last three years, and 28 concerning Buffalo RV that relate to sales and service during Respondent’s ownership and operation of the dealerships, a number of which involved the same complainants as those who filed complaints with the OAG.

The Sales Process

6. Typically, when consumers visit one of Respondent’s retail locations, a sales associate shows them the inventory in the showroom or on the lot. Many consumers seek to purchase used campers and Respondent maintains a large inventory of them. In some cases, consumers allege that when they expressed interest in purchasing a particular used camper, the sales associate advised them that another consumer has already placed a deposit on it but assured them that Respondent had an “identical” or superior one elsewhere on the lot or at another RV One store. Based upon such representations, certain consumers say they agreed to purchase a

¹The nature of the complaints made against Respondent were not in every instance the same as those made against RV One Superstores, Inc., but are summarized and referred to herein as though the same.

camper, sight unseen. Other consumers alleged that they agreed to purchase a used camper on Respondent's lot based on the sales associate's promise that it would be repaired or restored to "pristine" condition before the consumer came to pick it up.

7. Once the consumer agrees to purchase a specific camper, the sales associate has the consumer sign the applicable paperwork, which typically includes a credit application, purchase agreement, and retail instalment contract. During that process, sales associates advise consumers about the warranty on their camper, specifically, the manufacturer's warranty on new campers, which generally covers defects in workmanship, such as engine-related problems and failures of other parts that the manufacturer assembled², for one or two years, depending on the manufacturer; or Respondent's 30-day warranty on used campers under ten years old, which covers only major component appliances (refrigerator, furnace, water heater, water pump, etc.). Sales associates also offer consumers the option to purchase various third-party warranties, including an extended warranty for all new and used campers under ten years old. Consumers have alleged that sales associates described the extended warranty as providing "bumper to bumper" coverage.

8. Once consumers sign the paperwork, they are given a date to come back for a "demo" of their camper, when Respondent explains various features and showed them how to operate it. Although the consumer can take the camper the day of the demo, more often, either the consumer would subsequently come back to pick it up or Respondent would deliver it to the consumer's campsite or home.

² The manufacturer's warranty excludes parts assembled by a third party that are separately warrantied, such as a refrigerator or television.

Consumer Complaints

A. Sales Practices

9. A significant number of consumer complaints concern Respondent's sales practices. Some consumers allege that Respondent showed them one used camper, which they agreed to buy, but when they returned for the demo, they discovered that Respondent had sold them a different, inferior one (in poorer condition or missing certain luxury features, *e.g.*, leather interior). Other consumers allege that after they agreed to buy a used camper in the showroom that appeared to be in near-perfect condition, Respondent's sales associates advised them that it was no longer available but promised to get them an "identical camper" from the lot or another RV One location. When the consumers "agreed," Respondent had them sign the contract, even though they had not yet seen the camper they were agreeing to purchase. Consumers allege that when they arrived for the demo, the camper appeared to be in poorer condition than the one they viewed in the showroom. Consumers also complained that they agreed to purchase used campers based on sales associates' representations that Respondent would repair and/or clean them, but when they arrived for pickup, the condition was unchanged. In many of these situations, consumers alleged that when they demanded their deposits back, Respondent refused, telling them they had signed the contract, and instead, offered to fix the camper. Consumers have alleged that they felt they had no choice but to buy the camper and were often stuck waiting several weeks for repairs/enhancements to accept to the camper.

10. Other consumers complain that during the sales presentation, sales associates touted the convenience of Respondent's "free" on-site service calls, which was particularly appealing to consumers who leave their campers at a campsite for the entire summer. But when consumers later sought repairs, they learned that Respondent only made on-site calls to

consumers who had purchased the extended warranty, and even then, Respondent only performed certain repairs on-site. And, contrary to the sales associates' representations that repairs would be "free," consumers were required to pay the extended warranty deductible, which was either \$100 or \$200, depending on the consumer's warranty.

11. Some consumers complained that Respondent misled them about the scope and/or length of their warranty. For instance, consumers have complained that they were advised that an extended warranty would guarantee "bumper to bumper coverage," when in fact, coverage excludes, among other things: damage to the moldings, walls, panels, structural framework, glass; repairs to furniture, cabinetry, phone and internet-access systems; and so-called "cosmetic" problems in the camper. Further, although Respondent sold what it called a "30-day warranty" to consumers who buy used campers less than ten years old, some consumers who had problems and sought repairs subsequently learned that the 30-day period ran from the date of the camper demo, whether or not the consumer took possession of it on that date. Consumers also alleged that Respondent did not answer or respond to phone calls during the 30-day window, so they had trouble reaching the dealership while the camper was still under warranty.

B. Service

12. Consumer complaints allege a variety of problems, but the majority concern Respondent's delays in performing repairs, including many that were covered by warranty, and unresponsiveness to consumer phone calls and inquiries.

13. More specifically, after contacting Respondent about a problem with their camper, consumers describe having to wait weeks, or sometimes months, before Respondent even advised them whether the repair would be covered under their warranty. Consumers also complain of delays of several weeks or more for Respondent to schedule a repair appointment,

which Respondent then sometimes subsequently canceled at the last minute, advising consumers, for example, that Respondent was short-staffed or overloaded with other repairs.

14. Many consumers have also alleged that even after they finally brought in their camper for repair, Respondent failed to perform the work within the promised timeframe, again claiming they were busy with other repairs or waiting for parts to arrive.

15. These delays were especially problematic for consumers who had only seasonal access to their campers, and thus could not bring the camper in for repair between mid-October and May. Finally, many consumers complained that Respondent failed to return their phone calls or messages seeking information on whether parts had been ordered or received or whether their repair was progressing on schedule, ultimately forcing them to make a trip to the dealership to get any response. As a result of these delays, some consumers waited months for repairs, significantly interfering with the use and enjoyment of their camper.

16. Respondent has represented that it has resolved all but one outstanding consumer complaint³ brought to its attention by OAG, including in appropriate cases, making repairs. Respondent has also represented that it has resolved all of the complaints filed by consumers with the Better Business Bureau. Additionally, Respondent has represented that where a repair did not fall within warranty coverage, it offered to assist the customer in its negotiations with the manufacturer and, in several instances, made repairs at no cost to the customer even though the repairs were not covered by the warranty.

³ The one complaint is the subject of litigation.

17. New York Executive Law § 63(12) prohibits persons or businesses from engaging in repeated fraudulent or illegal acts or otherwise demonstrating persistent fraud or illegality in the carrying on, conducting or transaction of business.

18. New York General Business Law (“GBL”) § 349 prohibits deceptive acts or practices.

19. The OAG finds that Respondent’s conduct as described above is in violation of Executive Law § 63(12) and GBL § 349.

20. Respondent neither admits nor denies the OAG’s Findings contained in paragraphs 1-16 above.

21. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12) and GBL § 349, based on the conduct described above, from 2015 through the present.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

General Injunction:

22. Respondent shall not engage, or attempt to engage, in violations of any applicable laws, including but not limited to Executive Law § 63(12) and GBL § 349.

Prohibitions:

23. Respondent shall not:

- a. misrepresent, directly or by implication:

- i. that any repairs or material enhancements will be made to a camper prior to the consumer taking delivery, unless that is the case;
 - ii. any material fact about the condition of a camper;
 - iii. the terms of any warranty or service contract; or
- b. misrepresent, directly or by implication, the date by which a consumer's repair will be completed or the reason it has not yet been completed;
- c. have consumers execute a binding purchase agreement until Respondent has shown them the actual camper they are agreeing to buy when an in-person/onsite purchase is made. This provision is not applicable when a special order/custom/yet to be built camper is purchased or an online order is placed.

Affirmative Obligations:

24. Respondent shall:
 - a. respond to all phone calls and messages within three (3) business days, subject to any statewide or local mandatory business shut down or *force majeure* events, in which case the calls shall be responded to as soon as reasonably practicable;
 - b. With respect to warranty repair claims, provide customers with a timely service appointment, prioritizing problems that prevent consumers from using their RV or significantly impact their ability to do so, and, within five (5) business days following such appointment, as applicable, (i) submit requests for authorization for all warranty repair claims, if required, (ii) start work on warranty repairs or (iii) order parts for warranty repairs;
 - c. create and maintain consumer files that are easily accessible by all management, sales and service employees involved in the sale or service of the unit at issue, in

which progress notes, promised wait times, and consumer complaints and/or photos documenting damaged parts are kept;

- d. start 30-day warranties, if offered, for used motorized campers on the day the consumer removes the unit from the lot;
- e. before contracting with the consumer for a warranty, if any, provide the consumer with a copy of the warranty, or a written document describing its terms, including a description of covered repairs, as well as a list of exclusions; and
- f. maintain sufficient service technicians on staff so that repairs which Respondent is authorized to perform and not including those to be performed by the manufacturer or other third party, are completed without unreasonable delay, subject to events beyond Respondent's control, *e.g.*, parts availability and shipping and manufacturer delay;
- g. provide consumers with an expected date of completion of repairs and notify them of any subsequent delay as well as an estimated revised date of completion.

MISCELLANEOUS

25. The Parties expressly acknowledge and agree that Respondent is not responsible for acts, omissions or violations listed in paragraphs (1) through (15) of the Findings Section of this Assurance and alleged to have occurred concerning the operation of Albany RV and Buffalo RV prior to Respondent's acquisition of RVOne Superstore's assets on December 7, 2018.

26. Respondent expressly agrees and acknowledges that a default in the performance of any obligation under this Assurance is a violation of the Assurance, for which the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 21, *supra*, against it, in addition to any other appropriate investigation, action, or proceeding, and that

evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations described in paragraphs 6 through 15, pursuant to Executive Law § 63(15).

27. In any subsequent investigation, civil action, or proceeding by the OAG to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to paragraph 33, Respondent expressly agrees and acknowledges that:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
- b. the OAG may use statements, documents or other materials produced or provided by Respondent prior to or after the effective date of this Assurance;
- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue.

28. If a court of competent jurisdiction determines that Respondent has violated the Assurance, it shall pay to OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation, legal fees, expenses, and court costs as approved by the court.

Effects of Assurance:

29. Acceptance of this Assurance by OAG is not an approval or endorsement by OAG of any of Respondent's practices or procedures, and Respondent shall make no representation to the contrary.

30. This Assurance is not intended for use by any third party in any other proceeding. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondent. Respondent shall cause this Assurance to be

adopted in any such transfer agreement. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of OAG. Nothing contained herein shall be construed to deprive any person of any private right under the law.

31. Any failure by the Attorney General to insist upon the strict performance by Respondent of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the Attorney General, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Respondent.

Communications:

32. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 21-073, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

a. If to Respondent, as follows:

- i. RV Retailer East, LLC
Attn: Mr. John Rizzo
301 East Las Olas Blvd., Suite 700
Fort Lauderdale, FL 33301
And by email: jrizzo@rvretailer.net
- ii. Mary Elizabeth Slevin, Esq.
Stockli Slevin LLP
1826 Western Avenue
Albany, NY 12203
And by email: mslevin@ss-legal.com

- b. If to the OAG, to: Assistant Attorney General Amy Schallop, or in her absence, to the person holding the title of Bureau Chief, Consumer Frauds and Protection Bureau.

Representations and Warranties:

33. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by Respondent and its counsel and OAG's own factual investigation as set forth in Findings, paragraphs 1 through 16 above. Respondent represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondent or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

34. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondent in agreeing to this Assurance.

35. Respondent represents and warrants, through the signatures below, that the terms and conditions of this Assurance are duly approved, and execution of this Assurance is duly authorized. Respondent shall not take any action or make any statement denying, directly or indirectly, the propriety of this Assurance, or expressing the view that this Assurance is without factual basis. Nothing in this paragraph affects Respondent's (i) testimonial obligations or (ii) right to take legal or factual positions in defense of litigation or other legal proceedings to which the OAG is not a party.

General Principles:

36. Nothing in this Agreement shall relieve Respondent of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

37. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Respondent violates the Assurance after its effective date.

38. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

39. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

40. Respondent acknowledges that it has entered into this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

41. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

42. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

43. This Assurance may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

The effective date of this Assurance shall be Dec. 30, 2021.

LETITIA A. JAMES
Attorney General of the State of New York
By:

Jane M. Azia
JANE M. AZIA
Bureau Chief
Bureau of Consumer Frauds and Protection

RV RETAILER EAST, LLC

By: [Signature]
John Rizzo, Treasurer
301 East Las Olas Blvd., Suite 700
Fort Lauderdale FL 33301

Amy Schallop
AMY SCHALLOP
Assistant Attorney General

Dated: December 30, 2021

STATE OF Florida)
COUNTY OF Broward) ss.:

On this 27 day of December, 2021, **John Rizzo**, known personally to me to be the Treasurer of RV Retailer East, LLC, appeared before the undersigned and acknowledged to me that he/she, as such officer and being authorized so to do, executed the within instrument for the purposes therein set forth, on behalf of RV Retailer East, LLC, by his signature on the instrument as such officer.

Sworn to before me this 27 day of December, 2021

[Signature]
NOTARY PUBLIC

