

VIRGINIA:

IN THE CIRCUIT COURT FOR HENRICO COUNTY

COMMONWEALTH OF VIRGINIA,)
EX REL. MARK R. HERRING,)
ATTORNEY GENERAL,)
)
Plaintiff,)
)
v.)
)
HOBBY LOBBY STORES, INC.,)
an Oklahoma corporation,)
)
Defendant.)
_____)

CIVIL ACTION NO. _____

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by, through, and at the relation of its Attorney General, Mark R. Herring (the “Plaintiff” or the “Commonwealth”), petitions this Court to declare that the activities in which the Defendant, Hobby Lobby Stores, Inc. (“Hobby Lobby” or the “Defendant”), has engaged constitute violations of § 59.1-207.42 of the Comparison Price Advertising Act (“CPAA”), Virginia Code §§ 59.1-207.40 through 59.1-207.44, and § 59.1-200(A)(30) of the Virginia Consumer Protection Act (“VCPA”), Virginia Code §§ 59.1-196 through 59.1-207. The Commonwealth prays that this Court grant the relief requested in this Complaint and states the following in support thereof:

JURISDICTION AND VENUE

1. The Commonwealth brings this CPAA and VCPA action pursuant to the authority set forth in § 59.1-203 of the VCPA, which provides, among other things, that the Attorney General may bring an action to enjoin any violation of the VCPA, which includes any violation of the CPAA, in accordance with §§ 59.1-207.44 and 59.1-200(A)(30).

2. The Circuit Court for Henrico County has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513, 59.1-203, 59.1-205, and 59.1-206.

3. Venue is preferred in this Court pursuant to Virginia Code § 8.01-261(15)(c) because some or all of the acts to be enjoined are, or were, being done in Henrico County. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262(3) and (4) because the Defendant regularly conducts substantial business activity in Henrico County and portions of the cause of action arose in Henrico County.

4. In accordance with Virginia Code § 59.1-203(B), prior to commencement of this action, the Plaintiff gave the Defendant written notice that these proceedings were contemplated and a reasonable opportunity to appear before the Office of the Attorney General (the "Office") to demonstrate that no violations of the VCPA or CPAA had occurred, or, in the alternative, to execute an appropriate Assurance of Voluntary Compliance ("AVC") that is acceptable to the Commonwealth. The Defendant agreed to execute an AVC that is acceptable to the Commonwealth.

PARTIES

5. The Plaintiff is the Commonwealth of Virginia, by, through, and at the relation of Mark R. Herring, Attorney General of Virginia.

6. The Defendant, Hobby Lobby, is an Oklahoma corporation having its principal office at 7707 SW 44th Street, Oklahoma City, Oklahoma 73179. Hobby Lobby's Certificate of Authority to Transact Business in the Commonwealth was issued by the Virginia State Corporation Commission on October 1, 2004.

FACTS

7. Hobby Lobby operates more than 500 stores nationally, including six stores in the Commonwealth. The Hobby Lobby in Henrico County is located at 11280 West Broad Street, Glen Allen, Virginia, 23060.

8. Hobby Lobby offers consumer goods including, but not limited to, furniture, art supplies, fabric, frames, and seasonal decor in stores nationwide.

9. Hobby Lobby advertises its merchandise to consumers through a variety of means including direct mail, print media, internet social media, on-line websites, and in-store signs and pamphlets.

10. In the past, some of these advertisements have referred to discounts off a "MARKED PRICE." The advertisements have further defined "MARKED PRICE" as "DISCOUNTS PROVIDED EVERY DAY; MARKED PRICES REFLECT COMPARABLE PRICES OFFERED BY OTHER SELLERS FOR SIMILAR PRODUCTS." A copy of one of the advertisements is attached hereto as Exhibit A.

11. Section 59.1-207.42(2) does not permit a supplier to advertise a comparison price unless the trade area to which the advertisement refers is clearly defined and disclosed.

CAUSES OF ACTION

COUNT I - COMPARISON PRICE ADVERTISING ACT

12. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1 through 11 above.

13. The Defendant is now, and was at all relevant times mentioned herein, a supplier advertising the "comparison price" of goods or services, as that term is defined in § 59.1-207.40 of the CPAA.

14. In advertising the comparison price of goods or services to consumers, the Defendant has engaged in the following acts and practices, which are prohibited by the CPAA: Failing to clearly define and disclose the trade area to which any comparison price used in its advertisement refers, in violation of § 59.1-207.42(2).

15. Pursuant to § 59.1-200(A)(30), the Defendant's violation of § 59.1-207.42(2) also constitutes a violation of the VCPA.

COUNT II - VIRGINIA CONSUMER PROTECTION ACT

16. The Plaintiff re-alleges and incorporates herein by reference all matters set forth in Paragraphs 1 through 15 above.

17. The Defendant is now, and was at all relevant times mentioned herein, a "supplier" of "goods" or "services," and engaged in "consumer transactions," as those terms are defined in § 59.1-198 of the VCPA, by advertising, offering, and selling merchandise, including, but not limited to, furniture, art supplies, fabric, frames, and seasonal décor, to consumers.

18. Pursuant to § 59.1-200(A)(30), the Defendant's violation of § 59.1-207.42(2) also constitutes a violation of the VCPA.

19. The VCPA authorizes the Attorney General to seek, among other relief, restitution (§ 59.1-205) for any amounts that might have been acquired from persons by means of a violation of § 59.1-200, civil penalties of not more than \$2,500 per violation (§ 59.1-206), investigative costs and reasonable expenses not to exceed \$1,000 per violation, and attorneys' fees (§ 59.1-206).

20. The Defendant willfully committed the violations of §§ 59.1-207.42(2) and 59.1-200(A)(30).

21. Individual consumers have suffered monetary damages as a result of the aforesaid violations by the Defendant.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, prays that this Court enter the Order Approving and Adopting Assurance of Voluntary Compliance filed herewith.

COMMONWEALTH OF VIRGINIA,
EX REL. MARK R. HERRING,
ATTORNEY GENERAL

By: David B. Irvin
David B. Irvin

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Samuel T. Towell
Deputy Attorney General
Civil Litigation Division


Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief

David B. Irvin (VSB No. 23927)
Senior Assistant Attorney General
Predatory Lending Unit

Consumer Protection Section
202 North 9th Street
Richmond, Virginia 23219
Phone: (804) 786-0514
Fax: (804) 786-0122

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2017, a true copy of the foregoing Complaint was mailed via first class mail to Charles E. James, Jr. at Williams Mullen, 200 South 10th Street, Suite 1600, Richmond, Virginia, 23219, counsel for Defendant Hobby Lobby Stores, Inc.



David B. Irvin

For the Hero in Your Life
Father's Day, Sunday, June 19th



Ceramic Decor
Tabletop decor, salt & pepper, plates, serving dishes, pitchers and cups
Does not include decorative drawer pulls

Lamps & Lampshades

Birdhouses & Wind Chimes

Adhesive Vinyl Wall Art

Pillows, Rugs & Throws

HOME ACCENTS 50% OFF

Categories Listed

Does not include seasonal department

Candles, Flameless LED Candles, Fragrance Warmers & Diffusers
Priced \$4.99 & Up

Does not include Candle FX™, tealights, votives, value packs or fragrance wax & oils

Polyresin & Pottery Decor

Figurals, candle holders, boxes, bowls, floral planters, vases and more

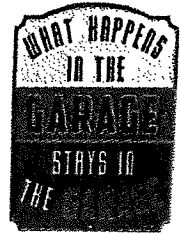
Men's Metal, Wood, Resin & Ceramic Decor
Wall and table

Decorative Spheres

Mirrors
Wall and table

Decorative Crosses
Wall and table

Clocks
Wall and table



Summer, July 4th and items labeled The Spring Shop™ are not included in Home Accents sale.



Items Labeled
THE SPRING SHOP™
50% OFF
Statuary • Garden Planters
Gazing Balls
Garden Wall Decor and More

Select Group of
FURNITURE
NOW MARKED
50% OFF
Selection will vary by store

JULY 4TH
Seasonal Items
30% OFF
Little Wishes™ baby items, decorations, party supplies, home decor, crafts and more
Does not include fabric

SUMMER TOYS & DECOR
50% OFF
Little Wishes™



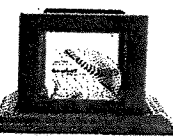
FLORAL 50% OFF
Most Categories Listed
Does not include seasonal department or items labeled 'floral accents'
Stem Naturals
Bouquets, sticks, poms, grains, fibers and grasses
Does not include feathers
Flowering & Greenery Bushes
Does not include potted trees
Floral Stems
Floral and greenery stems
Does not include feathers

Potted Trees & Floor Plants
4 ft - 8 ft
ALWAYS
30% OFF
THE MARKED PRICE

Select Group of
HOME ACCENTS
NOW MARKED
66% OFF
Selection will vary by store

Select Group of
FURNITURE
ALWAYS
30% OFF
THE MARKED PRICE

YARN & NEEDLE ART
Baby Bee™ Baby Yarns
Hushabye, Sweet Delight™ and Sweet Delight™ Pomp 3 & 4 oz 4.22
Crafter's Secret™ Cotton 2 & 5 oz 1.87
Yarn Bee™ Soft Secret™ 4 & 6 oz 3.33
Packaged Quilt Battings & Pillow Forms 30% OFF



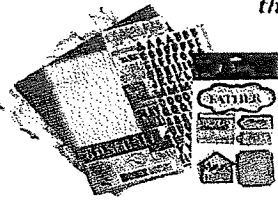
FRAMES 50% OFF
Categories Listed
Shadow Boxes, Display Cases & Flag Cases
Ready-Made Open Frames

Posters
Always 50% off the marked price
Photo Frames
Always 50% off the marked price
Our entire selection of basic & fashion tabletop frames and wooden photo storage

Custom Frames
ALWAYS
50% OFF
THE MARKED PRICE
Applies to frame only

EVA Foam Packaged Shapes & Sheets
Priced \$2.99 & Up
Basically Yours™
Aprons, bags and caps
Leather & Leather Kits
Priced \$4.99 & Up

CRAFTS 30% OFF
Categories Listed
Chalkboards, Corkboards & Dry-Erase Boards
Clay
Modeling, oven-bake, air-dry & jewelry clay
T-Shirts
Always 30% off the marked price
Youth & adult t-shirts, tank tops, infant & toddler t-shirts, crop-tops and dresses



the Paper Studio™ and Stampabilities™
PAPERCRAFTING BLOWOUT SALE
50% OFF
Over 4,000 products
Paper, stickers, albums, stamps & accessories, embellishments, totes & organizers, tools and more

ART SUPPLIES
Poster Board
White 4/1.00 Colored, neon & metallic 2/1.00
24 Regular price \$1.10 Regular price
Artist Sets
Priced \$29.99 & Up 30% OFF
Art, watercolor, acrylic & oil
Art Easels & Tables
Priced \$12.99 & Up 30% OFF
Master's Touch™ Oil Paint
4.87 50 ml 12.87 200 ml
\$1.00 Regular price \$14.99 Regular price
Master's Touch™ Art Canvas & Panels
8 & 15 Canvas letters & numbers 30% OFF
Does not include 3-packs



JEWELRY MAKING 50% OFF
Categories Listed
Poetic Spirit™
by Bead Treasures™
Pendants, beads, leather and more
Glass Beads
Color Gallery™, Elegance, Bead Treasures™ and Czech Glass Beads
Traditions™
Natural pendants and beads
Vintaj™
Unique artisan components made in the USA
Does not include Sizzix™ embossing machine or die cut
Instant Gratification™ by Traditions™
Combine mix-iteration components to create personalized jewelry instantly! No tools required
the Jewelry Shoppe™
Findings, hair accessories, nickel free, sterling-silver and sterling silver



FASHION FABRIC
Home Decor Fabric
Prints, solids, sheers and laminated fabric
Fleece
Prints, solids and microfiber
Calico Prints & Solids
Apparel prints and solids
ALWAYS
30% OFF
THE MARKED PRICE
Home Decor Curtain Panels & Pillow Covers 50% OFF
Poly Satin
100% Polyester satin solids 3.49 p/yd
\$4.99 Regular price
Tulle 89¢ p/yd **Net** 99¢ p/yd **Shiny Tulle** 1.09 p/yd

* Discounts provided every day; marked prices reflect comparable prices offered by other sellers for similar products.

HOBBY LOBBY

STORE HOURS:
9 A.M. - 8 P.M.
CLOSED SUNDAY

PRICES GOOD IN STORES MONDAY, JUNE 8 - SATURDAY, JUNE 11, 2016.
PRICES GOOD ONLINE SUNDAY, JUNE 5 - SATURDAY, JUNE 11, 2016.
SOME ADVERTISED ITEMS NOT AVAILABLE ONLINE. SALES SUBJECT TO SUPPLY IN STOCK.
SELECTION AND QUANTITIES VARY BY STORE. AD DOES NOT APPLY TO PRE-REDUCED ITEMS.