

STATE OF MICHIGAN  
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30736  
LANSING, MICHIGAN 48909

DANA NESSEL  
ATTORNEY GENERAL

August 7, 2019

Outdoor Adventures Headquarters  
Registered Agent: Gregory A. King  
800 Washington Ave., Ste. 200  
Bay City, MI 48708

Dear Mr. King:

*Re: Outdoor Adventures*

This letter is to give you notice of intended action in accordance with MCL 445.905(2), and to give you an opportunity to immediately cease and desist from engaging in the unlawful business practices described below.

As background, this Office is responsible for enforcement of the Michigan Consumer Protection Act, MCL 445.901 *et seq.* Earlier this year, our Office's Consumer Protection Division brought to our attention that Outdoor Adventures had stopped responding in any way to consumer complaints being forwarded to it through our mediation process. We thus began giving heightened scrutiny to both new and previous complaints.

We observe that there has now been a total of twenty-eight consumer complaints against Outdoor Adventures to this Office since 2016—this includes ten in 2019. Further, the Better Business Bureau has shared numerous more complaints with us. In recent months, we have been reaching out to some of these consumers and gathering documentation. Four consumers have supplied us with notarized affidavits detailing their experiences. Two of these affidavits are enclosed for your reference so that you can understand the nature of the proofs being assembled.

The various complaints consistently raise the following concerns:

- Consumers are lured to timeshare presentations by phone calls or mailings telling them they have won a drawing with potential prizes that include a choice of \$20,000 or a new pick-up truck. While no consumer we've interviewed has been able to provide a copy of the mailing (which is collected at the presentation), all agree it does not include information about the services and prices that are the subject of the presentation;

- A lengthy, high-pressure sales presentation is given during which consumers are promised program attributes that are later found to be untrue or highly misleading;
- Consumers are confused by the cost and financing of the program. Arrangements often include a combination of financing provided by Outdoor Adventures itself with additional financing provided through a third-party credit card that the Outdoor Adventures' sales rep secures for the consumer. Some consumers report they were not even told about the credit card they were being signed up for; others report being misled about the size of monthly payments, interest rates, and ongoing annual membership fees;
- Cancellation is extremely expensive or even impossible and will never include refunds of down payments;
- Consumers who do not adhere to Outdoor Adventures' demands end up being pursued by a third-party collection agency and with negative credit reporting.

The most troubling element of the materials we are seeing is the brazenly unconscionable approach Outdoor Adventures takes to cancellation attempts. The Outdoor Adventures contract includes a provision stating it must be cancelled by the consumer within three business days. As Outdoor Adventures uses prizes to lure consumers to its timeshare presentations, we presume this provision in your contracts is rooted in MCL 445.931. That statute is designed to protect consumers by assuring they have a mechanism to obtain a "complete refund" by cancelling specified contracts within three business days. Although the Legislature clearly intended this law to serve as a shield, Outdoor Adventures has warped it into a sword being wielded against consumers by making them believe that a failure to cancel within three days means no refunds are possible. Outdoor Adventures' position is misguided, and the harm wrought through its application is redressable under the Michigan Consumer Protection Act.

It is a well-established principle of contract law that terms that impose penalties, rather than compensating a party for its reasonable damages caused by a breach, are void. *Nichols v Seaks*, 296 Mich 154, 161-62 (1941); *UAW-GM Human Resource Center v KSL Recreation Corp.*, 228 Mich App 486, 508 (1998). The evidence we have gathered shows Outdoor Adventures' approach of forcing consumers to pay for a timeshare arrangement they do not want and do not use is effectively a penalty.

As explained above, this Office believes Outdoor Adventures is engaging in the following unfair trade practices:

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(o) Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.

(u) Failing, in a consumer transaction that is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled to it a deposit, down payment, or other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

(ff) Offering a consumer a prize if in order to claim the prize the consumer is required to submit to a sales presentation, unless a written disclosure is given to the consumer at the time the consumer is notified of the prize and the written disclosure meets all of the following requirements:

(i) Is written or printed in a bold type that is not smaller than 10-point.

(ii) Fully describes the prize, including its cash value, won by the consumer.

(iii) Contains all the terms and conditions for claiming the prize, including a statement that the consumer is required to submit to a sales presentation.

(iv) Fully describes the product, real estate, investment, service, membership, or other item that is or will be offered for sale, including the price of the least expensive item and the most expensive item.

[MCL 445.903(1)]

Outdoor Adventures Headquarters, LLC

Page 4


August 7, 2019

The size of the consumer debts involved here, and Outdoor Adventure's aggressive, ongoing misconduct prompted us to advise you of our concerns and intentions at this time. We are laying the groundwork for a formal investigation under MCL 445.907 through which we can further examine your business practices and the roles of the different entities associated with your campgrounds and organization. We are also communicating to you the intention to file a lawsuit at a later date in accordance with both MCL 445.905 and MCL 445.910.

We are hopeful that a lawsuit can be avoided through agreement on an assurance of voluntary compliance. Any agreement will require Outdoor Adventures to address all of the above concerns, including a mechanism to ensure appropriate reimbursements are made to all customers affected by the identified unfair trade practices.

We are available to meet with you in person or by telephone regarding this matter and look forward to your response.

Sincerely,

  
Darrin F. Fowler  
Assistant Attorney General  
Corporate Oversight Division  
(517) 335-7632

DFP/cms