

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF PRINCE WILLIAM

COMMONWEALTH OF VIRGINIA,	)
EX REL. MARK R. HERRING,	)
ATTORNEY GENERAL,	)
	)
Plaintiff,	)
	)
v.	)
	)
PAWN U.S.A., INC.,	)
a Virginia corporation,	)
	)
Defendant.	)
_____	)

CIVIL ACTION NO. \_\_\_\_\_

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by, through, and at the relation of the Attorney General of Virginia, Mark R. Herring (the "Plaintiff" or the "Commonwealth"), petitions this Court to declare that the activities in which the Defendant, Pawn U.S.A., Inc. ("Pawn USA" or the "Defendant"), has engaged constitute violations of § 54.1-4008(A) and 54.1-4014(B) of the Virginia pawnbroker statutes, as well as § 59.1-200(A)(33) of the Virginia Consumer Protection Act ("VCPA"). The Plaintiff 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 action pursuant to its authority in Virginia Code § 59.1-203, which provides, *inter alia*, that the Attorney General may bring an action to enjoin any violation of the VCPA, which includes, among others, any violation of the statutes applicable to pawnbrokers, in accordance with §§ 54.1-4014(B) and 59.1-200(A)(33).

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

3. Venue in this Court is preferred, 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 the County of Price William. Furthermore, 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 the County of Prince William, and portions of the cause of action arose in the County of Prince William.

4. Prior to the commencement of this action, the Plaintiff gave the Defendant written notice that this cause of action was contemplated. In that written notice, the Defendant was afforded a reasonable opportunity to either appear before the Office of the Attorney General to demonstrate that it had not violated the VCPA or the pawnbroker statutes, or, to execute an Assurance of Voluntary Compliance (“Assurance”), pursuant to Virginia Code § 59.1-203(B). The Defendant has agreed to execute an Assurance 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, Pawn USA, is a Virginia corporation with its principal place of business in Woodbridge, Virginia 22192 (Prince William County). Its Articles of Incorporation were issued by the State Corporation Commission on May 26, 2005.

## FACTS

7. During the period from at least May 26, 2005 through the present, the Defendant has operated as a pawnbroker to consumer borrowers out of its store located at 13879 Smoketown Rd., Woodbridge, Virginia 22192 in Prince William County. In this connection, the Defendant makes and has made closed-end pawn loans to individual consumers for personal, family, household or other non-business purposes, which loans are secured by the consumers' personal property (the "pawn loans").

8. On a pawn loan it made on March 7, 2016, the Defendant imposed a monthly finance charge of \$22 on a loan of \$100. A copy of the pawn ticket the Defendant issued on this loan is attached as Exhibit A.

9. The finance charge of \$22 that the Defendant imposed on the loan described in paragraph 8 above included: monthly interest at the rate of seven percent (7%) totaling \$7, a monthly storage fee at the rate of five-percent (5%) totaling \$5, and a ten-percent (10%) appraisal fee totaling \$10.

## CAUSES OF ACTION

### COUNT I – Virginia Code §§ 54.1-4008(A) and 54.1-4014(B)

10. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1-9.

11. Virginia Code § 54.1-4000 defines "pawnbroker" as:

"Pawnbroker" means any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

12. Section 54.1-4008(A) of the Virginia pawnbroker statutes provides that pawnbrokers may not demand interest greater than ten-percent (10%) per month on a loan of \$25 or less, seven-percent (7%) per month on a loan of more than \$25 and less than \$100, or five-percent (5%) per month on a loan of \$100 or more.

13. Section 54.1-4009(C) of the Virginia pawnbroker statutes provides that pawnbrokers may charge service fees that “shall not exceed five-percent [5%] of the amount loaned on such item or paid by the pawnbroker for such item or \$3, whichever is less” for each loan or transaction for making daily electronic reports to the appropriate law-enforcement officers in compliance with § 54.1-4010, for creating and maintaining the required electronic records, and for investigating legal title to property being pawned, pledged, or purchased.

14. Section 54.1-4013(B) of the Virginia pawnbroker statutes provides that pawnbrokers may charge a monthly storage fee for any items requiring storage, which fee shall not exceed five percent (5%) of the amount loaned on such item.

15. Virginia law does not authorize the imposition of any other fees by a pawnbroker.

16. On a one-month pawn loan of \$100, the following interest and fees are permitted: (a) interest in the amount of \$5; (b) a storage fee in the amount of \$5; and (c) a service fee in the amount of \$3; the total allowable fee, accordingly, is \$13.

17. The five percent (5%) monthly storage fee in the amount of \$5 that the Defendant imposed on the \$100 loan described in Paragraph 9 and evidenced in Exhibit A is consistent with the fee permitted by § 54.1-4013(B) of the pawnbroker statutes.

18. The seven-percent (7%) interest fee in the amount of \$7 and the ten-percent (10%) appraisal fee in the amount of \$10 that the Defendant imposed on the \$100 loan described in paragraph 8 and evidenced in Exhibit A are excessive fees not specifically authorized by §§ 54.1-4008(A),

54.1-4009(C), 54.1-4013(B), or any other pawnbroker statute. Accordingly, these charges constitute disguised interest in violation of §§ 54.1-4008(A) and 54.1-4014(B).

19. On information and belief, the Defendant violated § 54.1-4008(A) on all or many of its loans during the period from July 18, 2015 through at least April 18, 2016 because it charged excessive interest rates and illegal fees on all or many of its loans.

### **Count II – Virginia Consumer Protection Act**

20. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1-19.

21. The Defendant is now, and was at all relevant times, 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 providing pawn loans to consumers.

22. Pursuant to § 59.1-200(A)(33), each of the Defendant’s previously described violations of § 54.1-4008(A) and 54.1-4014(B) of the pawnbroker statutes also constitutes a violation of the VCPA.

23. The Defendant willfully committed the violations described of §§ 54.1-4008(A), 54.1-4014(B), and 59.1-200(A)(33) because, on information and belief, it knew of its obligations and limitations under the aforementioned pawnbroker statutes yet chose to impose illegal fees.

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

25. 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 willful violation (§ 59.1-206), investigative costs and reasonable expenses not to exceed \$1,000 per violation, and attorneys’ fees (§ 59.1-206).

**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: \_\_\_\_\_



Mark S. Kubiak

Mark R. Herring  
Attorney General

Cynthia E. Hudson  
Chief Deputy Attorney General

Samuel T. Towell  
Deputy Attorney General  
Civil Litigation Division

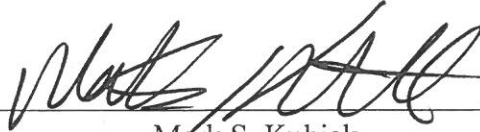
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Assistant Attorney General

Consumer Protection Section  
202 North Ninth Street  
Richmond, Virginia 23219  
Phone: (804) 786-7364  
Fax: (804) 786-0122

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of September, 2017, a copy of the foregoing **Complaint** was sent by first-class mail, postage prepaid, to Paul F. Nichols, Esquire, Nichols, Sauzig, Sandler, P.C., 12660 Lake Ridge Drive, Woodbridge, Virginia 22192, counsel for Pawn U.S.A., Inc.

A handwritten signature in black ink, appearing to read 'Mark S. Kubiak', written over a horizontal line.

Mark S. Kubiak

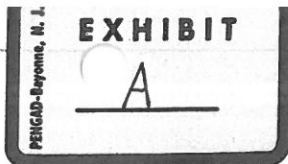
**PAWN U.S.A.**

13879 Smoketown Road Woodbridge VA 22192

(703)878-3000

pawnusawoodbridge@gmail.com

WWW.PAWNUSAWOODBRIDGE.COM



30 Day Pawn

144898

Date Made: 3/7/2016

Time Made: 3:18 PM

Original Ticket #: 144898

Pledgor:  
ID:  
Address:

SEX: M WEIGHT: BEARD:  
RACE: W EYES: BRN MUSTACHE  
DOB: HEIGHT: GLASSES  
EMAIL:  
CELL #: (000) 000-0000

Description of all items pawned

1/. 1 - Laptop Toshiba laptop w/ charger in case Toshiba C55 B5353  
Serial#XE268521P

TRUTH IN LENDING

MATURITY DATE	06-Apr-16
AMOUNT FINANCED <small>The amount of credit provided to you</small>	\$100.00
FINANCE CHARGE <small>The dollar amount the credit will cost you</small>	\$22.00
TOTAL OF PAYMENTS <small>Amount to redeem pawn on maturity date</small>	\$122.00
ANNUAL PERCENTAGE RATE <small>The cost of your credit as a yearly rate</small>	144.00%
PAYMENT SCHEDULE: 1 @	\$122.00

Amount To Extend Pawn For 30 Days \$22.00

Breakdown/Explanation of Finance Charges

Interest	Storage	Appraisal	Finance Charge
7.00	5.00	10.00	\$22.00

*Bill Scott Assoc*

You are giving us a security interest in the described goods

Privacy Statement

We the lender respect your privacy by keeping the information you share with us secure. At no time do we disclose any non-public personal information about you, the customer, to any third party, except as mandated by law.

TERMS AND CONDITIONS. Your signature below constitutes acceptance.

LIMITATION OF LIABILITY: 1. Pawn U.S.A. Inc. Assumes no responsibility for the loss, theft or damage of pawned items. 2. The pawn ticket must accompany all remittances. (no copies, no fee sheets, 3. All pawns are for 30 days. 4. All lost tickets - \$5.00 fee. 5. Without original pawn ticket, only the original pawner can pick up items AND ONLY with proper identification.

Merchandise not redeemed or renewed by 4/6/2016 will be forfeited

I the Pledgor, represent and warrant that the pledged property is not stolen, rented or leased and that there are no liens or encumbrances against the property. I also attest to be the rightful owner of the pledged property, and that I have the right to pledge the property. By signing, I state, under penalty of perjury, I have read the foregoing document, and the facts stated in it are true

Dealer: N/A

Permit: N/A

I hereby Pawn/Loan/Sell the items listed herein for the sum of: \$100.00

Customer Signature

3/7/2016

Hours Mon-Fri. 10:00 A.M. to 7:00 P.M.

Saturday 9:00 A.M. to 5:00 P.M.

Major Credit Cards Accepted for Sales Only.

FINGERPRINT

BUYER/DEALER/EMPLOYEE SIGNATURE



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