

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF LYNCHBURG

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

Plaintiff,

v.

VIRGINIA SILVERSMITHS, INC.,
a Virginia corporation,

SERVE: President
Lindsay W. Martin
3 Country Manor Drive
Fredericksburg, Virginia 22406

and

LINDSAY W. MARTIN,
an Individual,

SERVE: Lindsay W. Martin
3 Country Manor Drive
Fredericksburg, Virginia 22406

Defendants.

CIVIL ACTION NO. CU15000823

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 Defendants, Virginia Silversmiths, Inc. ("Virginia Silversmiths" or the "Corporate Defendant"), and its President, Lindsay W. Martin ("Martin" or

the “Individual Defendant”), have engaged constitute violations of § 59.1-200 of the Virginia Consumer Protection Act (“VCPA”), Virginia Code §§ 59.1-196 through 59.1-207. 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 Circuit Court of the City of Lynchburg has authority to entertain this action and to grant the relief requested herein pursuant to Virginia Code §§ 8.01-620, 17.1-513 and 59.1-203.

2. 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 the City of Lynchburg. Venue is permissible in this Court pursuant to Virginia Code § 8.01-262(2), (3) and (4) because the Corporate Defendant has a registered office in the City of Lynchburg, the Corporate Defendant and the Individual Defendant (collectively, the “Defendants”) regularly conduct substantial business activity in the City of Lynchburg, and portions of the cause of action arose in the City of Lynchburg.

3. Prior to commencement of this action, the Plaintiff gave the Defendants written notice that these proceedings were contemplated and a reasonable opportunity to appear before the Office of the Attorney General to demonstrate that no violations of the VCPA had occurred, or to execute an Assurance of Voluntary Compliance, pursuant to Virginia Code § 59.1-203(B). The Defendants have failed to demonstrate that no violations occurred and have not agreed to resolve the matter through execution of an Assurance of Voluntary Compliance that is acceptable to the Commonwealth.

PARTIES

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

5. The Corporate Defendant, Virginia Silversmiths, Inc., was a Virginia corporation having its principal office at 6101 Boonsboro Road, Lynchburg, Virginia 24503. Its Certificate of Incorporation was issued by the State Corporation Commission (“SCC”) on June 28, 2001. The SCC involuntarily terminated the corporate existence of Virginia Silversmiths on October 31, 2005 and purged the company’s registration effective December 31, 2010.

6. The Individual Defendant, Lindsay W. Martin, resided at 120 Stillhouse Run, Lynchburg, Virginia 24503, until around July 2015, and has resided at 3 Country Manor Drive, Fredericksburg, Virginia 22406, since at least September 2015. Martin is identified as the director of the Corporate Defendant in its Articles of Incorporation, and, on information and belief, is now and always has been the sole director and principal officer of the Corporate Defendant. Martin identified himself as President of the Corporate Defendant on annual reports that he provided to the SCC from 2002 to 2005. Martin also identified himself as the “president” of the Corporate Defendant on the company’s website: <http://silverrestoration.com>. A copy of the relevant website page is attached as Exhibit A.

FACTS

7. During the period from at least June 2001, through at least October 2014, the Corporate Defendant operated in the City of Lynchburg as a company offering silver and fine metal restoration to individual consumers throughout the United States. According to its website, the Corporate Defendant offered a range of restoration and repair services, including:

(a) Silver Repair: consisting of removing dents, reshaping bent objects, soldering broken pieces,

and remanufacturing broken or lost components; (b) Silver Replating: consisting of electroplating worn or dull silver pieces; and (c) Silver Polishing: consisting of removing oxidation and restoring luster to silver objects. Copies of the relevant website pages are attached as Exhibit B.

8. In connection with some of its transactions, and particularly its transactions between September 2011 and October 2014, the Corporate Defendant and Martin engaged in a pattern and practice of charging down payment monies and complete payments from customers and thereafter failing to start or complete the contracted-for work, provide refunds, or even return the silver objects that were the subject of the repairs despite repeated requests for those actions from their customers.

CAUSES OF ACTION

COUNT 1 – Virginia Consumer Protection Act

9. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1 through 8 above.

10. Virginia Silversmiths 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 providing silver and fine metal repair and restoration services to Virginia consumers.

11. In the course of offering its silver and fine metal repair and restoration services to individual consumers, the Corporate Defendant and Martin violated the VCPA by charging and accepting down payment monies and other payments for silver and fine metal repair and restoration services when they had no intention to perform or complete those services, in violation of § 59.1-200(A)(5) and (14);

12. In a governmental enforcement action, the VCPA authorizes the Attorney General to seek, among other relief, restitution (§ 59.1-205) for any amounts or property 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 (§ 59.1-206), and attorney's fees (§ 59.1-206).

13. The Corporate Defendant willfully committed the violations of § 59.1-200(A)(5) and (14).

14. Individual consumers have suffered monetary damages and other losses as a result of the aforesaid violations by the Corporate Defendant.

15. At the time this complaint is filed, the Commonwealth is aware of six consumers who are owed \$2,951 in the aggregate for amounts they paid to the Corporate Defendant and/or the Individual Defendant for work which was never completed. The same six consumers gave possession of their silver items to the Corporate Defendant and/or the Individual Defendant and have yet to have their items returned. A listing of the complainants who hired Virginia Silversmiths, the amounts they paid, and the property that remains in the possession of Virginia Silversmiths and/or the Individual Defendant is provided in a spreadsheet attached as Exhibit C.

COUNT II - Individual Liability/Active Participation of Martin

16. The Commonwealth re-alleges and incorporates by reference the allegations of paragraphs 1 through 15 above.

17. The Individual Respondent formulated, directed, controlled, approved and participated in each of the acts and practices of Virginia Silversmiths, including specifically those acts and practices that are the subject of this Complaint and that are alleged to have violated the consumer protection statute referenced herein. The Individual Defendant continued

to operate in the name of the Corporate Defendant even after the SCC terminated its corporate existence in 2005.

18. The Individual Respondent willfully committed the violations of Virginia Code § 59.1-200(A)(5) and (14) alleged herein.

19. Individual consumers have suffered monetary damages and other losses as a result of the aforesaid violations by the Individual Respondent.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Commonwealth of Virginia, prays that this Court:

1. Permanently enjoin Virginia Silversmiths and Martin from any future violations of Virginia Code § 59.1-200(A)(5) and (14);


2. Grant judgment to the Commonwealth, as trustee, against Virginia Silversmiths and Martin in an amount necessary to make restitution to the former customers of Virginia Silversmiths in the amounts of the down payments or complete payments they made for services which were not rendered and for restoration and return of the personal property they provided to Virginia Silversmiths, pursuant to Virginia Code § 59.1-205;

3. Grant judgment to the Commonwealth against Virginia Silversmiths and Martin for civil penalties in the amount of \$2,500 for each and every separate willful violation proven at trial, pursuant to Virginia Code § 59.1-206;

4. Grant judgment to the Commonwealth against Virginia Silversmiths, Inc. and Martin for its costs, reasonable investigative expenses, and attorney's fees, pursuant to Virginia Code § 59.1-206; and

5. Order such other and further relief as may be deemed proper and just.

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

By: 

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Rhodes B. Ritenour
Deputy Attorney General
Civil Litigation Division

David B. Irvin (VSB No. 23927)
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Assistant Attorney General

Consumer Protection Section
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Richmond, Virginia 23219
Phone: (804) 786-4047
Fax: (804) 786-0122

FILED IN THE CLERK'S OFFICE OF THE CIRCUIT
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DATE 10-23-15 TIME 8:30 A.M.
TESTE: EUGENE C. WINGFIELD, CLERK

BY:  Dep. Clerk



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About Virginia Silversmiths ...

Virginia Silversmiths, Inc. is a second-generation company specializing in silver and fine metal restoration. Although silversmithing is a diminishing art form, our craftsmen are a young, inspired, highly skilled team. Lindsay Martin, silversmith and president of Virginia Silversmiths, Inc. has been an expert in restoration for over 23 years.

Our restoration works have been featured in several magazines and newspapers. Lindsay Martin has also appeared on television shows and frequently holds silver restoration "clinics" in various areas around the United States.

References are available upon request.

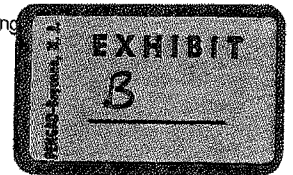


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Silver Plating Services

Our electroplating department uses only .999 fine silver and strictly adheres to the old "Quadruple Plate" government standards.

Our platers also specialize in gold gilding using several karat weights. They can very carefully match existing gilded pieces.

Museums and auction houses, including Sotheby's, trust us to properly restore their pieces. This fruit basket came from President Thomas Jefferson's home "Monticello" and was recently restored by our silversmiths.



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BY: *E. Wingfield* Dep. Clerk

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Silver Polishing Services

The desired finish of each piece is carefully assessed during the polishing phase of a restoration project.

While the polishers and buffers can bring a bright luster to every item, it may also be necessary to add oxidation or the appearance of years of patina.



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Silver Repair Services

Each silver piece is carefully inspected by our experts prior to and during each phase of the restoration. All work is then executed using time-honored techniques and authentic tools. This ensures that the original integrity of each piece is maintained.

Our repair shop services are the backbone of any proper restoration project. Silver pieces thought to be beyond hope as well as minor repairs are all undertaken with equal importance.

Our silversmiths can carefully remove dents, reshape disposal-damaged flatware, solder broken pieces, and even remanufacture a missing part in sterling, copper, bronze, or white metal.



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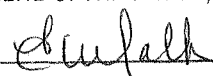
BY: *Chufalka* Dep. Clerk

EXHIBIT C
Detail of Payments for Uncompleted Work and
Property in the Possession of Virginia Silversmiths, Inc.

Complainant Name	Date of Transaction	Property Provided to Virginia Silversmiths	Monies Paid to Virginia Silversmiths
Coleman, Guy	12/6/2013	pitcher & tray	\$325.00
Little, Keith	10/9/2014	silver bread tray	\$110.00
Stanley, Timothy	8/1/2013	five piece coffee & tea set; a pair of candlesticks	\$1,775.00
Taylor, David	9/8/2011	antique silver bracelet	\$277.00
Wick, William	7/1/2012	1919 Boston Marathon Second Place Finisher Cup	\$200.00
Wuertz, Jesse	6/1/2013	silver water pitcher, sugar bowl, and cream pitcher	\$264.00
Total			\$2,951.00

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