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SUPERIOR COURT  
2011 DEC 21 A 10: 26  
CIVIL DIVISION

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, SUSSEX COUNTY  
DOCKET NO. SSX-C- 30 -11

PAULA T. DOW, Attorney General of the State of New Jersey, and THOMAS R. CALCAGNI, Director of the New Jersey Division of Consumer Affairs,

Plaintiffs,

v.

THAKUR GAS, L.L.C. d/b/a LUKOIL; JANE AND JOHN DOES 1-10, individually and as owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives and/or independent contractors of THAKUR GAS, L.L.C. d/b/a LUKOIL; and XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

**COMPLAINT**

Plaintiffs Paula T. Dow, Attorney General of the State of New Jersey (“Attorney General”), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Thomas R. Calcagni, Director of the New Jersey Division of Consumer Affairs (“Director”), with offices located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of Complaint state:

## PRELIMINARY STATEMENT

1. During emergencies and major disasters, such as hurricanes, earthquakes, fires and floods, some merchants have taken unfair advantage of consumers by greatly increasing prices for certain merchandise, a practice commonly known as “price gouging.” When a declared state of emergency results in abnormal disruptions of the market, the New Jersey Legislature has found it in the public interest that excessive and unjustified price increases in the sale of certain merchandise, price gouging, be prohibited. See N.J.S.A. 56:8-107.

2. In late August 2011, just prior to Hurricane Irene reaching the State of New Jersey (“State” or “New Jersey”), Governor Chris Christie (“Governor Christie”) declared a State of Emergency. In the wake of the State of Emergency and Hurricane Irene, defendant Thakur Gas, L.L.C. d/b/a LUKOIL (“Thakur Gas” or “Defendant”) engaged in price gouging in the sale of motor fuel. In so doing, Thakur Gas committed numerous violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”).

## PARTIES AND JURISDICTION

3. The Attorney General is charged with the responsibility of enforcing the CFA. The Director is charged with the responsibility of administering the CFA on behalf of the Attorney General.

4. By this action, the Attorney General and Director (collectively, “Plaintiffs”) seek injunctive and other relief for violations of the CFA. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-8, 56:8-11, 56:8-13 and/or 56:8-19. Venue is proper in Sussex County, pursuant to R. 4:3-2, because it is the county in which Thakur Gas has conducted business.

5. On June 4, 2010, Thakur Gas was established as a limited liability company in the State. Upon information and belief, at all relevant times, Thakur Gas has maintained a business address of 348 US Highway 206 North, Branchville, New Jersey 07826. Thakur Gas's initial member and registered agent is Ranbir Singh, who maintains a mailing address of A52 Woodside Garden, Roselle Park, New Jersey 07204.

6. John and Jane Does 1 through 20 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of Thakur Gas who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

7. XYZ Corporations 1 through 20 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Complaint to include them.

**GENERAL ALLEGATIONS COMMON TO ALL COUNTS:**

**A. Hurricane Irene and Executive Order No. 73 Declaring a State of Emergency**

8. In late August 2011, Hurricane Irene was approaching New Jersey.

9. Upon information and belief, Hurricane Irene was downgraded to a tropical storm on the morning of August 28, 2011.

10. Hurricanes and tropical storms have the potential to cause severe weather conditions, including heavy rains, high winds, main stream and river flooding, and progressing runoff that may threaten homes and other structures, and endanger lives in the State.

11. On August 25, 2011, due to the approach of Hurricane Irene, Governor Christie issued Executive Order No. 73, which immediately declared a State of Emergency (“State of Emergency”).

12. Upon information and belief, Hurricane Irene made landfall in New Jersey on Sunday, August 28, 2011.

13. Upon information and belief, Hurricane Irene caused severe weather conditions in New Jersey, including heavy rains, high winds and flooding, which toppled trees and caused severe damage.

**B. Defendant’s Business Generally**

14. Upon information and belief, at all relevant times, Defendant has been engaged in the advertisement, offering for sale and/or sale of motor fuel to consumers.

15. At all relevant times, Defendant received deliveries of motor fuel, specifically gasoline and diesel fuel, from suppliers.

16. At all relevant times, Defendant paid its suppliers a per-gallon rate for motor fuel.

17. At all relevant times, Defendant advertised, offered for sale and/or sold motor fuel to consumers at a per-gallon rate higher than the rate paid to its suppliers.

18. At all relevant times, Defendant advertised, offered for sale and/or sold motor fuel at a higher price for credit card purchases compared to cash purchases.

**C. Defendant’s Excessive Prices For Regular Gasoline**

19. At all relevant times, Defendant received from its suppliers and advertised, offered for sale and/or sold to consumers unleaded 87 octane gasoline, commonly known as “regular gasoline” (“Regular Gasoline”).

20. Shown below is a chart of the relevant prices Defendant paid to its suppliers for Regular Gasoline, and the prices at which it advertised, offered for sale and/or sold Regular Gasoline to consumers:

<b>Date</b>	<b>Price Paid To Supplier</b>	<b>Cash Price For Consumers</b>	<b>Credit Card Price For Consumers</b>
August 23, 2011	\$3.199		
August 24, 2011	No delivery	\$3.399	\$3.499
August 25, 2011	<b>State Of</b>	<b>Emergency</b>	<b>Declared</b>
August 29, 2011	\$3.332	\$3.999	\$4.099

21. Thus, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's price for Regular Gasoline purchased with cash rose from \$3.399 per gallon to \$3.999 per gallon, which is an increase of 17.65%, and Defendant's price for Regular Gasoline purchased with a credit card rose from \$3.499 per gallon to \$4.099 per gallon, which is an increase of 17.15%.

22. Further, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's markup for Regular Gasoline purchased with cash rose from 6.25% to 20.02%, which is an increase of 13.77%, and Defendant's markup for Regular Gasoline purchased with a credit card rose from 9.38% to 23.02%, which is an increase of 13.64%.

23. Upon information and belief, on August 29, 2011, Defendant made four hundred forty-six (446) sales of Regular Gasoline to consumers.

**D. Defendant's Excessive Prices For Premium Gasoline**

24. At all relevant times, Defendant received from its suppliers and advertised, offered for sale and/or sold to consumers unleaded 93 octane gasoline, commonly known as "super gasoline" or "premium gasoline" ("Premium Gasoline").

25. Shown below is a chart of the relevant prices Defendant paid to its suppliers for Premium Gasoline, and the prices at which it advertised, offered for sale and/or sold Premium Gasoline to consumers:

<b>Date</b>	<b>Price Paid To Supplier</b>	<b>Cash Price For Consumers</b>	<b>Credit Card Price For Consumers</b>
August 17, 2011	\$3.527		
August 18, 2011 – August 23, 2011	No delivery		
August 24, 2011	No delivery	\$3.699	\$3.799
August 25, 2011	<b>State Of</b>	<b>Emergency</b>	<b>Declared</b>
August 29, 2011	\$3.552	\$4.299	\$4.399

26. Thus, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's price for Premium Gasoline purchased with cash rose from \$3.699 per gallon to \$4.299 per gallon, which is an increase of 16.22%, and Defendant's price for Premium Gasoline purchased with a credit card rose from \$3.799 per gallon to \$4.399 per gallon, which is an increase of 15.79%.

27. Further, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's markup for Premium Gasoline purchased with cash rose from 4.88% to 21.03%, which is an increase of 16.15%, and Defendant's markup for Premium

Gasoline purchased with a credit card rose from 7.71% to 23.85%, which is an increase of 16.13%.

28. Upon information and belief, on August 29, 2011, Defendant made twenty-five (25) sales of Premium Gasoline to consumers.

**E. Defendant's Excessive Prices For Plus Gasoline**

29. At all relevant times, advertised, offered for sale and/or sold to consumers unleaded 89 octane gasoline, commonly known as "plus gasoline" ("Plus Gasoline").

30. Upon information and belief, at all relevant times, Defendant made Plus Gasoline by mechanically blending a mixture of 65% Regular Gasoline and 35% Premium Gasoline.

31. Shown below is a chart of the relevant prices Defendant paid to its suppliers for the components of Plus Gasoline, and the prices at which it advertised, offered for sale and/or sold Plus Gasoline to consumers:

<b>Date</b>	<b>Price Paid To Supplier</b>	<b>Cash Price For Consumers</b>	<b>Credit Card Price For Consumers</b>
August 17, 2011	\$3.527 (Premium Gasoline)		
August 18, 2011 – August 22, 2011	No delivery		
August 23, 2011	\$3.199 (Regular Gasoline)		
August 24, 2011	No delivery	\$3.599	\$3.699
August 25, 2011	<b>State Of</b>	<b>Emergency</b>	<b>Declared</b>
August 29, 2011	\$3.332 (Regular Gasoline)	\$4.199	\$4.299
	\$3.552 (Premium Gasoline)		

32. By calculating the cost per gallon for Plus Gasoline consisting of 65% Regular Gasoline at \$3.199 per gallon and 35% Premium Gasoline at \$3.527 per gallon, Defendant's cost for Plus Gasoline was \$3.313 per gallon on August 24, 2011, immediately prior to the State of Emergency.

33. By calculating the cost per gallon for Plus Gasoline consisting of 65% Regular Gasoline at \$3.332 per gallon and 35% Premium Gasoline at \$3.552 per gallon, Defendant's cost for Plus Gasoline was \$3.409 per gallon on August 29, 2011.

34. Thus, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's price for Plus Gasoline purchased with cash rose from \$3.599 per gallon to \$4.199 per gallon, which is an increase of 16.67%, and Defendant's price for Plus Gasoline purchased with a credit card rose from \$3.699 per gallon to \$4.299 per gallon, which is an increase of 16.22%.

35. Further, from August 24, 2011, immediately prior to the State of Emergency, to August 29, 2011, after the State of Emergency had been declared and Hurricane Irene made landfall in New Jersey, Defendant's markup for Plus Gasoline purchased with cash rose from 8.61% to 23.17%, which is an increase of 14.57%, and Defendant's markup for Plus Gasoline purchased with a credit card rose from 11.62% to 26.11%, which is an increase of 14.48%.

36. Upon information and belief, on August 29, 2011, Defendant made seventeen (17) sales of Plus Gasoline to consumers.

### COUNT I

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#### **VIOLATION OF THE CFA (N.J.S.A. 56:8-109) BY DEFENDANT (EXCESSIVE PRICES DURING EMERGENCIES)**

37. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 36 as if more fully set forth herein.



38. The CFA defines "merchandise" as including "any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale." N.J.S.A. 56:8-1(c).

39. At all relevant times, Defendant has been engaged in the advertisement, offering for sale and/or sale of merchandise within the meaning of N.J.S.A. 56:8-1(c), specifically motor fuel.

40. The CFA states:

It shall be an unlawful practice for any person to sell or offer to sell during a state of emergency or within 30 days of the termination of a state of emergency, in the area for which the state of emergency has been declared, any merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of person or their property for a price that constitutes an excessive price increase.

[N.J.S.A. 56:8-109.]

41. At all relevant times, Defendant has been engaged in the advertisement, offering for sale and/or sale of merchandise consumed or used as a direct result of an emergency and/or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of person or their property within the meaning of N.J.S.A. 56:8-109, specifically motor fuel.

42. An "excessive price increase" means:

A price that is excessive as compared to the price at which the consumer good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency. A price shall be deemed excessive if:

(1) The price exceeds by more than 10 percent the price at which the good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency, unless the price charged by the seller is attributable to additional costs imposed by the

seller's supplier or other costs of providing the good or service during the state of emergency.

(2) In situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or services during the state of emergency, the price presents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the state of emergency.

[N.J.S.A. 56:8-108]

43. On August 29, 2011, after Hurricane Irene made landfall in New Jersey and within thirty (30) days after the State of Emergency had been declared, Defendant sold Regular Gasoline, Plus Gasoline and Premium Gasoline at prices more than 10 percent higher than on August 24, 2011, immediately prior to the State of Emergency, which constitutes an excessive price increase.

44. Accounting for Defendant's costs, on August 29, 2011, after Hurricane Irene made landfall in New Jersey and within thirty (30) days after the State of Emergency had been declared, Defendant's markup for Regular Gasoline, Plus Gasoline and Premium Gasoline was more than 10 percent higher than Defendant's markup for those fuels on August 24, 2011, immediately prior to the State of Emergency, which constitutes an excessive price increase.

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45. By offering for sale and/or selling motor fuel, specifically Regular Gasoline, Plus Gasoline and Premium Gasoline on August 29, 2011 at prices constituting an excessive price increase compared to Defendant's prices on August 24, 2011, immediately prior to the State of Emergency, Defendant has engaged in unlawful practices in violation of the CFA, specifically N.J.S.A. 56:8-109.

46. Each instance of Defendant offering for sale and/or selling motor fuel at a price constituting an excessive price increase constitutes a separate violation of the CFA, N.J.S.A. 56:8-109.

**COUNT II**

**VIOLATION OF THE CFA BY DEFENDANT  
(UNCONSCIONABLE BUSINESS PRACTICES)**

47. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 46 as if more fully set forth herein.

48. The CFA prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

[N.J.S.A. 56:8-2.]

49. In the operation of its business, Defendant has engaged in the use of unconscionable commercial practices.

50. ~~Defendant has engaged in unconscionable commercial practices and deception~~  
including, but not limited to, the following:

- a. Advertising, offering for sale and/or selling motor fuel, specifically Regular Gasoline, Plus Gasoline and Premium Gasoline on August 29, 2011 at prices constituting an excessive price increase compared to Defendant's prices on August 24, 2011, immediately prior to the State of Emergency.

51. Each unconscionable commercial practice by Defendant constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

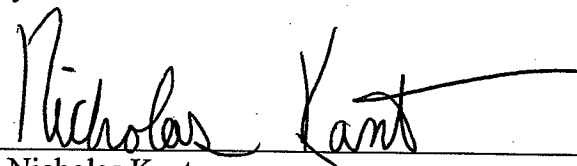
**PRAYER FOR RELIEF**

WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendant:

- (a) Finding that the acts of Defendant constitute multiple violations of the CFA;
- (b) Permanently enjoining Defendant, along with its agents, employees, representatives, independent contractors, corporations, subsidiaries, affiliates, successors, assigns and all other persons or entities directly under his control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA;
- (c) Directing Defendant to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;
- (d) Directing Defendant to pay the maximum statutory civil penalties for each violation of the CFA, in accordance with N.J.S.A. 56:8-13;
- (e) Directing Defendant to pay costs and fees, including attorneys' fees, for the use of the State, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and
- (f) Granting such other relief as the interests of justice may require.

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PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs


By:   
Nicholas Kant  
Deputy Attorney General

Dated: December 20, 2011  
Newark, New Jersey

**RULE 4:5-1 CERTIFICATION**

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the CFA, is not the subject of any other action pending in any other court of this State. I further certify, to the best of my information and belief, that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By:   
\_\_\_\_\_  
Nicholas Kant  
Deputy Attorney General

Dated: December 20, 2011  
Newark, New Jersey

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**RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Nicholas Kant  
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Deputy Attorney General

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Dated: December 20, 2011  
Newark, New Jersey

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Deputy Attorney General Nicholas Kant is hereby designated as trial counsel for this action.

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

By: Nicholas Kant  
Nicholas Kant  
Deputy Attorney General

Dated: December 20, 2011  
Newark, New Jersey