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MARIN COUNTY, CALIFORNIA

Prevention * Prosecution * Protection

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February 20, 2014

PRESS RELEASE

Robert R. Guidi
CHIEF INSPECTOR

**TRIAL COURT FINDS INTERNET RETAILER OVERSTOCK.COM
LIABLE FOR FALSE ADVERTISING AND UNLAWFUL BUSINESS
PRACTICES FOR ITS USE OF ADVERTISED REFERENCE PRICES;
PROSECUTORS AWARDED \$6,828,000 IN CIVIL PENALTIES.**

Peggy M. Toth
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Marin County District Attorney Edward S. Berberian announced today that Alameda County Superior Court Judge Wynne Carvill has entered a Judgment against internet retailer Overstock.com finding Overstock liable for engaging in false advertising and unlawful business practices in Marin County and throughout California from 2006 to 2013.

Prosecutors filed their initial Complaint on November 18, 2010. The Final Judgment entered on February 19, 2014, followed a two-week court trial in September, 2013, oral arguments on December 19, 2013, and the Court's statement of decision issued on February 5, 2014. Deputy District Attorney Andres H. Perez prosecuted the case for District Attorney Berberian's Consumer Protection Unit in conjunction with seven other California District Attorney's Offices.

Primarily at issue in the case was Overstock's use of advertised reference prices (ARPs) displayed mostly on the Overstock.com website next to the terms "list price," "compare at," or "compare." In conjunction, Overstock stated a purported savings to consumers, in dollars and percentages, off of the ARP next to the terms "you save" or "save."

In the Court's written statement of decision, it found Overstock's stated "list price" when based on either formulas or similar products were untrue statements. Consequently, the court found any corresponding savings were also untrue.

Similarly, the Court found Overstock's use of formulas or similar products to set ARPs, regardless of nomenclature, misleading or having the capacity to mislead.

Finally, the Court found Overstock's business practice of setting ARPs based on the highest price that can be found without regard to the prevailing market price and without disclosure of the practice was misleading or had the capacity to mislead.

In sum, the Court found, "Overstock has consistently used ARPs in a manner designed to overstate the amount of savings to be enjoyed by shopping on the Overstock site."

The Final Judgment orders Overstock to pay \$6,828,000 in civil penalties plus certain costs of litigation to the District Attorneys. The Court's order also prohibits Overstock from advertising reference prices that are: not based on actual prices offered in the marketplace at or about the time the advertisement is first placed; based on similar products unless disclosed on the web page; and based on the highest price that may be found anywhere without regard to whether the ARP reflects a substantial volume of recent sales unless this basis is reasonably disclosed.

District Attorney Berberian stated, "We are pleased that our law enforcement action has contributed to increasing the accuracy and transparency in the use of reference pricing in the internet retail sector which will benefit consumers."

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