



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, 7th Floor, Newark, NJ 07102



MATTHEW J. PLATKIN
Acting Attorney General

SEAN P. NEAFSEY
Acting Director

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

March 25, 2022

VIA CERTIFIED AND REGULAR MAIL

Khawajarx, Inc.
d/b/a Wellcare Pharmacy
c/o Hasham T. Khawaja, Registered Agent
3406 Bergenline Avenue
Union City, NJ 07087

Hasham T. Khawaja, Registered Agent
Khawajarx, Inc. d/b/a Wellcare Pharmacy
210 Beacon Avenue
Jersey City, NJ 07306

Dear Mr. Khawaja:

Please find the enclosed Notice of Violation, NOV2200037, dated March 25, 2022. Please respond by signing and returning one of the three options within the NOV to Investigator Ediz Laypan, at LaypanE@dca.njoag.gov, by **April 18, 2022**. Please note, if you fail to respond to this Notice of Violation by the date specified above, a Final Order on Default will be issued.

Please be advised all mitigation conferenced and pre-hearing conferences normally held in the Newark Office located at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102, are being held remotely until further notice.

The call in number for the remote meeting scheduled for **April 25, 2022 at 10:00 AM;**

- **Call in (audio only): 1-(856) 288-3130**
- **Phone Conference ID: 371 872 577#**

If you have any questions, you may reach me at LaypanE@dca.njoag.gov.

Sincerely,

Ediz Laypan
Investigator, Office of Consumer Protection



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210 Beacon Avenue
Jersey City, NJ 07306

Re.: Wellcare Pharmacy (28RS00717200)
NOV2200037

NOTICE OF VIOLATION AND OFFER OF SETTLEMENT

Dear Mr. Khawaja:

The New Jersey Division of Consumer Affairs, Office of Consumer Protection ("Division") has conducted an investigation of Khawajarx, Inc. d/b/a Wellcare Pharmacy ("Wellcare Pharmacy", "You" or "Yourself") as a result of a complaint alleging that Wellcare Pharmacy was selling COVID-19 tests at an inflated price of \$70.00 (hereinafter "Investigation").

The New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -227 ("CFA"), specifically N.J.S.A. 56:8-2, 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

The CFA further prohibits:

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

[N.J.S.A. 56:8-2.5.]

As set forth in the attached Certification of Investigator Ediz Laypan ("Investigator Laypan), Wellcare Pharmacy has been found to **have** sold and/or offered for sale the Access Bio, Inc. On/Go COVID-19 Antigen Self-Test without having the total selling price plainly marked or affixed to the merchandise, as prescribed by N.J.S.A. 56:8-2.5. In so doing, Wellcare Pharmacy has been found to be in violation of CFA.

Each CFA violation subjects You to civil penalties, pursuant to N.J.S.A. 56:8-13, as well as reimbursement of the Division's investigative costs and/or attorneys' fees, pursuant to N.J.S.A. 56:8-11 and 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, specifically, N.J.S.A. 56:8-2.5; and
2. Pay a civil penalty in the amount of \$500.00.

If the above-referenced payment 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 **April 25, 2022 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102 or virtually**, with Investigator Laypan. **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 Laypan at (973) 792-4217. 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. **In order 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 a final decision, the Director of the Division may, if violations of the above-referenced statutes 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; and pay investigative costs and attorneys' fees to the Division, pursuant to N.J.S.A. 56:8-11 and 56:8-19.

Before a determination is made with regard to whether an **Administrative Hearing** will be conducted before the 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 **April 25, 2022 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102 or virtually**, with Investigator Laypan. **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 Laypan at (973) 792-4217. **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 Division to make a final determination.

IF YOU FAIL TO RESPOND to this Notice within fifteen (15) days of the date of this Notice, the settlement offer will be withdrawn, You will be deemed in default and the allegations against You will be deemed uncontested. Thereafter, this **Notice** and the underlying proofs will 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 for the first violation and up to \$20,000 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; and pay investigative costs and attorneys' fees to the Division pursuant to N.J.S.A. 56:8-11 and 56:8-19. 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 and/or investigative costs 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 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 Laypan at (973) 792-4217.

New Jersey Division of Consumer Affairs
Office of Consumer Protection

By: 

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, specifically, N.J.S.A. 56:8-2.5.

PLEASE CHECK ONE OF THE OPTIONS BELOW:

(OPTION 1): (Khawajarx, Inc. d/b/a Wellcare Pharmacy)

_____ **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, specifically, N.J.S.A. 56:8-2.5; and
2. Pay a civil penalty in the amount of \$500.00.

I am also aware that the action taken against Khawajarx, Inc. d/b/a Wellcare Pharmacy by the Division herein is a matter of public record, and that the **Notice** and this **Answering Certification** are public documents. I am enclosing herewith a certified check, cashier's check, or money order in the sum of **\$500.00** made payable to the "New Jersey Division of Consumer Affairs," which I am mailing or delivering 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 Mallett, Lead Investigator.

Dated: _____

By: _____
SIGN NAME

Name: _____
PRINT NAME

(OPTION 2): Khawajarx, Inc. d/b/a Wellcare Pharmacy

_____ **I DO NOT CONTEST THE VIOLATIONS ALLEGED** and hereby waive any rights I may have to defend Khawajarx, Inc. d/b/a Wellcare Pharmacy at an **Administrative Hearing** in this matter in order to defend myself against any alleged violations, **BUT** I ask the Division to consider mitigating circumstances in my case 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 April 25, 2022 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102 or virtually**, I am aware that I may be represented by an attorney at the **Mitigation Conference**.

OR

_____ 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 Khawajarx, Inc. d/b/a Wellcare Pharmacy will be obligated to:

1. Cease and desist from engaging in any practices in violation of the CFA, specifically, N.J.S.A. 56:8-2.5; and
2. Pay a civil penalty in the amount of \$500.00.

If a modification in these terms is accepted by the Division, I will be notified of the amounts that I must pay. I am also aware that the action taken against Khawajarx, Inc. d/b/a Wellcare Pharmacy by the Division herein is a matter of public record, and that the **Notice** and this **Answering Certification** are public documents. I am aware that any failure to comply may subject Khawajarx, Inc. d/b/a Wellcare Pharmacy 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): Khawajarx, Inc. d/b/a Wellcare Pharmacy

_____ **I CONTEST THE VIOLATIONS ALLEGED** and request a formal **Administrative Hearing**. I understand that I am required to attend a **Pre-Hearing Conference** on **April 11, 2022 at 10:00 a.m., at 124 Halsey Street, 7th Floor, Newark, New Jersey 07102 or virtually**, at which the issues in this matter and the possibility of settlement 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 Khawajarx, Inc. d/b/a Wellcare Pharmacy will be bound by it; and
3. The Division will send me a **Consent Order** which will include all settlement terms that **I must sign and return along with 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 this Notice, and a **Final Decision and Order After Notice of Violation ("Order")** will be issued.

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 arguments relevant to the alleged violations. **I understand that in making a final decision, the Director of the Division may, if violations of the above-referenced statutes and regulations have been proven, order payment of civil penalties, restitution, attorneys' fees and investigative costs exceeding the settlement offer in this 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

Khawajarx, Inc.
d/b/a Wellcare Pharmacy
3406 Bergenline Avenue
Union City, NJ 07087
(28RS00717200)

CERTIFICATION

I, Ediz Laypan, 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, Newark, New Jersey 07102, and have held that position at all times relevant to this Certification.
2. The Division commenced an investigation Of Khawajarx, Inc. d/b/a Wellcare Pharmacy ("Wellcare Pharmacy") as a result of a January 4, 2022 complaint alleging that Wellcare Pharmacy located at 3406 Bergenline Avenue, Union City, NJ 07087 was selling COVID-19 Antigen Self-Tests at inflated prices.
3. On February, 24, 2022, at approximately 12:30 p.m., I arrived at the Wellcare Pharmacy location. Wellcare Pharmacy is located on a main road and was identified by awning signage as well as a sidewalk sign advertising free COVID-19 consultation and vaccinations/booster shots (**Exhibit 1**).
4. Upon entering the premises, I spoke with the owner, Hasham Khawaja ("Mr. Khawaja"). I explained to Mr. Khawaja the reason for my visit, and inquired about the price of the COVID-19 tests. Mr. Khawaja responded that he was selling On / Go COVID-19 Antigen Self Tests for \$39.99; however, they had only two (2) test kits left. Mr. Khawaja stated that Wellcare Pharmacy did not sell any COVID-19 tests at inflated prices. Mr. Khawaja handed me one of the boxes for examination (**Exhibit 2**).
5. The remaining two (2) test kits were not on display but rather in the back of the counter. According to Mr. Khawaja, the tests were available upon request.
6. The remaining two (2) test kits were not individually priced; neither was their price marked anywhere in the vicinity of the counter.
7. Before leaving the premises, I took photographs of the Wellcare Pharmacy licenses and certificates (**Exhibit 3**).
8. On March 7, 2022, I obtained Wellcare Pharmacy's corporate information from the New Jersey Division of Revenue & Enterprise Services (**Exhibit 4**).
9. On March 7, 2022, I verified Wellcare Pharmacy's licensure with the Division as a pharmacy.

10. The documents submitted with this Certification are true copies of the documents in possession of the Division.

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.



EDIZ LAYPAN

Dated: March 25, 2022
Newark, New Jersey