

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No. _____

STATE OF NORTH CAROLINA,)
ex rel. Roy Cooper, Attorney)
General,)
)
Plaintiff,)
)
v.)
)
STEVEN COMPTON d/b/a)
TIRE PRO and d/b/a Troy BP,)
)
Defendant.)
_____)

FILED
 2008 OCT 20 PM 12:33
 WAKE COUNTY, C.S.C.
 BY _____

COMPLAINT
Jury Trial Requested

NOW COMES the State of North Carolina, on relation of its Attorney General, Roy Cooper, and complains and alleges, as more fully shown below, that defendant engaged in price gouging in the sale of gasoline beginning on or about September 12, 2008 and continuing thereafter, in violation of G.S. § 75-38.

PARTIES

1. Roy Cooper is the duly elected Attorney General of North Carolina. He is responsible for enforcing Chapter 75 of the North Carolina Statutes, including G.S. § 75-38, entitled, "Prohibit excessive pricing during states of disaster, states of emergency, or abnormal market disruptions."

2. Steven Compton is a resident of North Carolina. He currently resides at 905 Mount Carmel Church Road, Troy, North Carolina. He owns, controls and/or manages a retail establishment that does business as Tire Pro and which is also known as Troy BP. The business is located at 104 Courthouse Square, Troy, Montgomery County, North Carolina. Hereinafter

Steven Compton d/b/a Tire Pro and d/b/a Troy BP is referred to as "defendant."

TRADE AND COMMERCE

3. The conduct alleged herein is in or affecting trade and commerce in North Carolina.

THE CONDUCT ALLEGED

4. On September 11, 2008, defendant received a shipment of gasoline with a laid-in cost of \$3.559 per gallon for regular unleaded, \$3.659 for mid-grade, and \$3.759 for premium. This shipment included 3,988 gallons of regular unleaded gasoline.

5. In the motor fuel industry, "laid-in cost" means the "rack" or terminal price, plus all state and federal taxes and fees, and the cost of freight or delivery to the retail outlet.

6. Based on consumer complaints, prior to September 12, 2008, defendant charged approximately \$3.699 per gallon for regular unleaded gasoline, approximately 10 cents more for mid-grade, and approximately 20 cents more for premium gasoline.

7. Based on defendant's cost of product in the September 11 delivery, at those price levels defendant's gross profit margin per gallon was at about 14 cents per gallon, or a markup of about 4 percent.

8. On September 12, 2008, pursuant to G.S. § 75-38(e), North Carolina Governor Michael F. Easley declared a state of abnormal market disruption due to the effect of Hurricane Ike. This declaration triggered the application of North Carolina's statute prohibiting price gouging, G.S. § 75-38. Both of these events were widely publicized in North Carolina.

9. Based on consumer complaints, on September 12, 2008, after the governor's declaration, defendant posted and charged \$5.989 or \$5.999 for regular unleaded gasoline, and

charged commensurately higher prices for mid-grade and premium.

10. Defendant increased his prices to these levels notwithstanding that his cost of gasoline had not changed since the shipment he received on September 11, 2008. At those prices defendant's gross profit margin per gallon expanded to at least \$2.23 per gallon.

11. Defendant posted and charged prices for gasoline that were unreasonably excessive in the circumstances beginning on or about September 12, 2008, and continuing thereafter for a period not presently known to the State.

12. On September 18, 2008, the State served on defendant an Investigative Demand pursuant to G.S. § 75-10. The Investigative Demand required defendant to produce, by September, 2008, documents showing his cost of gasoline and his selling price for the period July 1, 2008 through the date of his response to the Investigative Demand.

13. Defendant neither sought nor obtained an extension of time in which to produce the responsive documents.

14. As of this date defendant not produced to the State any documents in response to the Investigative Demand or otherwise.

CLAIM FOR RELIEF:
PRICE GOUGING

15. Each of defendant's acts of offering to sell, and of selling gasoline to each consumer, at an unreasonably excessive price under the circumstances, violated G.S. §§ 75-38 and 75-1.1.

WHEREFORE the State prays that the Court:

1. Order defendant to make refunds to consumers who purchased gasoline from him

at unreasonably excessive prices.

2. In instances where the affected consumers cannot reasonably be identified, order defendant to disgorge to the State the amount of the overcharges, which amounts shall be used for low income heat energy assistance in Montgomery County.

3. Assess a civil penalty of up to \$5,000.00 for each violation of G.S. §§ 75-38 and 75-1.1.

4. Enjoin defendant from violating G.S. §§ 75-38 in the future.

5. Grant such other relief as is just.

This the 20th day of October, 2008.

ROY COOPER
Attorney General



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