

June 26, 2009

Hon. Bill McCollum  
Attorney General of the State of Florida  
The Capitol  
PL 01  
Tallahassee, FL 32399-1050

Dear Attorney General McCollum:

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,"<sup>1</sup> 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.

This year, Change to Win has documented that CVS has sold expired products to consumers in two Florida markets. In March, surveyors found expired infant formula, over-the-counter medications and/or dairy products at 19 South Florida CVS stores – over half those visited. In February, surveyors observed expired products at 10 Orlando-area CVS stores – over one-third of those surveyed.

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

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,

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<sup>1</sup> 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](http://ag.ca.gov/newsalerts/print_release.php?id=1752)

some vitamin levels decrease,”<sup>2</sup> and Baylor College of Medicine Pediatrician Sara Rizzi says, “Expired formula can accumulate moisture and have problems with spoilage and mold.”<sup>3</sup> CVS’s own website warns that “Expired medications may not work as well for you, or may even be harmful.”<sup>4</sup>

We believe our recent findings of expired goods on CVS shelves in the Orlando and South Florida markets suggest that now is the time for a full-scale investigation by your office to secure for consumers the same protections afforded by the strict, judicially enforceable standards CVS now must operate under in California. Please contact me if you would like additional details on our Florida surveys of CVS stores.

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*.

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

<sup>3</sup> 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](http://www.myfoxboston.com/dpp/news/consumer/090325_expired_baby_formula)

<sup>4</sup> See [http://www.cvs.com/CVSAApp/health/consultation\\_corner\\_from\\_the\\_rx\\_article.jsp?content\\_id=600490&articleName=Safe+Medication+Storage+at+Home](http://www.cvs.com/CVSAApp/health/consultation_corner_from_the_rx_article.jsp?content_id=600490&articleName=Safe+Medication+Storage+at+Home)