

**STATE OF FLORIDA  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LEGAL AFFAIRS**

**IN THE INVESTIGATION OF:**

**Case No. L14-3-1131**

**SOS FURNITURE COMPANY, INC., d/b/a  
MATTRESS1ONE; SALEM MATTRESS  
COMPANY, LLC; MATTRESS PAL HOLDING,  
LLC, d/b/a MATTRESS1ONE; MATTRESS ONE,  
INC., d/b/a MATTRESS1ONE,**

**Respondents.**

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**ASSURANCE OF VOLUNTARY COMPLIANCE**

1. PURSUANT to the provisions of Chapter 501, Part II of the Florida Statutes, Florida's Deceptive and Unfair Trade Practices Act, the Office Of The Attorney General, Department Of Legal Affairs (hereinafter referred to as the "Department"), caused an investigation to be made into certain acts and practices of SOS FURNITURE COMPANY, INC.; SALEM MATTRESS COMPANY, LLC; MATTRESS PAL HOLDING, LLC; and MATTRESS ONE, INC. (collectively hereinafter, "Respondents").

2. SOS FURNITURE COMPANY, INC. ("SOS") is a Florida corporation with its principal place of business registered as 1255 LA QUINTA DRIVE, Suite 130, ORLANDO, FL 32809.

3. SALEM MATTRESS COMPANY, LLC ("Salem Mattress") is a Florida limited liability company with its principal place of business registered as 2507 Investors Row, Suite 100, ORLANDO, FL 32837.

4. MATTRESS PAL HOLDING, LLC ("Mattress Pal") is a Florida limited liability company with its principal place of business registered as 1255 LA QUINTA DRIVE, Suite 130,

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ORLANDO, FL 32809 and a mailing address of 10810 W LITTLE YORK RD, Suite 100, HOUSTON, TX 77041.

5. MATTRESS ONE, INC. ("MOI") is a Florida corporation with its principal place of business registered as 1632 N.W. 82 AVE., DORAL, FL 33126.

6. Respondents are prepared to enter into this Assurance of Voluntary Compliance (hereafter referred to as the "AVC") voluntarily and without an admission that Respondents violated Florida's Deceptive and Unfair Trade Practices Act or any other law and solely for the purpose of resolution of this matter with the Department.

7. Pursuant to Section 501.207(6), Florida Statutes, the Department agrees to accept this AVC in termination of its investigation as to Respondents solely as to the acts and practices that were the subject of the investigation.

8. Stipulated Facts. The Department and Respondents hereby agree and stipulate to the following:

- a. SOS and MOI operate retail stores that sell mattresses and related products to consumers under the name "Mattress1One" in Florida, and Mattress Pal operates retail stores that sell mattresses and related products to consumers under the name "Mattress1One" in Texas.
- b. Salem Mattress manufactures and sells mattresses to SOS, Mattress Pal, MOI in the United States, and to mattress retailers in the U.S. Virgin Islands.
- c. During the time frame beginning at least 2003 through the present, Respondents SOS and MOI engaged in the business of selling mattresses to consumers in the State of Florida.
- d. The Department has investigated allegations that Respondents engaged in unfair and/or deceptive acts and practices in selling mattresses to consumers, specifically relating to their sales practices, inventory tracking, delivery, refund and cancellation procedures, and customer service.

9. This AVC is based upon the stipulated facts set forth herein. The Department shall not be estopped from taking further action in this matter should the facts described herein

be shown to be incorrect in any material way or should this AVC not be complied with in full by Respondents. The parties agree that this AVC has been entered into based on the investigation of the Department and the truthfulness of the information provided by Respondents.

10. Definitions. "Clear and Conspicuous" (including "Clearly and Conspicuously") means that a statement is made in a manner readily noticeable and understandable to the persons to whom it is directed. To determine whether a statement is Clear and Conspicuous, factors to consider include:

- a. whether it is of sufficient prominence in terms of sound and speed, font, size, placement, color, contrast, and duration of appearance, as compared with accompanying statements, claims, terms, or representations, so that it is readily noticeable, understandable, and likely to be heard or understood by a reasonable person ; and if written or conveyed electronically, the terms are not buried on the back or bottom, or in unrelated information or placed on a portion of the page that a reasonable person would not think contained significant information;
- b. whether it is located sufficiently near any other statement that it clarifies, modifies, or explains, or that clarifies, modifies, or explains it;
- c. whether it is presented to the person(s) to whom it is directed in a coherent and meaningful sequence with respect to other terms, representations claims or statements being conveyed;
- d. whether it contradicts, or renders confusing or ambiguous, any other statement, or appears to be inconsistent with any other statement;
- e. whether, if it is oral, it is at an understandable pace, tone and volume as the sales offer, or, if not oral, it appears for a duration sufficient to allow viewers to have a reasonable opportunity to notice or read, and is free of distractions that compete for the attention of the consumer;
- f. whether it is presented in such a way as to be free of distractions, including but not limited to sound, graphics, text or other offers that compete for the attention of the consumer; and
- g. whether, in advertising on the Internet, it is made on the same page as any other term, statement, claim or representation that it modifies, and either above the fold or Clearly and Conspicuously referenced or linked to a location below the fold.

11. Without admitting any liability, Respondents, independent of any investigation by the Department, represent and warrant that they periodically have reviewed and continued to improve various aspects of their policies and procedures, including, but not necessarily limited to, sales practices, inventory tracking, delivery, refund and cancellation procedures, and customer service.

12. The Respondents SOS, Mattress Pal, and MOI represent and warrant that they, as of October 13, 2015, have refunded \$94,364.84 in total to consumers who filed complaints with the Department or other entities, including expediting the refunds of customers to whom refunds were issued, and otherwise have addressed non-monetary concerns of certain consumers. Respondents SOS, Mattress Pal, and MOI have attested to such refunds in the notarized affidavit attached hereto as **Exhibit A**.

13. Respondents, including their representatives, agents, owners, officers, directors, managers, employees, successors, assigns, independent contractors or any other person who acts under, by, through, or on behalf of Respondents, and as provided in Paragraph 17 hereof, directly or indirectly, or through any corporate or other device, shall:

- a. Comply with the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes;
- b. Not make any false or misleading representations when selling mattresses and related sleep items to consumers;
- c. Comply with the Bedding Label Act, Chapter 501, Section 145, Florida Statutes, where applicable;
- d. Cease and desist from selling and/or delivering used mattresses as new, and shall only sell and deliver used mattresses if Clearly and Conspicuously advertised, marked and labeled and in full compliance with Section 501.145 of the Florida Statutes, where applicable;
- e. Not charge inspection, delivery, restocking or cancellation fees for any mattresses or sleep items that are returned as a result of company error, including, but not limited to, delivery of the wrong item due to company error, or that have been

previously used, owned or otherwise not in compliance with Section 501.145 of the Florida Statutes (where applicable), all of which shall be picked up from the consumer at no additional charge to the consumer; and shall not charge any online inspection, restocking, or cancellation fees for any mattress or sleep items that are defective as determined by the applicable manufacturer's warranty;

- f. Not charge cancellation fees for orders that are cancelled prior to delivery provided that a particular order is cancelled by the customer prior to day of delivery. Notwithstanding the foregoing, Respondents may charge a cancellation fee for special orders as long as such fee is Clearly and Conspicuously disclosed to the consumer at the point of sale;
- g. Provide refunds within five (5) business days for all mattresses or sleep items that are cancelled or returned in accordance with subparagraphs (e) and (f);
- h. Provide Clear and Conspicuous written disclosures in all advertising and sales of mattresses and related sleep items to consumers, and honor all advertised prices in accordance with such advertisements;
- i. Implement within ninety (90) days of the effective date of this AVC:
  - i. Policies and procedures for improving inventory tracking;
  - ii. Policies and procedures sufficient to ensure that each consumer's invoice at the point of sale matches the item and pricing, inventory and delivery terms as verbally described to the consumer by the salesperson;
  - iii. Policies and procedures sufficient to ensure that used or exchanged mattresses are not sold as new mattresses and are tagged as appropriate and necessary to comply with the Bedding Label Act, if applicable;
  - iv. Policies and procedures sufficient to ensure that consumer inquiries are responded to within forty-eight (48) hours;
  - v. Policies and procedures for the sales, warehouse, routing, delivery and customer service departments as reasonably necessary to comply with the terms of this AVC within ninety (90) days of its effective date;
- j. Deliver to consumers the exact items purchased (i.e. no unilateral substitutions). When unforeseeable conditions arise outside the Respondents' control that make timely delivery of the exact item purchased impossible (such as manufacturer delay), the consumer shall be notified promptly and offered: i) a replacement item of equivalent or greater value as determined by MSRP, which shall be annotated in the Respondents' applicable programming system and upon delivery, the consumer will be asked to sign the applicable ticket; or ii) a full refund with no additional charges or cancellation fees;

- k. Deliver all orders to consumers on the promised day of delivery; and for any failure to make a delivery within such scheduled day of delivery due to company error , the consumer shall be permitted to reschedule or cancel the order without penalty; and
- l. Provide mandatory and ongoing training to all employees and sufficient supervision to ensure compliance with the terms of this AVC.

14. Respondents shall preserve and retain all relevant business and financial records relating to the acts and practices at issue in this AVC and other information reasonably sufficient to establish compliance with the provisions of this AVC for two (2) years from the effective date of this AVC. At any point during the two (2) year retention period set forth herein, Respondents shall make any and all such books and records available to the Department within five (5) business days of any reasonable request.

15. For a period of two (2) years from the effective date of this AVC, for the purpose of further determining compliance with this AVC, Respondents shall permit representatives of the Department, upon written request to Respondents and their counsel, access during normal business hours to any office, warehouse, retail location, or facility storing documents, of Respondents. In providing such access, Respondents shall permit representatives of the Department to inspect and copy all documents relevant to any matter contained in this AVC, and to interview or depose the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, concerning matters relating to compliance with the terms of this AVC. The person interviewed or deposed may have counsel present. Nothing in this AVC limits the Department's lawful use of its compulsory process, pursuant to § 501.206, Fla. Stat., to obtain any documentary, material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices (within the meaning of §§ 501.203-501.204, Florida Statutes), or other means available under Florida law, including, but

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not limited to, posing through its representatives as consumers or suppliers without the necessity of identification.

16. Any personal or financial information of consumers in the custody, control or possession of Respondents shall be securely stored in such a manner as to reasonably protect against inadvertent disclosure of consumer information. Respondents, including any representatives, agents, employees, successors, and assigns, shall not, directly or indirectly, market, sell, share or otherwise disclose the name, contact information, or financial information of any consumer in the care, custody or control of Respondents.

17. The obligations imposed by this AVC are continuing in nature and shall apply to Respondents' successors and assigns, as well as any and all new officers, employees, agents, representatives or any other persons who become engaged in the business or activities of Respondents, except for a bona fide third-party purchaser in an arms-length transaction that is not affiliated with or related to any of the Respondents or their owners, officers or managers.

18. Future complaints received by the Department may be forwarded to Respondents to the attention of Bianca Ramos, c/o SOS Furniture Company, Inc., or another agent designated by Respondents whose contact information shall be provided to the Department for future correspondence. For all complaints forwarded to Respondents from the Department, Respondents shall provide a written response to Department within fifteen (15) days detailing the nature of the complaint, Respondents' response to the complaint and any actions taken to cure and/or resolve the complaint. Any actions taken by the Department with regard to future complaints shall not be construed as a waiver of the Department's remedies under this AVC or approval of Respondents' actions and/or resolution of such complaints

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19. Respondents shall not affect any change in the form of doing business or the organizational identity of any of the existing business entities or create any new business entities for the purpose of avoiding the obligations and terms and conditions set forth in this AVC.

20. Consumer Restitution.

a. Without any admission of liability on the part of the Respondents, Respondents SOS, Mattress Pal, and MOI shall refund to consumers the total amount of Three Hundred Twenty-Five Thousand Dollars and No Cents (\$325,000.00) ("Restitution Amount"). The Restitution Amount shall be paid to the Department on or prior to thirty (30) days after the effective date of this AVC via wire transfer or certified check made payable to the **Department of Legal Affairs**. The Department shall credit towards the Restitution Amount any refunds provided to consumers within the thirty (30) days after the effective date of this AVC, subject to confirmation by the Department. The Department shall thereafter allocate and distribute the funds for consumer restitution as the Department determines is reasonable in its sole business judgment based on proof of payment or other supporting documentation received from consumers. However, no individual consumer will receive more than the amount they are actually owed. If any restitution monies remain after the distribution of the Restitution Amount, the Department will deposit the remaining monies into the Department of Legal Affairs Revolving Trust Fund and it shall be used to defray the costs of restitution distribution and any attorneys' fees and costs incurred in enforcing this AVC, or as fees and costs associated with ongoing and future enforcement initiatives pursuant to Chapter 501, Part II, Florida Statutes.



b. In addition, Respondents shall tender an additional deposit of One Hundred Thousand Dollars and No Cents (\$100,000.00) (“the Escrow Funds”) into the **Department of Legal Affairs Escrow Fund**, on or prior to thirty (30) days after the effective date of this AVC, for the purpose of making refunds to other eligible consumers who have not yet made contact with the Respondents or the Department, or who have not yet provided amount of loss information. Eligibility for Escrow Funds is determined at the sole business judgment of the Department based on proof of payment or other supporting documentation received from such consumers, and terminates ninety (90) days from the date this AVC is effective. In the event actual restitution for existing or future complainants exceeds the amount of the Escrow Funds, the Escrow Funds will be distributed pro-rata to the complainants who filed complaints prior to expiration of the ninety (90) day period, and Respondents will have no further monetary obligation to said complainants pursuant to this AVC, unless there is a violation of the terms of this AVC. However, no individual consumer will receive more than the amount they are actually owed. If there are any excess Escrow Funds remaining after the distribution, those funds will be returned to the Respondents within thirty (30) days after expiration of Escrow Fund eligibility.

21. Respondents shall contribute a total of Fifty Thousand Dollars and No Cents (\$50,000.00) to the Department pursuant to Section 501.2105, Florida Statutes, in payment of attorneys’ fees, costs and investigative fees regarding this investigation and future investigative fees and costs. All payments shall be made by wire transfer, cashier’s check or other certified funds payable to **Department of Legal Affairs Revolving Trust Fund**. The payment shall be

submitted to Assistant Attorney General Sarah Shullman simultaneous with the submission of Respondents' partially executed copy of this AVC.

22. Subject to Respondents' full, complete and timely compliance with the terms of this AVC, the Department is waiving pursuant to this settlement and in consideration of the Respondents' performance hereunder the civil penalties that would otherwise be due for the acts and practices at issue under Sections 501.2075 or 501.2077, Florida Statutes, of up to \$15,000 per violation in consideration of the parties' entry into this AVC.

23. The original AVC bearing the notarized signatures of Respondents and the payment(s) due hereunder will be delivered to the attention of Assistant Attorney General Sarah Shullman, Office of the Attorney General, Consumer Protection Division, 1515 N. Flagler Drive, Suite 900, West Palm Beach, FL 33401.

24. It is hereby agreed by the parties that any failure to comply with the terms and conditions of this AVC by Respondents is by statute prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorneys' fees and costs. In the event that a court of competent jurisdiction makes a determination that a violation of any condition of this AVC has occurred, then Respondents shall be liable to a consent judgment against Respondents in the amount of Five Hundred Thousand Dollars (\$500,000.00) in civil penalties, as well as attorney's fees and costs and any other legal or equitable relief as the court may determine appropriate.

25. Upon the expiration of 91 days following the latter of full execution of this AVC and/or receipt of all payments due hereunder from the Respondents, provided the Respondents have fully and completely performed all obligations owing to date and no voluntary or involuntary petition for bankruptcy or other declaration of insolvency has been filed as to any of

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the Respondents, the Department shall close its civil investigation into the acts and practices of Respondents at issue herein, provided that such closure shall be without prejudice to any other remaining investigation(s) that may otherwise exist as to Respondents or any other entities.

26. The effective date of this AVC shall be the date of its execution and delivery by the Department. Acceptance by the Department shall be established by the signature of the Deputy Attorney General. The receipt by the Department of any monies pursuant to the AVC does not constitute acceptance by the Department, and any monies received shall be returned to Respondent if this AVC is not accepted and fully executed by the Department.

27. It is further agreed that facsimile copies of signatures and notary seals may be accepted as original for the purposes of establishing the existence of this agreement, and this AVC may be executed in counterparts the compilation of which shall constitute the full and final agreement.

28. Notice to any of the parties to this AVC as may be required shall be made by certified mail and email at the addresses set forth below unless any party notifies the other parties in writing of another address to which notices should be provided.

To Respondents:

Carlos B. Castillo, Esq.  
Offices of Ring Bender McKown & Castillo, LLLP  
One Alhambra Plaza, Suite 620  
Coral Gables, Florida 33134  
E-Mail: [ccastillo@ringbenderlaw.com](mailto:ccastillo@ringbenderlaw.com) and [lgonzalez@ringbenderlaw.com](mailto:lgonzalez@ringbenderlaw.com)

To the Department:

Sarah Shullman, Esq.  
Assistant Attorney General  
Office of the Attorney General, Consumer Protection Division  
1515 N. Flagler Drive, Suite 900  
West Palm Beach, FL 33401  
E-Mail: [Sarah.Shullman@myfloridalegal.com](mailto:Sarah.Shullman@myfloridalegal.com)

29. Nothing in this AVC is to be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against Respondents or any other person or entity. However, other than the Department and the Respondents, no Person will have any legal or equitable right, remedy, or claim under or with respect to this Agreement.

30. It is a condition of each of the Department's obligations under this AVC that the Respondents have fully and timely performed all of Respondents' obligations previously due under this AVC.

31. This AVC is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this AVC, and it supersedes all previous negotiations and agreements. Other than any representation expressly stated in this AVC, the parties have not made any representations or warranties to each other, and neither party's decision to enter into this AVC is based upon any statements by the other party outside of those in this AVC.

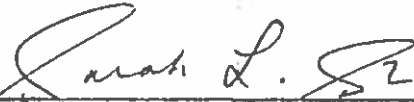
32. It is further agreed that the parties jointly participated in the negotiation of the terms of this AVC. No provision of this AVC shall be construed for or against any party on the grounds that one party had more control over establishing the terms of this AVC than another.

33. By my signature, I hereby affirm that I have authority to execute this AVC on behalf of the party indicated and, to the extent I am acting in a representative capacity, I am acting within the scope of my authority as corporate representative, and that by my signature I am binding the party/parties indicated to the terms and conditions of this AVC.

**SIGNATURES TO FOLLOW ON FOLLOWING PAGES**

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OFFICE OF THE ATTORNEY GENERAL

By:   
Sarah L. Shullman

Assistant Attorney General  
Office of the Attorney General  
Department of Legal Affairs  
Consumer Protection Division  
1515 N. Flagler Drive, Suite 900  
West Palm Beach, FL 33401

Dated: 10/28/15

By: 

Patricia A. Conners  
Deputy Attorney General  
Consumer Protection Division  
Department of Legal Affairs  
Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, FL 32399-1050

Dated: 10/28/15

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MATTRESS ONE, INC., d/b/a MATTRESS1ONE

Agreed to:

By: Mohamad Salem  
Mohanad Salem, President

STATE OF FLORIDA                    )  
COUNTY OF ORANGE                )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Mohamad Salem personally appeared as President of MATTRESS ONE, INC.. He acknowledged before me that s/he executed the foregoing instrument for the purposes therein stated on the 2 day of November, 2015.

Subscribed to before me this 2 day of November, 2015.

[Signature]  
NOTARY PUBLIC

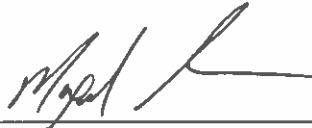
FF918088                               Expires 9/14/19  
(print, type, or stamp commissioned Notary Public)

Personally known  or Produced Identification \_\_\_\_\_ (check one)

Type of Identification Produced: \_\_\_\_\_

SOS FURNITURE COMPANY, INC., d/b/a MATTRESS1ONE

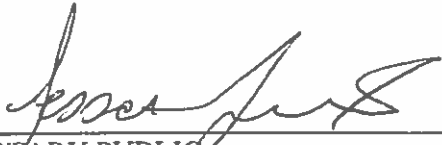
Agreed to:

By:   
Maged Salem, President

STATE OF FLORIDA                    )  
COUNTY OF ORANGE                )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Maged Salem personally appeared as President of SOS FURNITURE COMPANY, INC. He acknowledged before me that s/he executed the foregoing instrument for the purposes therein stated on the 2 day of November, 2015.

Subscribed to before me this 2 day of November, 2015.

  
NOTARY PUBLIC


FF918088 Expires 9/14/19  
(print, type, or stamp commissioned Notary Public)

Personally known  or Produced Identification \_\_\_\_\_ (check one)

Type of Identification Produced: \_\_\_\_\_

SALEM MATTRESS COMPANY, LLC


Agreed to:

By:   
Maged Salem, President

STATE OF FLORIDA                    )  
COUNTY OF ORANGE                )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Maged Salem personally appeared as President of SALEM MATTRESS COMPANY, LLC. He acknowledged before me that s/he executed the foregoing instrument for the purposes therein stated on the 2 day of November, 2015.

Subscribed to before me this 2 day of November, 2015.

  
NOTARY PUBLIC

FF918088 Expires 9/14/2019  
(print, type, or stamp commissioned Notary Public)

Personally known  or Produced Identification \_\_\_\_\_ (check one)

Type of Identification Produced: \_\_\_\_\_



MATTRESS PAL HOLDING, LLC, d/b/a MATTRESS1ONE

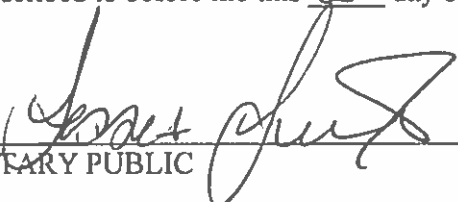
Agreed to:

By:   
Maged Salem, President

STATE OF FLORIDA                    )  
COUNTY OF ORANGE                )

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Maged Salem personally appeared as President of MATTRESS PAL HOLDING, LLC. He acknowledged before me that s/he executed the foregoing instrument for the purposes therein stated on the 2 day of November 2015.

Subscribed to before me this 2 day of November, 2015.

  
NOTARY PUBLIC

FF918088 Expires 9/14/19  
(print, type, or stamp commissioned Notary Public)

Personally known  or Produced Identification \_\_\_\_\_ (check one)

Type of Identification Produced: \_\_\_\_\_