

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CAMPBELL

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

Plaintiff,

v.

CNM PAWN, INC.,
a Virginia corporation,

Defendant.

Civil Action No. _____

COMPLAINT

The Plaintiff, Commonwealth of Virginia, by and through 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 CNM Pawn, Inc. d/b/a Vista Pawn of Altavista (“Vista Pawn” or the “Defendant”), has engaged constitute violations of §§ 54.1-4008(A), 54.1-4009(C), 54.1-4013(B), 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 Campbell 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 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 Altavista, Virginia and the County of Campbell. Venue is permissible in this Court pursuant to Virginia Code §§ 8.01-262(2), (3), and (4) because the Defendant has a registered office in Evington, Virginia, which is an unincorporated community located in the County of Campbell; the Defendant regularly conducts substantial business activity in Altavista, Virginia and the County of Campbell; and portions of the cause of action arose in Altavista, Virginia and the County of Campbell.

4. Prior to the 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 to demonstrate that it had not violated the VCPA or the pawnbroker statutes, or, in the alternative, to execute an Assurance of Voluntary Compliance (“Assurance”), pursuant to Virginia Code § 59.1-203(B). The Defendant agreed to execute an Assurance that is acceptable to the Commonwealth.

PARTIES

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

6. The Defendant, CNM Pawn, Inc. d/b/a Vista Pawn of Altavista is a Virginia corporation with its principal place of business in Altavista, Virginia. Vista Pawn registered with the Virginia State Corporation Commission on April 25, 2014.

FACTS

7. During the period from at least June 7, 2014 through the present, the Defendant has operated as a pawnbroker to consumer borrowers out of its store located at 1000 Main Street, Suite F, Altavista, Virginia 24517. As such, the Defendant has made and makes 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.

8. On a pawn loan it made on May 11, 2016, the Defendant imposed a monthly finance charge of \$33 on a loan of \$200. A copy of the pawn ticket the Defendant issued on this loan is attached as Exhibit A.

9. The finance charges of \$33 that the Defendant imposed on the loan described in ¶ 8 above included: (1) monthly interest of \$10; (2) a monthly service (storage) fee of \$20.00; and (3) an electronic records management ("ERM") fee of \$3.00.

10. The total APR of the loan described in ¶ 8 above is disclosed as 200.75%.

11. On a pawn loan it made on May 27, 2016, the Defendant imposed a monthly finance charge of \$15 on a loan of \$60. A copy of the pawn ticket the Defendant issued on this loan is attached as Exhibit B.

12. The finance charges of \$15 that the Defendant imposed on the loan described in ¶ 11 above included: (1) monthly interest of \$9; (2) a monthly service (storage) fee of \$3; and (3) an ERM fee of \$3.

13. The total APR of the loan described in ¶ 11 above is disclosed as 304.16%.

14. On a pawn loan it made on May 28, 2016, the Defendant imposed a monthly finance charge of \$10 on a loan of \$40. A copy of the pawn ticket the Defendant issued on this loan is attached as Exhibit C.

15. The finance charges of \$10 that the Defendant imposed on the loan described in ¶ 14 above included: (1) monthly interest of \$6; (2) a monthly service (storage) fee of \$2; and (3) an ERM fee of \$2.

16. The total APR of the loan described in ¶ 14 above is disclosed as 304.16%.

CAUSES OF ACTION

COUNT I – Virginia Code §§ 54.1-4008(A), 54.1-4013(B) and 54.1-4014(B)

17. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1 through 16.

18. Virginia Code § 54.1-4000 defines “pawnbroker” as:

[A]ny 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.

19. Section 54.1-4004 of the Virginia pawnbroker statutes provides that pawnbrokers may collect a lost ticket fee of \$5.

20. Section 54.1-4008(A) of the 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.

21. Section 54.1-4009(C)(1) of the 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 the property being pawned, pledged, or purchased.

22. Section 54.1-4013(B) of the 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.

23. Aside from the interest and fees described in §§ 54.1-4008(A), 54.1-4009(C)(1), and 54.1-4013(B), and the lost ticket fee permitted by § 54.1-4004, the pawnbroker statutes do not authorize the imposition of any other fees by a pawnbroker.¹

24. On a one month pawn loan of \$200, the following interest and fees are permitted: (a) interest in the amount of \$10; (b) a storage fee in the amount of \$10; and (c) an ERM fee in the amount of \$3. The total permitted monthly finance charges of \$23 provide for an APR of 138%.

25. On a one month pawn loan of \$60, the following interest and fees are permitted: (a) interest in the amount of \$4.20; (b) a storage fee in the amount of \$3; and (c) an ERM fee in the amount of \$3. The total permitted monthly finance charges of \$10.20 provide for an APR of 204%.

26. On a one month pawn loan of \$40, the following interest and fees are permitted: (a) interest in the amount of \$2.80; (b) a storage fee in the amount of \$2; and (c) an ERM fee in the amount of \$2. The total permitted monthly finance charges of \$6.80 provide for an APR of 204%.

27. On the \$200 loan described in ¶ 8 and evidenced by Exhibit A, the Defendant imposed monthly interest of \$10 which is consistent with the interest rate permitted by § 54.1-4008(A) of the pawnbroker statutes. The Defendant also charged a \$3 ERM fee which is consistent with § 54.1-4009(C)(1) of the pawnbroker statutes. However, the Defendant charged a \$20 storage

¹ The Virginia General Assembly amended the Virginia pawnbroker statutes in 2018 to permit pawnbrokers to collect “a late fee, not to exceed 10 percent of the amount loaned, for each item that is not claimed by the pledged date” VA. CODE ANN. § 54.1-4009(C)(2) (2018). Such late fees were not allowable during the relevant time period of this Complaint, and, consequently, do not factor into the allegations of this Complaint.

fee where § 54.1-4013(B) of the pawnbroker statutes would only allow 5% of the \$200 loan proceeds—\$10. This resulted in the affected consumer being overcharged \$10.

28. On the \$60 loan described in ¶ 11 and evidenced by Exhibit B, the Defendant charged a \$3 ERM fee which is consistent with § 54.1-4009(C)(1) of the pawnbroker statutes. The Defendant also charged a storage fee of \$3 which is consistent with § 54.1-4013(B) of the pawnbroker statutes. However, the Defendant charged \$9.00 in monthly interest where § 54.1-4008(A) of the pawnbroker statutes would only allow \$4.20 in monthly interest (7% of \$60). This resulted in the affected consumer being overcharged \$4.80.

29. And finally, on the \$40 loan described in ¶ 14 and evidenced by Exhibit C, the Defendant charged a \$2 ERM fee which is consistent with § 54.1-4009(C)(1) of the pawnbroker statutes. The Defendant also charged a storage fee of \$2 which is consistent with § 54.1-4013(B) of the pawnbroker statutes. However, the Defendant charged \$6.00 in monthly interest where § 54.1-4008(A) of the pawnbroker statutes would only allow \$2.80 in monthly interest (7% of \$40). This resulted in the affected consumer being overcharged \$3.20.

30. During the period from June 7, 2014 through June 9, 2016 (the “Relevant Period”), the Defendant charged excessive monthly interest and monthly storage fees on its loans with Virginia consumers. On information and belief, every loan the Defendant made during the Relevant Period included either excessive storage fees or excessive monthly interest resulting in an overcharge to the affected consumer.

Count II – Virginia Consumer Protection Act

31. The Commonwealth re-alleges and incorporates by reference the allegations of Paragraphs 1 through 30.

32. The Defendant is now, and was at all times during the Relevant Period, 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.

33. Pursuant to § 59.1-200(A)(33), each of the Defendant's violations of § 54.1-4008(A), 54.1-4013(B), and 54.1-4014(B) of the pawnbroker statutes also constitutes a violation of the VCPA.

34. The VCPA authorizes the Attorney General to seek, among other relief, restitution (§ 59.1-205) for any amounts that might have been acquired from identifiable 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).

35. The Defendant willfully committed the violations described of §§ 54.1-4008(A), 54.1-4013(B), 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 the illegal fees not authorized by those statutes.

36. 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:

A. Permanently enjoin the Defendant and its officers, directors, managers, members, employees, agents, successors, and assigns from violating §§ 54.1-4008(A), 54.1-4013(B), 54.1-4014(B), and 59.1-200(A)(33) of the Code of Virginia;

B. Grant judgment against the Defendant, and award to the Commonwealth, as trustee, for the use and benefit of all aggrieved borrowers, all sums necessary to restore to any consumers the money or property acquired from them by the Defendant in connection with its

violations of §§ 54.1-4008(A), 54.1-4013(B), 54.1-4014(B), and 59.1-200(A)(33) of the Code of Virginia, pursuant to Virginia Code § 59.1-205;

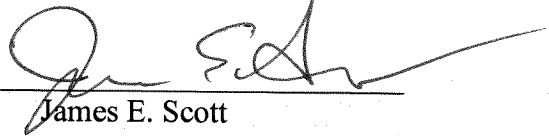
C. Grant judgment against the Defendant and award to the Commonwealth civil penalties of up to \$2,500 per willful violation of § 59.1-200(A)(33), pursuant to Virginia Code § 59.1-206(A), with the exact number of violations to be proven at trial;

D. Grant judgment against the Defendant and award to the Commonwealth its costs, reasonable expenses incurred in investigating and preparing the case up to \$1,000.00 per violation of § 59.1-200(A)(33) of the VCPA, and its attorneys' fees, pursuant to Virginia Code § 59.1-206(C); and

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

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

By: _____



James E. Scott

Mark R. Herring
Attorney General

Cynthia E. Hudson
Chief Deputy Attorney General

Samuel T. Towell
Deputy Attorney General
Civil Litigation Division

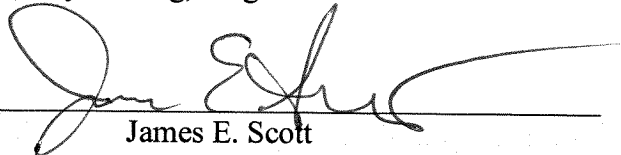
Richard S. Schweiker, Jr.
Senior Assistant Attorney General and Chief
Consumer Protection Section

David B. Irvin (VSB No. 23927)
Senior Assistant Attorney General
James E. Scott (VSB No. 88882)
Assistant Attorney General
202 North Ninth Street
Richmond, Virginia 23219
Phone: (804) 225-4778
Fax: (804) 786-0122
Email: jscott@oag.state.va.us

CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of August, 2018, a true copy of the foregoing
Complaint was sent by first-class mail, postage prepaid, to

James R. Richards, Esq.
Petty, Livingston, Dawson & Richards
P.O. Box 1080
Lynchburg, Virginia 24505



James E. Scott

PAWN

Vista Pawn of Altavista
1000 Main St. Suite F
Altavista, VA 24550
(434) 309-7655

2746



altavistapawn@gmail.com

PLEDGOR	PLEDGOR IDENTIFICATION	EMPLOYEE	DATE	TIME													
			05/11/16	2:18 pm													
<table border="1"> <tr> <td> ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 200.75 % </td> <td> MONTHLY PERCENTAGE RATE The cost of your credit as a monthly rate. 16.50 % </td> <td> FINANCE CHARGE The dollar amount the credit will cost you. \$33.00 </td> <td> Amount Financed Amount of cash given directly to you. \$200.00 </td> </tr> <tr> <td colspan="3"></td> <td> Total of Payments Amount to redeem pawn on due date. \$233.00 </td> </tr> <tr> <td colspan="3"></td> <td> DUE DATE 06/10/16 </td> <td> FORFEIT DATE 06/25/16 </td> </tr> </table>					ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 200.75 %	MONTHLY PERCENTAGE RATE The cost of your credit as a monthly rate. 16.50 %	FINANCE CHARGE The dollar amount the credit will cost you. \$33.00	Amount Financed Amount of cash given directly to you. \$200.00				Total of Payments Amount to redeem pawn on due date. \$233.00				DUE DATE 06/10/16	FORFEIT DATE 06/25/16
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 200.75 %	MONTHLY PERCENTAGE RATE The cost of your credit as a monthly rate. 16.50 %	FINANCE CHARGE The dollar amount the credit will cost you. \$33.00	Amount Financed Amount of cash given directly to you. \$200.00														
			Total of Payments Amount to redeem pawn on due date. \$233.00														
			DUE DATE 06/10/16	FORFEIT DATE 06/25/16													
Pay Schedule: One payment of \$233.00 due on 06/10/16. Prepayment: If you pay off early you will not be entitled to a refund of part of the finance charge. See your contract document for any additional information concerning non-payment, default and prepayment refunds or penalties.																	

YOU ARE GIVING A SECURITY INTEREST IN THE FOLLOWING MERCHANDISE

ITEM #	DESCRIPTION	SERIAL / VIN	LOAN	STATED VALUE
13840	Riding Mower Trl		200.00	200.00

FEDERAL PRIVACY NOTICE

We collect nonpublic personal information about you (1) from you on applications and other forms, (2) from your transactions with us, our affiliates and others, (3) from the bank where you maintain your checking account, (4) from consumer credit reporting agencies, (5) from persons with whom we contact when we verify information you provide on this Agreement including your spouse, relatives and employer, and (6) from other sources. We do not disclose any nonpublic personal information about you or our former customers to anyone, except as permitted by law. We restrict access to nonpublic personal information about you to those of our employees who need to know that information to provide the products or services that you have requested to you. Our employee handbook instructs employees to maintain the confidentiality of your nonpublic personal information.

The Pledgor represents and warrants that the pledged personal property is not stolen, rented, or leased, and that there are no liens or encumbrances against the property. Pledgor also attests to have good title to the pledged personal property, that Pledgor has the right to pledge the property, and is at least 18 years of age. Pledgor also attests that the Pledgor is not in voluntary or involuntary bankruptcy of any type and is not anticipating filing a bankruptcy proceeding of any type.

By signing, I am stating that I agree to all terms and conditions on the front and back and acknowledge receipt of a copy of this agreement.

I also state, under penalty of perjury, I have read the foregoing document, and the facts stated in it are true.

EXHIBIT
A

Loan	200.00
Interest	10.00
Storage	20.00
(ERM)	3.00
Balance Forward	0.00
Past Due	0.00
Total	233.00

X _____
Lender's Signature

Right Index

PAWN

Vista Pawn of Altavista
1000 Main St. Suite F
Altavista, VA 24550
(434) 309-7655

2814

altavistapawn@gmail.com



PLEDGOR	PLEDGOR IDENTIFICATION	EMPLOYEE	DATE	TIME
[REDACTED]			05/27/16	3:29 pm
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 304.16 %	MONTHLY PERCENTAGE RATE The cost of your credit as a monthly rate. 25.00 %	FINANCE CHARGE The dollar amount the credit will cost you. \$15.00	Amount Financed Amount of cash given directly to you. \$60.00	
			Total of Payments Amount to redeem pawn on due date. \$75.00	
Pay Schedule: One payment of \$75.00 due on 06/26/16.			DUE DATE	FORFEIT DATE
Prepayment: If you pay off early you will not be entitled to a refund of part of the finance charge.			06/26/16	07/11/16
See your contract document for any additional information concerning non-payment, default and prepayment refunds or penalties.				

YOU ARE GIVING A SECURITY INTEREST IN THE FOLLOWING MERCHANDISE

ITEM #	DESCRIPTION	SERIAL / VIN	LOAN	STATED VALUE
13977	5 Silver Eagles		60.00	60.00

FEDERAL PRIVACY NOTICE

We collect nonpublic personal information about you (1) from you on applications and other forms, (2) from your transactions with us, our affiliates and others, (3) from the bank where you maintain your checking account, (4) from consumer credit reporting agencies, (5) from persons with whom we contact when we verify information you provide on this Agreement including your spouse, relatives and employer, and (6) from other sources. We do not disclose any nonpublic personal information about you or our former customers to anyone, except as permitted by law. We restrict access to nonpublic personal information about you to those of our employees who need to know that information to provide the products or services that you have requested to you. Our employee handbook instructs employees to maintain the confidentiality of your nonpublic personal information.

The Pledgor represents and warrants that the pledged personal property is not stolen, rented, or leased, and that there are no liens or encumbrances against the property. Pledgor also attests to have good title to the pledged personal property, that Pledgor has the right to pledge the property, and is at least 18 years of age. Pledgor also attests that the Pledgor is not in voluntary or involuntary bankruptcy of any type and is not anticipating filing a bankruptcy proceeding of any type.

By signing, I am stating that I agree to all terms and conditions on the front and back and acknowledge receipt of a copy of this agreement.

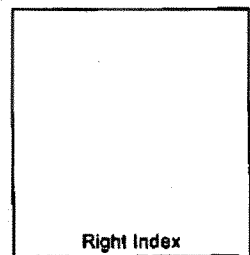
I also state, under penalty of perjury, I have read the foregoing document, and the facts stated in it are true.

EXHIBIT B	Loan	60.00
	Interest	9.00
	Storage	3.00
	(ERM)	3.00
	Balance Forward	0.00
	Past Due	0.00
	Total	75.00



X

Lender's Signature



Right Index

PAWN

Vista Pawn of Altavista
1000 Main St. Suite F
Altavista, VA 24550
(434) 309-7655

2817

altavistapawn@gmail.com



PLEDGOR	PLEDGOR IDENTIFICATION	EMPLOYEE	DATE	TIME
[REDACTED]			05/28/16	10:07 am
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate. 304.16 %	MONTHLY PERCENTAGE RATE The cost of your credit as a monthly rate. 25.00 %	FINANCE CHARGE The dollar amount the credit will cost you. \$10.00	Amount Financed Amount of cash given directly to you. \$40.00	
			Total of Payments Amount to redeem pawn on due date. \$50.00	
Pay Schedule: One payment of \$50.00 due on 06/27/16. Prepayment: If you pay off early you will not be entitled to a refund of part of the finance charge. See your contract document for any additional information concerning non-payment, default and prepayment refunds or penalties.			DUE DATE 06/27/16	FORFEIT DATE 07/12/16

YOU ARE GIVING A SECURITY INTEREST IN THE FOLLOWING MERCHANDISE

ITEM #	DESCRIPTION	SERIAL / VIN	LOAN	STATED VALUE
13981	Hp Stream 11 Blue With Original Charger	5CD5487PRV	40.00	40.00

FEDERAL PRIVACY NOTICE

We collect nonpublic personal information about you (1) from you on applications and other forms, (2) from your transactions with us, our affiliates and others, (3) from the bank where you maintain your checking account, (4) from consumer credit reporting agencies, (5) from persons with whom we contact when we verify information you provide on this Agreement including your spouse, relatives and employer, and (6) from other sources. We do not disclose any nonpublic personal information about you or our former customers to anyone, except as permitted by law. We restrict access to nonpublic personal information about you to those of our employees who need to know that information to provide the products or services that you have requested to you. Our employee handbook instructs employees to maintain the confidentiality of your nonpublic personal information.

The Pledgor represents and warrants that the pledged personal property is not stolen, rented, or leased, and that there are no liens or encumbrances against the property. Pledgor also attests to have good title to the pledged personal property, that Pledgor has the right to pledge the property, and is at least 18 years of age. Pledgor also attests that the Pledgor is not in voluntary or involuntary bankruptcy of any type and is not anticipating filing a bankruptcy proceeding of any type.

By signing, I am stating that I agree to all terms and conditions on the front and back and acknowledge receipt of a copy of this agreement.

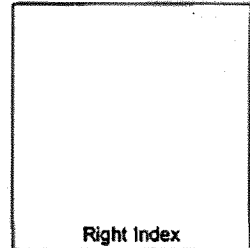
I also state, under penalty of perjury, I have read the foregoing document, and the facts stated in it are true.

EXHIBIT C	Loan	40.00
	Interest	6.00
	Storage	2.00
	(ERM)	2.00
	Balance Forward	0.00
	Past Due	0.00
	Total	50.00



X

Lender's Signature



Right Index