



**PHILIP D. MURPHY**  
Governor

**SHEILA Y. OLIVER**  
Lt. Governor

## *New Jersey Office of the Attorney General*

Division of Consumer Affairs  
Office of Consumer Protection  
124 Halsey Street, 7<sup>th</sup> Floor, Newark, NJ 07102



**GURBIR S. GREWAL**  
Attorney General

**PAUL R. RODRÍGUEZ**  
Acting Director

July 31, 2020

**Mailing Address:**  
P.O. Box 45025  
Newark, NJ 07101  
(973) 504-6200

### **VIA CERTIFIED AND REGULAR MAIL**

Big Family Meat & Produce, Inc.  
d/b/a Compare Foods Super Market  
c/o Wendy Dominguez, Owner  
847 Roebbling Avenue  
Trenton, New Jersey 08611

### **NOTICE OF VIOLATION AND OFFER OF SETTLEMENT**

Dear Ms. Dominguez:

The New Jersey Division of Consumer Affairs, Office of Consumer Protection (“Division”) is charged with the enforcement of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -224 (“CFA”), including N.J.S.A. 56:8-108 to -109 (“Excessive Pricing Statute”). The Division has conducted an investigation of Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market (“You” or “Your”) as a result of consumer complaints received by the Division in connection with price gouging by You in the sale of Poland Springs water (0.5 liter, 35 pack), Universal Product Code (“UPC”) 07572096672 (hereinafter “Poland Springs water”), (hereinafter “Investigation”).

As set forth in the attached Certification of Investigator Kristen Higgins (“Investigator Higgins”), You have been found to have engaged in price gouging in the sale of Poland Springs water in violation of the CFA. The CFA, specifically N.J.S.A. 56:8-109, prohibits excessive and unjustified price increases in the offer for sale and/or sale of certain merchandise, which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect or sustain life, health, safety or comfort of persons, including the offer for sale and/or sale of Poland Springs water, when a declared State of Emergency results in abnormal disruptions of the market.

As a result of the Division’s Investigation, You have been found to have:

1. Engaged in the offer 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 a person or their property within the meaning of N.J.S.A. 56:8-109, specifically Poland Springs water, at an “excessive price” within the meaning of N.J.S.A. 56:8-108 during the State of Emergency declared by Governor Philip S. Murphy on

March 9, 2020 at 5:53 p.m. and within thirty (30) days after the declaration of the State of Emergency is terminated, or for such other period of time as the Governor may extend by executive order. Specifically, You sold or offered for sale Poland Springs water at \$10.99, a price more than 10% higher than the prices at which Poland Springs water was offered for sale and/or sold by You in the usual course of business immediately prior to the State of Emergency.

Each of these violations constitutes a separate violation of the CFA, subjecting You to civil penalties, pursuant to N.J.S.A. 56:8-13, as well as reimbursement of investigative costs and/or attorneys' fees, pursuant to N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19.

**IF YOU DO NOT CONTEST THE VIOLATIONS ALLEGED** and wish to avail Yourself of this opportunity to settle the Investigation, **You should sign and return the enclosed Answering Certification within fifteen (15) days** from the date of this Notice, and agree to the following:

1. Cease and desist from engaging in any practices in violation of the CFA;
2. Cease and desist from selling, attempting to sell or offering for sale merchandise at prices more than ten percent (10%) higher than the items' prices in the usual course of business immediately prior to the State of Emergency, as required by N.J.S.A. 56:8-109;
3. Pay a civil penalty in the amount of \$1,000.00; and
4. Pay investigative costs in the amount of \$250.00.

**If the above-referenced payment in the total amount of \$1,250.00 is received by the Division, along with your signed Answering Certification, You need not do anything further.**

**IF YOU DO NOT CONTEST THE VIOLATIONS ALLEGED**, but want to present information to Division representatives about any mitigating circumstances in Your case that may persuade the Division to reduce the civil penalty, You may request an informal **Mitigation Conference**. **If You request a Mitigation Conference, You will waive Your right to an Administrative Hearing**. The Mitigation Conference date is **August 27, 2020 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102 with Investigator Higgins, a representative of the Division. You may be accompanied by an attorney**. Should you have any questions regarding this procedure, or seek an adjournment of this date, please contact Investigator Higgins at (973) 504-6332 or at HigginsK@dca.njoag.gov. Alternatively, **You may send written documentation to the Division** concerning any mitigating circumstances that You believe may persuade the Division to reduce the civil penalty. **To elect either of these options, You must return the enclosed Answering Certification within fifteen (15) days from the date of this Notice**. The Division will then review this material and respond to You.

**IF YOU CONTEST THE VIOLATIONS ALLEGED**, and do not wish to settle the matter consistent with the terms set forth above, **You may request a formal Administrative Hearing by returning the enclosed Answering Certification within fifteen (15) days from the date of this**

**Notice.** In that event, this Notice will serve as notice of the violations against you. You should be aware that in making its final decision, the Director of the Division may, if violations of the above-referenced statute and regulations have been proven, order civil penalties and remedies other than the settlement offer above. **Specifically, You may be ordered to: pay civil penalties in an amount up to \$10,000.00 for the first violation and up to \$20,000.00 for the second violation and each subsequent violation pursuant to N.J.S.A. 56:8-13; pay consumer restitution pursuant to N.J.S.A. 56:8-15; pay investigative costs and attorneys' fees to the Division pursuant to N.J.S.A. 56:8-11 and 56:8-19; and cease and desist from acts or practices in violation of CFA pursuant to N.J.S.A. 56:8-18.**

Before a determination is made with regard to whether an Administrative Hearing will be conducted before the Acting Director of the Division or referred to the Office of Administrative Law, a **Pre-Hearing Conference** will be held. If You request an Administrative Hearing, your Pre-Hearing Conference will be scheduled on **August 27, 2020 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102** with **Investigator Higgins**, a representative of the Division. **You may be accompanied by an attorney.** Should You have any questions regarding this procedure, or seek an adjournment of this date, please contact Investigator Higgins at (973) 504-6332 or at HigginsK@dca.njoag.gov. **Your attendance at this Pre-Hearing Conference is mandatory.** Any failure to appear without a satisfactory explanation may result in an order barring You from raising certain defenses at the **Administrative Hearing**, pursuant to **N.J.A.C. 1:1-14.4.**

The purpose of this **Pre-Hearing Conference** is to discuss the issues in this matter and the defenses which You may wish to raise. You should be prepared to discuss the evidence You will propose to offer at the **Administrative Hearing**. It may be helpful if You bring to the **Pre-Hearing Conference** a copy of any documentation that supports Your position. If the Division determines that there are no material facts in dispute, You will have an opportunity to submit legal arguments and any documentation that may be relevant to the ultimate disposition of this matter. If there are material facts in dispute, an **Administrative Hearing** will be scheduled. During the **Administrative Hearing**, You, either personally or with the assistance of an attorney, will have an opportunity to respond to the alleged violations and submit evidence and present testimony as may be necessary for the Director of the Division to make a final determination. **Pursuant to N.J.A.C. 1:1-5.1, and except as provided in N.J.A.C. 1:1-5.4, a corporation must be represented by an attorney.**

**IF YOU FAIL TO RESPOND to this Notice within fifteen (15) days of the date of this Notice, the settlement offer will be withdrawn, and You will be deemed in default.** The allegations against You will be deemed uncontested. Thereafter, this Notice and the underlying proofs may be reviewed by the Director of the Division, and a **Final Decision and Order on Default ("Order")** will be issued, and **You may be ordered to: pay civil penalties in an amount up to \$10,000.00 for the first violation and up to \$20,000.00 for the second violation and each subsequent violation pursuant to N.J.S.A. 56:8-13; pay consumer restitution pursuant to N.J.S.A. 56:8-15; pay investigative costs and attorneys' fees to the Division pursuant to N.J.S.A. 56:8-11 and 56:8-19; and cease and desist from acts or practices in violation of CFA pursuant to N.J.S.A. 56:8-18.** **You will receive no further notice from the Division prior to issuance of an Order.** Once an **Order** has been entered, Your failure to pay any civil penalties, attorneys' fees, investigative costs and/or restitution within the time allowed will result in the filing

of a **Certificate of Debt**. Any subsequent violation of an **Order with a cease and desist provision** may subject You to a penalty of up to **\$25,000.00 per violation pursuant to N.J.S.A. 56:8-18**. Service of an **Order** will be deemed effective if sent by first-class mail and certified mail, return receipt requested, to your last known mailing address.

Should You have any questions, please contact Investigator Higgins at (973) 504-6332 or at [HigginsK@dca.njoag.gov](mailto:HigginsK@dca.njoag.gov).

New Jersey Division of Consumer Affairs  
Office of Consumer Protection

By: **/S/Gregory K Turner**

Gregory K. Turner

Assistant Deputy of Enforcement

**ANSWERING CERTIFICATION**

I, \_\_\_\_\_, hereby acknowledge that I have read and reviewed the Notice, regarding alleged violations of the CFA, N.J.S.A. 56:8-1 to -224, including the Excessive Pricing Statute, N.J.S.A. 56:8-108 to -109.

**PLEASE CHECK ONE OF THE OPTIONS BELOW:****(OPTION 1): Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market**

\_\_\_\_\_ **I DO NOT CONTEST THE VIOLATIONS ALLEGED** and acknowledge the conduct that has been alleged and **agree** to:

1. Cease and desist from engaging in any practices in violation of the CFA;
2. Cease and desist from selling, attempting to sell or offering for sale merchandise at prices more than ten percent (10%) higher than the prices in the usual course of business immediately prior to the State of Emergency, as required by N.J.S.A. 56:8-109;
3. Pay a civil penalty in the amount of \$1,000.00; and
4. Pay investigative costs in the amount of \$250.00.

**I understand that if the above-referenced payment in the total amount of \$1,250.00 is received by the Division, along with my signed Answering Certification, I need not do anything further.**

I am also aware that the action taken against Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market by the Division herein is a matter of public record, and that the Division's **Notice** and this **Answering Certification** are public documents. I am enclosing herewith a cashier's check or money order in the sum of **\$1,250.00** made payable to the "New Jersey Division of Consumer Affairs" and mailing or delivering it to: New Jersey Department of Law and Public Safety, Division of Consumer Affairs, Office of Consumer Protection, 124 Halsey Street, P.O. Box 45025, Newark, New Jersey 07101, ATTN: Van Mallet.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
SIGN NAME

Name: \_\_\_\_\_  
PRINT NAME

**(OPTION 2): Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market**

\_\_\_\_\_ **I DO NOT CONTEST THE VIOLATIONS ALLEGED** and hereby waive any rights I may have to a hearing in this matter to defend Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market against any alleged violations, **BUT** I ask the Division to consider mitigating circumstances before rendering its final decision.

\_\_\_\_\_ I request a **Mitigation Conference** to present information to Division representatives; I understand that the Mitigation Conference will be held on **July 27, 2020 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102. I am aware that I may be represented by an attorney at the Mitigation Conference.**

\_\_\_\_\_ I am submitting **written documentation concerning mitigating circumstances**; I understand that the Division will consider this material before rendering a final decision.

I understand that, if, after considering the mitigation evidence presented, the Division is not persuaded that any reduction in the amounts set forth above and in the **Notice** is warranted or that any of the other terms or conditions should be modified, the following terms may be ordered and Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market will be obligated to:

1. Cease and desist from engaging in any practices in violation of the CFA;
2. Cease and desist from selling, attempting to sell or offering for sale merchandise at prices more than ten percent (10%) higher than the prices in the usual course of business immediately prior to the State of Emergency, as required by N.J.S.A. 56:8-109;
3. Pay a civil penalty in the amount of \$1,000.00; and
4. Pay investigative costs in the amount of \$250.00.

If a modification in these terms is accepted by the Division, I will be notified of the amounts to be paid. I am also aware that the action taken against Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market by the Division herein is a matter of public record, and that the Division's **Notice** and this **Answering Certification** are public documents. I am further aware that failure to comply may subject Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market to further enforcement proceedings and any failure to make a required payment will result in the filing of a **Certificate of Debt**.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
SIGN NAME

Name: \_\_\_\_\_  
PRINT NAME

**(OPTION 3): Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market**

**I CONTEST THE VIOLATIONS ALLEGED and request a formal Administrative Hearing.** I understand that I am required to attend a **Pre-Hearing Conference on August 27, 2020 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102**, at which the issues in this matter will be discussed. **I am aware that I may be represented by an attorney at the Pre-Hearing Conference.**

If the Division and I agree upon any essential settlement terms at the **Pre-Hearing Conference**, I understand that:

1. These terms will be included in a document (“Pre-Hearing Settlement Sheet”);
2. The Division representative and I will sign the Pre-Hearing Settlement Sheet and Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market will be bound by it; and
3. The Division will send me a **Consent Order**, which will include all settlement terms. I also understand that **I must sign and return the Consent Order and any required payment to the Division within thirty (30) days** of the date that the Division sends it to me.

I further understand that if I fail to do so, the Division will present this matter to the Director of the Division based upon the **Notice**, and a **Final Decision and Order After NOV (“Final Order”)** will be issued. **I will receive no further notice from the Division prior to issuance of a Final Order.**

If the Division and I do not agree upon settlement terms at the **Pre-Hearing Conference**, I will thereafter be advised of the time, date and place for the **Administrative Hearing** if a determination has been made that there are material facts in dispute. **I am aware that I may be represented by an attorney at the Administrative Hearing.** I am also aware that at the time of the **Administrative Hearing**, I may offer testimony, documentation and legal argument relevant to the alleged violations. **I understand that in making a final decision, the Director of the Division may, if unlawful activity has been proven, assess civil penalties, consumer restitution, attorneys’ fees and investigative costs, and/or issue a cease and desist order exceeding the settlement offer in the Notice**, and may order such other remedies as deemed appropriate. I am also aware that this proceeding is a matter of public record and that the **Notice** and this **Answering Certification** are public documents.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
SIGN NAME

Name: \_\_\_\_\_  
PRINT NAME

**Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market  
847 Roebbling Avenue  
Trenton, New Jersey 08611**

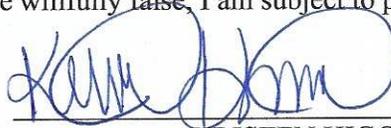
**INVESTIGATIVE CERTIFICATION**

I, Kristen Higgins, being of full age, do hereby certify as follows:

1. I am employed as an Investigator by the Office of the Attorney General, Division of Consumer Affairs, Office of Consumer Protection (“Division”), located at 124 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey 07102, and have held that position at all times relevant to this Certification.
2. On March 14, 2020, the Division commenced an Investigation with respect to Big Family Meat & Produce, Inc. d/b/a Compare Foods Super Market (“Compare Foods”), located at 847 Roebbling Avenue, Trenton, New Jersey 08611, after receiving consumer complaints regarding price gouging of cases of Poland Spring-branded water for \$15.99 each.
3. On March 17, 2020, a subpoena *duces tecum* (the “Subpoena”) was served on Compare Foods requesting the prices, costs and quantities sold of its Poland Springs water (16.9 ounce, 35 pack), Universal Product Code (“UPC”) 07572096672. A copy of the Subpoena is attached hereto as **Exhibit A**.
4. On May 4, 2020, Compare Foods provided invoices and point-of-sale printouts for all of its water sold from February 1, 2020 to April 30, 2020. A copy of the documents produced are attached hereto as **Exhibit B**. A review of the documents demonstrated that the consumer price gouging complaints concerned the Poland Springs water (0.5 liter, 35 pack), Universal Product Code (“UPC”) 07572096672 (“Poland Springs water”).
5. A review of the above-listed documents reveals incidents of price gouging with respect to Poland Springs water at Compare Foods, as defined by N.J.S.A. 56:8-109. A summary of the price increases are as follows:
  - Beginning on February 1, 2020, Poland Springs water sold for \$6.99.
  - On March 6, 2020, at approximately 1:00 p.m., three days before the Declaration of the State of Emergency, the price of Poland Springs water increased to \$8.99.
  - On March 10, 2020, at approximately 1:00 p.m., the price of Poland Springs water increased to \$9.99.
  - On March 10, 2020, at approximately 8:00 p.m., the price of Poland Springs water increased to \$10.99.
  - The price remained at \$10.99 for the next 24 hours, but there were nine (9) transactions at various times on March 11, 2020 between 10:00 a.m. and 3:30 p.m. where Poland Springs water was sold for \$15.99.

- On March 12, 2020, the price of this water decreased to \$7.99 and remained at that price.
6. The pre-Declaration sale price (\$8.99) of the Poland Springs water compared to the post-Declaration sale price (\$10.99) shows a \$2.00 increase in price, which equates to 22.2%. This increase in sale price is not attributable to any documented additional costs charged by Compare Foods' supplier as the cost of this water varied between \$4.58 and \$4.79 based upon the invoices produced under the Subpoena during this period.
  7. This analysis shows price gouging under the CFA, N.J.S.A. 56:8-109, because the 22.2% increase in price exceeds the statutorily permitted 10% price increase.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



KRISTEN HIGGINS

Dated: July 31, 2020  
Newark, New Jersey