



October 2, 2017

VIA EMAIL AND OVERNIGHT MAIL

Lorrie Lewis Adeyemi
Assistant Attorney General
Consumer Protection Department
Office of the Connecticut Attorney General
110 Sherman Street
Hartford, CT 06105-2294
[REDACTED]

Re: Deceptive Advertising Practices in Connecticut Outlet Stores

Dear Ms. Adeyemi:

I write to inform you of the findings of a recent Truth in Advertising, Inc. (“TINA.org”) investigation of deceptive price advertising tactics used by outlet stores in Connecticut. Specifically, TINA.org visited four outlet stores at Clinton Crossing Premium Outlets in Clinton, Connecticut – J. Crew Factory, Coach Outlet, Hanna Andersson, and Skechers – on a weekly basis for more than six months (from February 17, 2017 to August 28, 2017) in order to track the advertised pricing for a sampling of products in each store. The investigation revealed that all four stores run perpetual – and therefore fabricated and deceptive – sales on their products. In fact, not once during the entire 29-week investigation did any product in TINA.org’s sampling sell for the advertised “regular” price.¹

This type of fictitious pricing comparison, in which the outlet stores attempt to persuade consumers to think that they are receiving a great bargain, diminishes consumer welfare, undermines price competition, and takes sales away from honest retailers. It is a misleading marketing ploy that is incredibly effective at persuading consumers to stop searching for the best deal they can find, and results in consumers paying more than they necessarily need to.

A summary of TINA.org’s findings for each of the four stores sampled is below.

J.Crew Factory



At the J.Crew Factory store at Clinton Crossings, TINA.org tracked the pricing for a sampling of five products over the 29-week investigation. Despite the store’s “WON’T-LAST PRICES” slogan, all five products in TINA.org’s J.Crew Factory sampling were “on sale” during the entirety of the investigation.

Product	Advertised “Regular” Price ²	Advertised “Sale” Price
Women’s Caryn Cardigan	\$54.50	\$19.95 - \$29.95
Women’s Racerback Cami	\$49.50	\$13.93 - \$29.70
Men’s Washed Shirt	\$49.50 - \$54.50	\$24.75 - \$32.70
Men’s Sutton Chino	\$49.50 - \$59.50	\$27.85 - \$41.65
Women’s Winnie Pant	\$69.50	\$34.75 - \$48.65

The sampling of products at the J.Crew Factory store show that “sales” ranged from 30% off to more than 70% off the “regular” price. A full table showing the individual prices at the J.Crew Factory store each week, as well as photographs of the product tags and sale signs, is available at <https://www.truthinadvertising.org/j-crew-pricing-database/>.³

Coach Outlet

At the Coach Outlet store at Clinton Crossings, TINA.org similarly tracked the pricing for a sampling of five products over the 29-week investigation. Again, none of the products ever sold for the advertised “regular” price.

Product	Advertised “Regular” Price ⁴	Advertised “Sale” Price
Men’s Hamilton Bag	\$450.00	\$139.50 - \$169.00
Women’s Lexy Shoulder Bag	\$395.00	\$117.60 - \$189.50
Women’s City Zip Tote	\$295.00	\$82.50 - \$109.50
Women’s Accordion Zip Wallet	\$250.00	\$54.00 - \$79.00
Women’s Corner Zip Wristlet	\$75 - \$85.00	\$19.00 - 25.00

The sampling of products at the Coach Outlet store show that “sales” ranged from 52% off to more than 75% off the “regular” price. A full table showing the individual prices at

the Coach Outlet store each week, as well as photographs of the product tags and sale signs, is available at <https://www.truthinadvertising.org/coach-outlet-pricing-database/>.

To highlight the deception of Coach’s “sale” price marketing, the most expensive week for the Women’s Lexy Shoulder Bag (which has an advertised “regular” price of \$395) and the Women’s City Zip Tote (which has an advertised “regular” price of \$295) was the week before Mother’s Day, despite the store’s “Make Mom’s Day Take An Additional 50% OFF Everything” sale.⁵ That week, the Lexy Shoulder Bag was “on sale” for \$189.50 and the City Zip Tote was “on sale” for \$109.50 – the most those two products ever sold for during the entire 29 weeks.⁶

Hanna Andersson

At the Hanna Andersson store at Clinton Crossings, TINA.org tracked the pricing for a sampling of another five products over the 29-week investigation. Once again, none of the products ever sold for the advertised “regular” price.

Product	Advertised “Regular” Price⁷	Advertised “Sale” Price
Girls Playdress	\$39.00 - \$42.00	\$10.00 - \$33.60
Kids Hoodie	\$35.00 - \$40.00	\$19.00 - \$29.00
Bright Kids Leggings	\$20.00 - \$22.00	\$14.00 - \$17.60
Kids Pajamas	\$40.00	\$15.00 - \$32.00
Boys Board Shorts	\$42.00	\$15.00 - \$33.60

The sampling of products at the Hanna Andersson store show that “sales” ranged from 12% off to more than 75% off the “regular” price. A full table showing the individual prices at the Hanna Andersson store each week, as well as photographs of the product tags and sale signs, is available at <https://www.truthinadvertising.org/hanna-andersson-pricing-database/>.

Skechers

Finally, at the Skechers store at Clinton Crossings, TINA.org tracked the pricing for a sampling of four products over the 29-week investigation. Once again, all of the products sampled were “on sale” the entire time.

Product	Advertised “Regular” Price⁸	Advertised “Sale” Price
Women’s Beverlee - Delighted sandal	\$50.00	\$39.99
Men’s Relaxed Fit: Eris – Inaldo sandal	\$70.00	\$44.99 - \$49.99
Women’s Relaxed Fit: Reggae Fest - Dory shoe	\$60.00	\$49.99 - \$54.99
Men’s Verdict boot	\$95.00	\$69.99

The sampling of products at the Skechers store show that “sales” ranged from 8% off to more than 35% off the “regular” price. A full table showing the individual prices at the Skechers store each week, as well as photographs of the product tags and sale signs, is available at <https://www.truthinadvertising.org/skechers-pricing-database/>.⁹

Widespread Deceptive Marketing

In short, all four stores investigated – J.Crew Factory, Coach Outlet, Hanna Andersson, and Skechers – employ the same deceptive pricing tactic in which they use fabricated reference pricing in order to mislead consumers to believe that they are getting a great deal on merchandise when they are not.¹⁰

As a result of our findings, we sent warning letters to each of the four stores we visited and urged each of them to stop the deceptive marketing immediately.¹¹ Even if these individual stores comply, however, TINA.org’s findings – based on a sampling – clearly suggest that this deceptive marketing tactic is widespread and must be addressed on a state-wide basis. TINA.org therefore urges your office to commence an investigation of this deceptive marketing issue and take appropriate enforcement action as needed.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.



Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Cc: Maria Di Lorenzo, General Counsel, J.Crew Group, Inc.
Nancy Axilrod, General Counsel, Coach, Inc.
Philip Paccione, General Counsel, Skechers
Joelle Maher, President and CEO, Hanna Andersson, LLC
Steven Fivel, General Counsel, Simon Property Group, Inc.

¹ On February 24, 2017, the J.Crew Factory Women’s Caryn Cardigan, which has an advertised regular price of \$54.50, was displayed next to this sale sign:



Though the fine print in the sign states “FULL PRICE WHEN PURCHASED INDIVIDUALLY,” it is not likely that any consumer would purchase one sweater for \$54.50 when they could purchase two sweaters for \$40.00.

² The “regular” prices at the J.Crew Factory store are typically provided on the product tags with no accompanying descriptor.

Example:



³ The advertised “sale” prices recorded by TINA.org are the prices marketed to consumers who have not opened a J.Crew credit card. J.Crew card holders can be eligible to receive additional discounts on merchandise.

⁴ The “regular” prices at the Coach Outlet store are typically provided on the product tags as “MFSRP.”

Example:



⁵ This image appeared on fliers handed out at the Coach Outlet store on May 9, 2017:



⁶ One of the ways the Coach Outlet store manipulates the advertised “sale” prices is by changing the prices shown on placards near the products week-to-week. In other words, the “regular” prices shown on the tags and the storewide “sales” may not change each week, but the “sale” price on which an additional percentage can be taken off does change.

For example, on May 3, 2017, a day on which the store was running a storewide 50% off sale, the Women’s Corner Zip Wristlet, which bears a tag showing a “regular” price of \$75, was displayed on a shelf showing a “sale” price of \$39, meaning the final sales price was \$19.50. The following week, on May 9, 2017 (the week before Mother’s Day), the store was still running the 50% off sale and the wristlet still bore a tag showing a “regular” price of \$75, but the display shelf showed a “sale” price of \$49, meaning the final sales price that day was \$24.50.

⁷ The “regular” prices at the Hanna Andersson store are typically provided on the product tags with either no accompanying descriptor or with “very gd price” before the price.

Examples:



⁸ The “regular” prices at the Skechers store are typically provided on stickers placed on the shoe boxes either with the word “Was” in front of the price or with no accompanying descriptor.

Examples:



⁹ In addition to these advertised “sale” prices at Skechers, the store also ran a “50% off your 2nd pair sale” during 27 of the 29 weeks of TINA.org’s investigation.

¹⁰ Upon information and belief, this deceptive marketing tactic is employed throughout the companies and is not limited to a single store. TINA.org is aware of at least seven pending class-action lawsuits filed against these stores regarding deceptive reference pricing, at least four against Coach, Inc., which have been consolidated as one (*Marino v. Coach, Inc.*, 16-cv-01122, S.D.N.Y.), and at least three against J.Crew, Inc. (*Delman v. J.Crew Group, Inc.*, 16-cv-9219, C.D. Cal.; *Press v. J. Crew, Inc.*, 17-cv-04315, C.D. Cal.; and *Coladonato v. J.Crew Group, Inc.*, 17-cv-4287, S.D.N.Y.).

Additionally, there may be other deceptive marketing issues pertaining to these outlet stores. For example, many outlet stores have been reported to sell lower quality items produced specifically for outlet stores without properly disclosing to consumers that there is a difference between those items and the higher-quality products found in regular retail stores.

See, e.g., Sens. & Rep. to FTC: Outlet Stores May Be Misleading Consumers, Jan. 30, 2014, <https://www.whitehouse.senate.gov/news/release/sens-and-rep-to-ftc-outlet-stores-may-be-misleading-consumers>. This TINA.org investigation, however, focused solely on the companies' fictitious price marketing.

¹¹ TINA.org's warning letters, as well as other information pertaining to this investigation, are available at <https://www.truthinadvertising/outlets-summary-of-action>.