

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30736
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

April 6, 2020

VIA U.S. Mail & E-Mail



Re: *Amazon Sales*

To Whom It May Concern:

This letter gives you notice of intended action in accordance with MCL 445.905(2) and directs you to immediately cease and desist from engaging in the unlawful business practices described below.

As background, this Office is responsible for enforcement of the Michigan Consumer Protection Act, MCL 445.901 *et seq* (the "MCPA"). Under this Act, the Attorney General may bring injunctive actions to protect the interests of consumers.

As a means of enforcing its own Marketplace Fair Pricing Policy, Amazon identified a group of third-party sellers of concern, *i.e.*, those third-party sellers who grossly inflated the prices of Coronavirus-related consumer products sold on the Amazon marketplace. To assist us in carrying out our function under the MCPA, Amazon provided this Office with a list of those third-party sellers that are based in Michigan, along with the sales data for each of those sellers. Your Amazon storefront, operating under the username "Happy Small Hands", was included in that list.

In analyzing the sales data that Amazon provided, when viewed through the lens of the well-known fears surrounding the Coronavirus outbreak, it is apparent that you have attempted to exploit the current public health emergency for your own financial gain. That is, you significantly marked-up the prices for hand sanitizer and N95 respirators—both of which are highly sought-after products in the current crisis—as well as your shipping costs as a means to increase your bottom line at the public's expense.

For example, on February 21, 2020, you sold a 10-pack of 3M N95 Cool Flow Valve Respirators to a consumer in Ann Arbor, Michigan for \$38.00 plus \$21.95 shipping—a grand total of \$59.95. The next day, you raised your prices and your shipping costs for the same product, charging two Michigan consumers, one in Rochester and one in Interlochen, \$42.00 plus \$46.95 shipping—a grand total of \$88.95. The average price for that product (calculated by taking the trailing 30-day average sales price for all Amazon sales of that product) as of January 19, 2020 was just \$13.67. And, on February 25, 2020, you sold a 2-pack of 3M N95 Cool Flow Valve Respirators to a consumer in Rochester, Michigan for \$25.95 plus \$52.95 shipping (a shipping cost that was *more than double* the cost of the product itself) for a grand total of \$78.90. The average price for the same product as of January 19, 2020 was just \$5.13.

But your activity was not constrained to Michigan’s geographic boundaries: You also exploited out-of-state consumers with your excessive prices. For instance, on March 4, 2020, you charged a consumer in Mt. Prospect, Illinois \$45.99 plus \$9.95 shipping—a grand total of \$55.94—for a 3-pack of Assured hand sanitizer. That same day, you charged a consumer in Burke, Virginia \$35.99 plus \$18.98 shipping—a grand total of \$54.97—for the same product. A 3-pack of Assured hand sanitizer sold for, on average, just \$13.63 on January 19, 2020.

The above-listed examples, while just a sampling of your egregious behavior, are illustrative of how you took advantage of consumers for your own benefit during this uncertain time. Each of these examples, as well as the plethora of others contained in the sales data that Amazon provided, implicate the following unfair trade practices, as identified in Michigan’s Consumer Protection Act:

- (z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.
- (aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

[MCL 445.903(1).]

The purpose of this letter is to put you on notice as required by the MCPA. From this point, this Office has the latitude to either commence a lawsuit after ten days or invoke a judicial process for a formal investigation through subpoenas. While we are prepared to follow one or both of these paths, we are willing to enter into an assurance of voluntary compliance—a device anticipated in the MCPA.

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We request your written response to this letter within ten days. Your response to this letter will help us determine which of the above-referenced paths will be necessary.

We look forward to hearing from you soon.

Sincerely,

/s/ Rebecca Berels
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