

# Exh. A

THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

HEARTLAND RECREATIONAL	)	
VEHICLES, LLC,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No.
	)	3:08-CV-490 AS CAN
FOREST RIVER, INC.,	)	
	)	
Defendant.	)	
-----	)	

The Videotaped (30)(b)(6) Deposition  
of JEFFREY BROOK BABCOCK

Date: Thursday, September 3, 2009

Time: 10:08 a.m.

Place: Thorne Grodnik, LLP  
228 West High Street  
Elkhart, Indiana

Called as a witness by the Plaintiff in  
accordance with the Rules of the United  
States District Court for the Northern  
District of Indiana, South Bend Division,  
pursuant to Notice.

Before Sharon L. Brady, Court Reporter  
and Notary Public

MIDWEST REPORTING, INC.  
1448 Lincolnway East  
South Bend, Indiana 46613  
(574) 288-4242

1 A Yes.

2 Q Okay. And I think I asked you this, but I've  
3 forgotten. What's your title presently at Forest  
4 River?

5 A Vice-president of sales.

6 Q Okay. I want to try and take some time here and  
7 kind of go through the hotel incident, as it's  
8 been called in the -- in the case.

9 And let's start out first of all by, Forest  
10 River was having a dealer show in October of last  
11 year; is that right?

12 A That is correct.

13 Q Was that the first dealer show that Forest River  
14 had held in Elkhart?

15 A No.

16 Q Can you -- can you tell me when was the -- what I  
17 want to understand, and just so you can  
18 understand this, I was understanding the show  
19 that you had was a unique event last year. Is  
20 that true or not?

21 A We had one prior, about ten years prior to that,  
22 in Elkhart. But we hadn't done it for ten years.

23 Q Okay. So, the event that happened last October  
24 here in Elkhart was the first time you had done a  
25 show like that in ten years?

1 Q Did you pay for them to travel there?

2 A We did not.

3 Q And how many dealers came, approximately?

4 A Roughly, 350.

5 Q Okay. And how many dealers do you have  
6 nationwide, roughly?

7 A In the RV division?

8 Q Yes.

9 A Active current dealers, probably 800 to a  
10 thousand.

11 Q Okay. What I -- what I was trying to ask you is  
12 how many of the ones that you invited came. So,  
13 it's about 40 percent or so?

14 A If you're asking me how many actually RSVP'd and  
15 how many showed up, I think we probably had a  
16 attrition rate of -- I'm gonna say 15 percent of  
17 the dealers that registered probably didn't show.

18 Q So, in rough percentages, you thought you were  
19 going to get about half of your dealers, and you  
20 had a little less than half that showed? Is  
21 that -- is that about right?

22 A We invited them all.

23 Q Yep.

24 A And we invited every dealer we had. And we had  
25 about 350 basically RSVP and probably 10 to 15

1           percent that registered to say they were gonna  
2           show up that didn't. The rest came. So, we had  
3           probably close to an 80 percent turnout of the  
4           350.

5       Q   So, you had -- doing the math in my head, that's  
6           about 300 dealers?

7       A   About 260, I think, probably showed up.

8       Q   260 dealers out of how -- how many that you  
9           invited? That's all I was trying to ask.

10      A   There was probably -- we invited them all.  
11           Probably 800 to a thousand.

12      Q   Okay. And 260 showed up; is that right?

13      A   Roughly.

14      Q   Okay. And of these dealers, how many of them  
15           sold other products besides just Forest River of  
16           the ones that showed up?

17      A   Are you asking how many are exclusive?

18      Q   Yes.

19      A   To Forest River?

20      Q   Yes.

21      A   Very few dealers are exclusive. I'd say a small  
22           percentage.

23      Q   Just so we can understand, of the 260 dealers  
24           that showed up, you'd say what percentage,  
25           roughly, would've been exclusive to you folks?

1 A 3, 4, 5 percent maybe.

2 Q Okay. And why is that rare in the industry or  
3 rare for your company, I guess?

4 A So many different products. I think that a  
5 dealer likes to balance out his inventory as  
6 well. I think that a dealer doesn't necessarily  
7 want to be exclusive. If you were an exclusive  
8 Fleetwood dealer last year, it's not probably  
9 very good. If you were an exclusive Monaco  
10 dealer, it probably didn't work out too good for  
11 you.

12 I think that the dealers are now starting to  
13 realize they have to align themselves with  
14 stronger manufacturers just because the cost of a  
15 manufacturer going out of business is a huge cost  
16 on a dealer.

17 Q And of the dealers that came to your show, do you  
18 know which ones of them or which percentage of  
19 them were selling your competitors' products?  
20 Have you tracked that?

21 A Well, it would be -- be the opposite number I  
22 gave you. I mean, if they're not exclusive,  
23 they'd be selling other people's stuff. So, it  
24 would be --

25 Q I asked a bad question. What I was trying to get

1 A The ones that received the packets.

2 Q Okay. And who was -- which ones are those?

3 A I can't tell you which ones. I don't know which  
4 ones Keystone -- I mean, Heartland put under  
5 which doors.

6 Q Okay. And did you talk to any of yours dealers?

7 Last time, you said you were gonna perhaps  
8 do that and get the names of the dealers that you  
9 believe may have bought product from Heartland as  
10 a result of this hotel incident. Did you do  
11 that?

12 A Over the last two weeks, no, we have not done  
13 that.

14 Q Okay. And you didn't talk to any of your  
15 dealers?

16 A We did. We --

17 Q About the hotel incident, I mean.

18 A We did not talk about this whole incident  
19 whatsoever.

20 Q And why not?

21 A We were busy with our own Forest River trade show  
22 at the time and not gonna waste time on talking  
23 about that in the past.

24 Q And you said you talked to the Loveall's people  
25 or not about the hotel incident?

1 A I personally did not talk to Loveall's.

2 Q Has anybody at Heartland done that -- or I'm  
3 sorry -- at Forest River done that?

4 A Yeah. I'm sure people have talked to  
5 Heartland -- have talked to Loveall's about that.

6 Q And what did Loveall's say as to why they  
7 purchased product, if anything?

8 A I'd have to ask our salespeople what Loveall's  
9 response was. I'm only going off of the price  
10 that was from the prior deposition out in  
11 Catterton saying that they got such a good deal  
12 on the product that it was just too enticing to  
13 say no.

14 Q I need you to try and focus on the questions I'm  
15 asking you because I need to understand why --  
16 did you have any information as to why Loveall's  
17 decided to purchase Heartland's products?

18 A I'm looking at -- I'm looking -- the prices had  
19 to be substantially under market value.

20 Q What's the basis for that statement?

21 A Well, simply, in our -- my conversation with Ryan  
22 even after the fact, I mean, we've always known  
23 that -- that Heartland will sell units way below  
24 fair market price. They will go out and discount  
25 in order to sell units and move product.



1 Put that together with the fact that in the  
2 deposition out at Catterton that they did say  
3 that they did not make money on those trailers.  
4 Specifically how much, I'm not privileged to  
5 that. But they did say that those trailers were  
6 losers as far as profit goes.

7 So, that's why if I was a dealer and I could  
8 buy a trailer the same length, same options, same  
9 size, apples for apples comparisons, for \$3,000  
10 less, why wouldn't you?

11 Q So, you believe -- your information is that the  
12 reason Loveall's bought Heartland's products is  
13 because the prices were very -- very good; is  
14 that right?

15 A Yes. I do believe that's a big part of it, yes.

16 Q Any other reasons why they bought them?

17 A Price.

18 Q Okay. And price is what we just talked about,  
19 right?

20 A Price is what we just talked about, price value.

21 Q And you seem to think there's something  
22 inherently wrong with discounting to gain market  
23 share. Is that -- is that your opinion?

24 A I think that when they're trying to discount and  
25 not make profit on it on an ongoing basis

1           underneath the door if they weren't trying to get  
2           them to come over?

3       Q   Do dealers buy inventory as a result of  
4           promotional information?

5       A   Yes.  Dealers buy because of promotional  
6           information.

7       Q   Okay.  So, it's your testimony that if a dealer  
8           would receive a packet of information, that's all  
9           you have to do to sell them additional inventory;  
10          is that right?

11      A   No.  That's not all you have to do.

12      Q   Okay.  What else do you have to do?

13      A   You gotta sell them on the product.

14      Q   You have to talk to them, right?

15      A   You have to talk to the dealer.  You have to go  
16          through the product.  You have to feature benefit  
17          the product.  You gotta convince that dealer that  
18          the product you have sitting in front of him is  
19          gonna make him money on his lot.

20      Q   And that's what you do when you have these  
21          meetings; is that right?

22      A   That's what you do every day in the sales world,  
23          convince a dealer he can make money on our stuff.

24      Q   And the brochure itself doesn't do any of that.  
25          It just -- it's just a tool to help, right?

1 A What else?

2 Q Non-competes, goodwill, those kind of things.

3 A Well, goodwill's one.

4 Q How about trade names? Do you depreciate those?

5 A That's more on the accounting side, Dave, than  
6 the sales side.

7 Q Do you -- does that mean you don't know?

8 A I don't know.

9 Q Okay. Have you ever valued a trade name or seen  
10 a valuation of a trade name?

11 A No.

12 Q Okay. Did you contact -- I think I may have  
13 asked this. I apologize if I did.

14 When we last met, you had said you hadn't  
15 talked to any of the dealers about whether or not  
16 they went over to Heartland or bought Heartland  
17 products.

18 Is that still the case? You've still not  
19 talked to any of your dealers?

20 A Yeah. I think we talked about that this morning.  
21 No, I haven't talked to -- I've talked to our  
22 dealers, but I haven't talked to them  
23 specifically about that.

24 Q Right. You haven't asked them, "Hey, did you go  
25 over to Heartland and buy Heartland product," or

1 anything like that?

2 A Not this time.

3 Q Okay. But not ever, right?

4 A No. We haven't talked about this last year's  
5 incident, not at this last event we just had.

6 Q I want to make sure I understand something. Are  
7 there two people named Richgruber in this case?

8 A I think they have -- I think there's people who  
9 have very similar names. Are they identical? I  
10 don't know. They sound identical; but I think  
11 there might be something left out in the last  
12 name.

13 Q Well, was one of them Scott? Is that right?

14 A Scott Richgruber --

15 Q And who is he?

16 A -- works for us.

17 Q Okay.

18 A He's a sales guy --

19 Q And --

20 A -- who got a packet underneath his door.

21 Q And how did he happen to get a packet under his  
22 door?

23 A Your client put it underneath there.

24 Q Because his name was on it?

25 A Was what?