

June 26, 2009

Hon. Thurbert E. Baker
Attorney General of the State of Georgia
40 Capitol Square, SW
Atlanta, GA 30334-1300

Dear Attorney General Baker:

As you may be aware, CVS/pharmacy, the country's largest drugstore chain, has recently settled charges by the California Attorney General that CVS "routinely sold expired baby formula, over-the-counter medication and dairy products long after the expiration date,"¹ in violation of California's consumer protection laws. CVS signed a stipulated judgment (enclosed) that gives Californians enhanced protections from the potential hazards of expired products.

Under the judgment, CVS is now required to check all its California stores for expired products at least twice a month; conduct random audits for expired products in California stores twice a year; and provide compensation to each consumer who locates expired goods on CVS shelves in California. CVS also paid penalties totaling almost \$1 million.

Change to Win has recently documented that CVS has sold expired products to consumers in Georgia. In early May, Change to Win surveyed 52 CVS stores in the Atlanta area for the presence of expired goods. Surveyors observed expired dairy, infant formula and/or medications at more than 69 percent of CVS stores visited (36 of 52 stores). Expired products purchased included:

- A package of CVS brand Non-Drowsy Allergy Relief *two years* past its April 2007 expiration date when purchased on May 4 at the CVS at 3030 Headland Drive in Atlanta. Outdated CVS Non-Drowsy Allergy Relief with the same expiration date was also purchased at the 5304 N. Buford Highway CVS in Norcross.
- A can of Prosobee Lipil infant formula that had expired over four months before purchase on May 9 at the CVS at 12 Broad Street in Atlanta.
- A half-gallon of Over the Moon milk that was three days outdated when purchased on May 9 at the CVS at 2500 Mt. Vernon Rd in Dunwoody.

We hope you agree that the people of Georgia deserve the same level of protection as California residents from CVS's pattern of offering expired products for sale.

¹ Office of the Attorney General, "Brown Forces CVS Pharmacy to Provide Customers a \$2 coupon if they find expired products on shelves" (press release) June 10, 2009. Available online at http://ag.ca.gov/newsalerts/print_release.php?id=1752

The New York State Attorney General has also taken enforcement action to protect New York consumers from expired goods at CVS. The Attorney General has filed a lawsuit charging that CVS has repeatedly sold expired products in the state, violating federal, state and local laws and breaking a 2003 assurance of voluntary compliance stemming from charges that CVS had sold expired over the counter medications. The New York suit seeks restitution for consumers who have purchased expired goods, disgorgement of revenues from the sale of expired products, civil penalties and independent random compliance checks to ensure that CVS stops selling expired products. The complaint, as well as the 2003 Assurance of Voluntary Compliance, is enclosed.

The potential hazards of expired infant formula and medication are well documented. The website of the infant formula trade group, the International Formula Council, notes that "after the expiration date, some vitamin levels decrease,"² and Baylor College of Medicine Pediatrician Sara Rizzi says, "Expired formula can accumulate moisture and have problems with spoilage and mold."³ CVS's own website warns that "Expired medications may not work as well for you, or may even be harmful."⁴

We urge you to investigate the CVS stores in Georgia and require the company to meet the strict, judicially enforceable standards they now must operate under in California if you determine if CVS is exposing shoppers to expired medications, infant formula or food products. Please contact me if you would like to review a full list of the products purchased during our surveys in Georgia or samples of the actual products.

Sincerely,



Ahmer Qadeer
Director, Pharmacy Initiatives
(917) 207-8515

Enclosures:

Stipulation for Entry of Final Judgment, *People of the State of California v. CVS Pharmacy Inc.*, Case No. 37-2009-00001517.

Complaint for Injunction, Civil Penalties and Other Equitable Relief, *People of the State of California v. CVS Pharmacy Inc.*, Case No. 37-2009-00001517.

Verified Petition, *People of the State of New York v. CVS Corp* Case No. 402931-08.

Assurance of Voluntary Compliance, *In the Matter of CVS Corporation*.

² See <http://www.infantformula.org/faqs.html#10>

³ Carolyn Canville, "Are Some Stores Carrying Expired Items?" March 25, 2009, Fox 26/Houston news broadcast. Available online at: http://www.myfoxboston.com/dpp/news/consumer/090325_expired_baby_formula

⁴ See http://www.cvs.com/CVSAApp/health/consultation_corner_from_the_rx_article.jsp?content_id=600490&articleName=Safe+Medication+Storage+at+Home