VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF SPOTSYLVANIA

COMMONWEALTH OF VIRGINIA, ***EX REL.* MARK R. HERRING,** **ATTORNEY GENERAL,** **Plaintiff,** **v.** **PAWNKING, LLC,** **a Virginia limited liability company,** **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, Pawnking, LLC ("Pawnking" 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 Spotsylvania 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 Spotsylvania. 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 Spotsylvania, and portions of the cause of action arose in the County of Spotsylvania.

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, Pawnking, LLC, is a Virginia limited liability company with its principal place of business in Fredericksburg, Virginia 22407 (Spotsylvania County). Its Articles of Organization were issued by the State Corporation Commission on May 5, 2008.

FACTS

7. During the period from at least May 5, 2008 through the present, the Defendant has operated as a pawnbroker to consumer borrowers out of its store located at 4521 Plank Road, Fredericksburg, Virginia 22407 in Spotsylvania 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 April 20, 2015, the Defendant imposed a monthly finance charge of $20 on a loan of $100. A copy of the pawn ticket the Defendant issued on this loan is attached as Exhibit A.

CAUSES OF ACTION

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

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

10. 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.

11. 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.

12. 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.

13. 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.

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

15. 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.

16. The $20 finance charge assessed in connection with the loan described in Paragraph 8 above exceeded the amounts permitted by the pawnbroker statutes, and, accordingly, is an excessive fee not permitted by the pawnbroker statutes. Accordingly, the excess charge constitutes disguised interest in violation of §§ 54.1-4008(A) and 54.1-4014(B).

17. On information and belief, the Defendant violated § 54.1-4008(A) on all or many of its loans during the period from May 5, 2008 through November 12, 2015 (the "Relevant Period") because it charged excessive interest rates and illegal fees on all or many of its loans.

Count II – Virginia Consumer Protection Act

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

19. 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.

20. 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.

21. 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.

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

23. 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

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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 1st day of March, 2017, a copy of the foregoing **Complaint** was sent by first-class mail, postage prepaid, to Christian B. Franklin, Esquire, Parrish Snead Franklin Simpson, PLC, P.O. Box 7166, Fredericksburg, Virginia 22404, counsel for Pawnking, LLC.

Mark S. Kubiak

Pawnbroker
Lender/Creditor PAWNKING
4521 A PLANK RD
FREDERICKSBURG, Virginia 22407
5407857474

EXHIBIT
A

PAWN CONTRACT

Name of Pledgor [redacted]

Pledgor's identification number [redacted]

Loan number 3721

Address of Pledgor	Date Made	Time Made	Due Date
[redacted]	04/20/2015	2:58 pm	5/20/2015

Emp In	Phone	Race	Sex	D.O.B	Height	Weight	Emp Out
NA	[redacted]	W	F	[redacted]	[redacted]		

You are giving security interest in the following merchandise:

1) Men's, Ring, Solitaire, Yellow Gold,4.6, Sz. 11, 10K. ; 2) Women's, Ring, Solitaire, Yellow Gold, 2.1, Sz. , 10K. BROKEN; 3) Women's, Ring, Solitaire, Yellow Gold, 1.2, Sz. 10.5, 10K.

AMOUNT FINANCED The amount of cash given directly to you.	$	100.00
FINANCE CHARGE The dollar amount the credit will cost you.	$	20.00
TOTAL OF PAYMENTS Amount required to redeem pawn on the Due Date.	$	120.00
ANNUAL PERCENTAGE RATE The cost of your credit as a yearly rate.		240.00%
PAYMENT SCHEDULE 1 @ $		120.00

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.

PREPAYMENT: If you pay off early, you will not be entitled to a refund of part of the finance charge.

In consideration of and to secure the amount identified as the Total of Payments, Pledgor hereby deposits with the issuer of this pawn ticket the pledged property described above

The Pledgor represents and warrants that the pledged 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 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.

If the Pledgor fails to redeem or extend this loan on or before the fifteenth (15) day following the Maturity Date, the pledged property shall be automatically forfeited to the Pawnbroker, and absolute right, title, and interest in and to the pledged property vests in and is deemed conveyed to the Pawnbroker, and no further notice is necessary. This loan may be extended upon mutual agreement of both parties.

In this pawn transaction a Pawnbroker may contract for and receive a monthly Finance charge consisting of an interest charge of 10% per month on loans of $25 or less, 7% per month on loans more than $25 and less than $100, 5% per month on loans $100 or more, plus a Pawnbroker may charge a monthly storage fee (ERM) for making the daily electronic reports to appropriate law-enforcement officers required by §54.1-4010, creating and maintaining the electronic records required under this section, and investigating the legal title to property being pawned or pledged. Such fee shall not exceed five percent of the amount loaned on such item or three dollars, whichever is less. The Fiance Charge is deemed earned on the date of the loan and a like amount will be earned on the same say of each succeeding month during any subsequent extensions or grace periods.

Finance Charges equal Interest, Storage Fee(s), and Appraisal Fee(s). Pawn can and will be renewed at the same rate as stated in this contract

If this loan contract is lost, destroyed, or stolen, the Pledgor must immediately advise the issuing Pawnbroker in writing by certified or registered mail, return receipt requested or in person to protect Pledgor's pledged property. Fee for lost ticket and statement: $5.00

Proper identification required on all redemptions. Firearms redeemable only by the original Pledgor. Any person presenting this loan contract may, at Pawnbrokers option, redeem pledged property by payment of all principal and finance charges due unless Pawnbroker has received written notice that the loan contract had been lost, stolen or destroyed. The Pawnbroker is not liable to the original Pledgor for allowing the redemption of the pledged property by another person. Any person redeeming the pledged property must sign the Pledgor's copy of the pawnbroker transaction form, which the pawnbroker will retain as evidence of the person's receipt of the pledged property.

It is agreed to and understood that the pawnbroker does not insure pledged property for the benefit of the Pledgor. Pawnbroker is not liable for loss or damage caused by an Act of God, burglary, theft, robbery, fire, typical wear and deterioration resulting from handling and storage or other unforeseen casualty beyond the control of the Pawnbroker.

No oral representation shall in any way change or modify these written conditions, and such oral representations shall in no way be binding upon the issuer of this pawn ticket.

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 am stating that I agree to all terms and conditions 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.**

X _____ Pledgor's Signature

X _____ Pawnbroker's Signature

X _____ Signature on Redemption

*** ANY FIREARM MUST BE REDEEMED BY ITS ORIGINAL PLEDGOR**
*** NO RENEWALS, EXTENSIONS, OR REDEMPTION BY MAIL**
*** VERBAL AGREEMENTS ARE NOT BINDING**
*** NO CHECKS ACCEPTED, NO GOODS SENT COD**
*** NO GOODS SHOWN FOR REDEMPTION UNLESS PAID IN ADVANCE**
*** CASH ONLY FOR PAWN PAYMENTS AND REDEMPTIONS**