

**STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION**

In the Matter of:

AG File No. 200602788

WAL-MART STORES, INC.

Respondent.

NOTICE OF INTENDED ACTION

TO: WAL-MART STORES, INC.

Attn: The Corporation Company, Resident Agent
30600 Telegraph Road
Bingham Farms, MI 48025

Kelley Cawthorne
101 South Washington Square, Fl 9
Lansing, MI 48933

MICHAEL A. COX, Attorney General of the State of Michigan, pursuant to the provisions of the Michigan Consumer Protection Act, MCL 445.901 et seq., (MCPA) and the Pricing and Advertising of Consumer Items Act, MCL 445.351 et seq., ("Item Pricing Act"), gives ten days notice as required by section 5(2) of the MCPA, MCL 445.905(2) prior to commencement of legal action.

Pursuant to section 9(2) of the Item Pricing Act, MCL 445.359(2), Wal-Mart Stores, Inc. is being placed on notice that it must cease and desist or take positive action to cease and desist from continuing to act in violation of section 3(1) of the Item Pricing Act, MCL 445.353(1) or the State will file a lawsuit seeking to enjoin continuing and further violation of the Item Pricing Act, a substantial civil penalty, and reimbursement of all costs.

The Attorney General alleges that Wal-Mart Stores, Inc. has engaged, is engaging, or may continue to engage in the following methods, acts or practices that the Consumer Protection Act and the Item Pricing Act prohibit.

I. FACTUAL ALLEGATIONS

1. Wal-Mart Stores, Inc. ("Wal-Mart") is a Delaware corporation that is engaged in trade or commerce in the State of Michigan.

2. Wal-Mart is engaged in the business of selling items at retail to consumers at its general merchandise stores, with over eighty store locations in the State of Michigan.

3. The Department of Attorney General has received numerous citizen complaints concerning the failure of Wal-Mart to individually mark ("item price") the retail price of goods sold at its retail establishments.

4. Many of these citizen complaints were sent directly to Wal-Mart's corporate offices with a request that Wal-Mart respond to the allegations set forth in the complaints.

5. Wal-Mart has a history of violating the Item Pricing Act and failing to comply with the terms of settlement agreements reached after enforcement actions were brought against it by the State of Michigan, including but not limited to the following:

(a) February 24, 1994: Wal-Mart executed an Assurance of Discontinuance ("Assurance") under the MCPA. A copy of the Assurance is attached as Exhibit 1 and incorporated herein by reference. The Assurance was filed with the Ingham County Circuit Court on or about March 18, 1994. The Assurance constituted a written, express contract pursuant to which Wal-Mart promised to, among other things, comply with the provisions of the Item Pricing Act.

(b) Between May 26 and August 1999: Investigative audits of several Wal-Mart retail establishments by agents from the Consumer Protection Division of the Department of Attorney General and the Department of Agriculture, Motor Fuels Quality Weights & Measures Section found that Wal-Mart failed to comply with the Item Pricing Act in failing to individually identify the retail price on the majority of its shelf stock and failing to properly list and post in a conspicuous place any items that Wal-Mart might legally have chosen not to individually price.

(c) August 27, 1999: Notice of Intended Action (NIA) issued against Wal-Mart under subsection 9(2) of the Item Pricing Act, and subsection 5(2) of the MCPA. The NIA alleged that the investigation of Wal-Mart store locations determined that numerous consumer items at each of the stores were not marked with an item price.

(d) August 30, 2000: Wal-Mart executed a (second) Assurance of Discontinuance under the Item Pricing Act and the MCPA. The Assurance was filed with the Ingham Circuit Court on September 19, 2000. Pursuant to this Assurance, Wal-Mart promised to, among other things:

- i. Have all of its Michigan stores in full compliance with the Item Pricing Act and MCPA;
- ii. Conduct monthly and quarterly pricing audits to assure compliance with the item pricing law;
- iii. Post on a clear, conspicuous sign ("exemption list"), located in the Customer Service Area in each store the items that Wal-Mart will not be individually marking pursuant to MCL 445.353(3);

- iv. Post the price of the above exempted items in immediate conjunction with the area in which the unmarked item is displayed, in compliance with the signage requirements of MCL 445.353(4);
- v. Pay \$125,000 as a civil penalty and \$25,000 to reimburse the State for its legal, investigative, and administrative costs of enforcement.

A copy of the Assurance is attached as Exhibit 2 and incorporated herein by reference.

6. While not conducting formal audits, the Michigan Department of Agriculture has, on numerous occasions, provided notice to various Wal-Mart store locations of their noncompliance with the Item Pricing Act by failure to item price specific consumer items and utilization of noncompliant pricing exemption lists. On each such occasion, the store location was subject to inspection, provided notice of the inspection results, and afforded an opportunity to bring the store into compliance. Store locations subject to notice of violation and opportunity for compliance from May 9, 2003 to November 22, 2005 include, but are not limited to, the following:

309 Updyke, Auburn Hills, on December 14, 2004;

3921 Wilder, Bay City, on November 14, 2004 and November 22, 2004;

G5323 E. Court, Burton, on March 15, 2005;

2200 Mitchell, Cadillac, on November 22, 2005;

1121 E. Caro Road, Caro, on June 9, 2003 and January 20, 2005;

1680 Packard Highway, Charlotte, on November 19, 2003, November 2, 2004, and November 23, 2005;

800 E. Chicago, Coldwater, on April 22, 2005;

3999 Alpine Avenue, Comstock Park, on March 2, 2004, and December 16, 2004;

3700 Owen Road, Fenton, on August 15, 2003 and August 27, 2003;

G 4313 Corunna Road, Flint, on August 27, 2003 and March 16, 2004;

7083 W. 48th Street, Fremont, on December 21, 2004;

5452 Kenawa, Grandville, on May 10, 2005;

2629 N. Park Drive, Holland, on February 23, 2005, July 19, 2005, and August 2, 2005;

3599 Grand River, Howell, on May 9, 2003 and November 15, 2005;

3225 US 41 West, Marquette, on July 25, 2005 and October 14, 2005;

910 Joe Mann Boulevard, Midland, on September 28, 2005;

5110 Times Square, Okemos, on December 15, 2003, January 5, 2004 and May 23, 2005;

1600 Anderson Road, Petoskey, on August 18, 2003, September 27, 2004, August 1, 2005 and August 24, 2005;

28804 Gratiot, Roseville, on January 22, 2004, December 16, 2004, January 10, 2005, July 21, 2005 and October 31, 2005;

5860 Bay Road, Saginaw, on January 22, 2004, January 6, 2005, and May 10, 2005;

44575 Mound Road, Sterling Heights, on November 30, 2005;

2001 Maple Road, Troy, on June 21, 2004;

29240 VanDyke, Warren, on July 29, 2003, August 13, 2003 and December 9, 2004;

9190 Highland Avenue, White Lake, on May 12, 2003, September 20, 2004, October 11, 2004, December 1, 2004 and July 13, 2005.

7. Between December 1, 2005 and January 1, 2006, agents from the Department of Attorney General surveyed five Michigan Wal-Mart store locations for compliance with the Michigan Item Pricing and Consumer Protection Acts.

8. At each of the five stores surveyed, numerous items did not have the price stamped or affixed to the item, including:

309 Opdyke, Auburn Hills, where only 280 of 800 randomly-selected items were item priced;

2629 North Park Drive, Holland, where only 425 of 917 randomly-selected items were item priced;

6065 Gull Road, Kalamazoo and 1680 Packard Highway, Charlotte where, collectively, only:

- a) 63 of 100 randomly selected hardware items were priced;
- b) 155 of 310 randomly selected grocery items were item priced; and
- c) 21 of 100 randomly selected paper and cleaning products were item priced.

9. Four of the five stores surveyed in December, 2005 did not post an exemption list in the Customer Service Area or other conspicuous place listing classes of items the stores might legally have chosen not to individually price.

10. The one store that did post an exemption list refused to honor the Wal-Mart Returns Policy expressly posted on the Wal-Mart Website and provided in response to direct telephonic inquiry. The same store refused to accept timely return of certain items purchased by Department of Attorney General agents as part of the above survey, before and even after identification of the regulatory purpose of the purchase and return.

11. In February, 2006, several agents from the Department of Attorney General conducted more extensive investigative audits of five additional Wal-Mart store locations for purposes of determining compliance with the Item Pricing Act and MCPA. These stores were located at:

800 East Chicago, Coldwater;

3599 Grand River, Howell;

5110 Times Square, Okemos;

28804 Gratiot, Roseville; and

5860 Bay Road, Saginaw.

12. At each store, multiple investigators each reviewed thousands of items.
13. At each of the additional five stores investigated, vast numbers of items did not have the price stamped or affixed to the item, in violation of section 3 of the Item Pricing Act.
14. Two of the stores surveyed did not post an exemption list in the Customer Service Area or other conspicuous place; (Okemos, Roseville store locations.)
15. The list(s) of exempted pricing items posted at the remaining Wal-Mart locations failed to comply with sections 3(3) and 3(5) of the Item Pricing Act, for reasons including but not limited to:
 - (a) Lists were not posted clearly and conspicuously. In particular, at two locations (Coldwater and Howell) the exemption list was very difficult to read, listing numerous items in small print on one-half of an 8 ½ by 11 sheet of plain white paper hung at the side of the Customer Service desk. Another store location (Saginaw) posted an 8 ½ by 11 exemption list, also on plain white paper, on a bulletin board along with numerous other papers, that one investigator specifically looking for the list was unable to locate;
 - (b) Utilizing broad product categories, such as "windshield solvent" and "deep pocket pillows", that include items that vary in price and size other than weight or volume, and do not satisfy the definition of "class of item" provided by section 1(c) of the Item Pricing Act; MCL 445.351(c).
16. Investigation revealed that approximately twenty-five to eighty percent of stock surveyed by agents at the above Wal-Mart store locations was not properly priced as required by section 3(1) of the Item Pricing Act.

II. VIOLATIONS OF MICHIGAN LAW

17. The conduct described above violates section 3 the Pricing and Advertising of Consumer Items Act, MCL 445.353 which provides, in pertinent part:

(1) The total price of a consumer item displayed or offered for sale at retail shall be clearly and conspicuously indicated in Arabic numerals, so as to be readable and understandable by visual inspection, and shall be stamped upon or affixed to the consumer item. If the consumer item is in a package or container, the total price shall be stamped upon or affixed to the outside surface of the package or container and need not be placed directly upon the consumer item.

* * *

(3) In addition to the exemptions allowed in subsection (2), a retailer may choose to not individually price mark not more than 25 classes of items or individual items which classes or items shall be listed and posted in a conspicuous place in the retail store, and may choose to not individually price mark not more than 25 additional classes or items or individual items which are advertised or featured at a reduced price.

(4) The price and the name or description of a class of items or individual items not marked pursuant to subsection (3) shall be indicated by a clear, readable, and conspicuous sign in immediate conjunction with the area in which the unmarked item or class of items is displayed.

18. Subsection 9(5) of the Item Pricing Act, MCL 445.359(5) provides:

A person who knowingly violates this act or the terms of an injunction, order, decree, or judgment issued pursuant to this section shall forfeit and pay to the state a civil penalty of not more than \$1,000.00 for the first violation and not more than \$5,000.00 for the second and any subsequent violation. For purposes of this section, the court issuing an injunction, order, decree, or judgment shall retain jurisdiction, the cause shall be continued, and the attorney general may petition for recovery of a civil penalty as provided by this section.

19. Wal-Mart was repeatedly put on formal notice of violations of the Item Pricing Act and thus had knowledge that its retail outlets were in persistent violation of the Item Pricing Act. Accordingly, Wal-Mart is liable for and should be assessed the maximum allowable civil penalty for each violation and subsequent violations at each of its Michigan retail outlets pursuant to subsection 9(5) of the Item Pricing Act.

20. The conduct described above also violates Section 3 (1) of the Michigan Consumer Protection Act, MCL 445.903 (1), which defines unfair, unconscionable, or deceptive methods, acts or practices in the conduct of trade or commerce as follows:

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

(u) Failing, in a consumer transaction that is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled to it a deposit, down payment, or other payment, or the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

21. Wal-Mart was repeatedly put on formal notice and thus had knowledge that its retail outlets were in persistent violation of the MCPA. Accordingly, Wal-Mart is liable for and should be assessed the maximum allowable civil penalties for each of the violations and subsequent violations at each of its Michigan retail outlets pursuant to section 5 of the MCPA.

III. AUTHORITY OF THE ATTORNEY GENERAL

The Attorney General proceeds under section 9 of the Pricing and Advertising of Consumer Items Act, MCL 445.359, which provides, in part:

Sec. 9(1) The attorney general may maintain an action to enjoin a continuing violation of the act. If the court finds that the defendant is violating or has violated this act, it shall enjoin him from a continuance of

that violation. It shall not be necessary that actual damages to a person be alleged or proved.

The Attorney General also proceeds under section 5 of the Michigan Consumer Protection Act, MCL 445.905, which provides, in part:

(1) When the attorney general has probable cause to believe that a person has engaged, is engaging, or is about to engage in a method, act, or practice which is unlawful pursuant to section 3, and upon notice given in accordance with this section, the attorney general may bring an action in accordance with principles of equity to restrain the defendant by temporary or permanent injunction from engaging in the method, act, or practice. The action may be brought in the circuit court of the county where the defendant is established or conducts business or, if the defendant is not established in this state, in the circuit court of Ingham county. The court may award costs to the prevailing party. For persistent and knowing violation of section 3 the court may assess the defendant a civil penalty of not more than \$ 25,000.00.

IV. RESPONDENT'S OPPORTUNITY TO COMPLY WITH MICHIGAN LAW

Within ten days after receiving this notice, Wal-Mart has the opportunity to cease and desist the conduct described above and to inform the Attorney General of Respondent's decision. If Wal-Mart, Inc. elects to cease and desist, that fact will be taken into consideration by this office in determining whether to file a lawsuit against Wal-Mart, Inc.

Wal-Mart may, within 10 days after receiving this notice, request an opportunity to confer with a representative of the Attorney General in person, by counsel or by other representative and the Attorney General.

Instead of filing a lawsuit against Wal-Mart, the Attorney General may accept a formal Assurance of Discontinuance in accordance with section 9(3) of the Pricing and Advertising of Consumer Items Act and/or section 6 of the Michigan Consumer Protection Act, that the alleged

unlawful practice will be discontinued and that corrective action will be taken. That Assurance of Discontinuance must include, among other things, a provision for payment of a substantial civil penalty and reimbursement of the costs of the investigation.

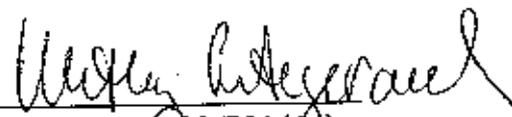
V. CONSEQUENCES OF RESPONDENT'S VIOLATIONS

After Wal-Mart has been provided with an opportunity to confer, and unless an Assurance of Discontinuance is accepted, or it is determined that there is no cause for action, the Attorney General will be authorized to file a lawsuit against Wal-Mart in Circuit Court.

If Wal-Mart decides to exercise its opportunity to confer before the lawsuit is filed, Wal-Mart must contact the undersigned Assistant Attorney General within ten days after receipt of this Notice to avoid the institution of legal action in Circuit Court.

MICHAEL A. COX
ATTORNEY GENERAL


Katharyn Barron (P45363)
Division Chief


Kathy Fitzgerald (P31454)
Assistant Attorney General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
(517) 335-0855

Dated: 3-1-06

TAB 1

A TRUE COPY

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

1629

IN THE MATTER OF:

No. 94-76610-CP

WAL-MART STORES, INC., d/b/a
WAL-MART and SAM'S CLUB

Hon. Peter D. Houk

702 S.W. 8th Street
Bentonville, AR 72716-8095

ASSURANCE OF DISCONTINUANCE

FRANK J. KELLEY
Attorney General

Frederick H. Hoeffcker P15029
Assistant Attorney General

Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
517-335-0855

Dated: March 18, 1994

STATE OF MICHIGAN

DEPARTMENT OF ATTORNEY GENERAL

IN THE MATTER OF:

WAL-MART STORES, INC., d/b/a/
WAL-MART and SAM'S CLUB

702 S. W. 8th Street—
Bentonville, AR 72716-8095

ASSURANCE OF DISCONTINUANCE

NOW COME FRANK J. KELLEY, Attorney General of the State of Michigan, and WAL-MART, INC., doing business as Wal-Mart and Sam's Club, hereafter Respondent or Wal-Mart, who jointly agree to enter into an Assurance of Discontinuance pursuant to Section 6 of the Michigan Consumer Protection Act, MCL 445.901 et seq; MSA 19.419(1) et seq as follows:

1. Respondent is primarily engaged in Michigan in the business of selling goods to consumers for personal, family or household purposes. Respondent also sells some goods for business use or resale to consumers.
2. Respondent previously engaged in the practice of in-store price comparisons with its competitors through the use of:
 - A. Market baskets;
 - B. Shelf end displays; and
 - C. Shelf placards

3. In accordance with Section 6 of the Michigan Consumer Protection Act, supra, and without admitting any violation of the Act, Respondent assures the Attorney General that Respondent will not engage in unfair or deceptive acts or practices in the conduct of any future comparative price advertising program in Michigan, including but not limited to:

A. It will not make or utilize any claim that a specific item price is lower than a competitor's for an identical or comparable product without verification prior to the comparison that the compared price does not exceed the price at which the named competitors have been selling identical or comparable merchandise immediately preceding Wal-Mart's claim.

B. It will not lower an item's price solely to achieve a favorable price comparison with a competitor.

C. It will not leave comparative price signs in place after it knows, or should know, that the comparison was not accurate when made, and it will verify the continuing accuracy of comparative price signs in place for any longer than a one week period on a weekly basis. Further, any comparative price signs shall clearly identify the date on which each price comparison was made.

D. It will not compare products in its stores which are different in size, quantity, model, or quality from those to which they are being compared.

E. It will not use any "market basket" or "survey-based" price comparisons, unless (1) the Wal-Mart employees responsible for pricing Wal-Mart's products do not know which items have been selected for the "Market Basket" or "survey-based" price comparison prior to its completion; and (2) the claim does not generalize the results of the price comparison if product categories have been systematically excluded, unless any exclusion is clearly disclosed in the advertising.

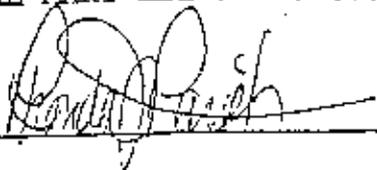
F. It will not compare a multiple item package price with the individual item price of that product by a competitor when the multiple package is specially packaged for Respondent and not otherwise generally available to others in the market.

G. Respondent will comply with the provisions of the Item Pricing and Deceptive Advertising Act, MCL 445.351 et seq., as that law applies to Respondent's business.

4. This Assurance of Discontinuance does not constitute an admission of guilt by Respondent, and this Assurance of Discontinuance may not be introduced into evidence in any other proceeding.

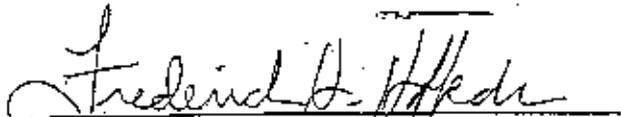
5. In accordance with Section 6(2) of the Michigan Consumer Protection Act, supra, this Assurance of Discontinuance may be filed with the Circuit Court for the County of Ingham and, if necessary, may be enforced by that Court.

WAL-MART STORES, INC., d/b/a
WAL-MART and SAM'S CLUB



Dated: 2/2/94

FRANK J. KELLEY
Attorney General



Frederick H. Hoffecker, P15029
Assistant Attorney General

Dated: March 18, 1994

Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
(517) 335-0855

TAB 2

TRUE COPY

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

IN THE MATTER OF:

No. 00-91267-CP

WAL-MART STORES, INC.,

Hon. Michael G. Harrison

Respondent.

AG No. 9905489

ASSURANCE OF DISCONTINUANCE

JENNIFER M. GRANHOLM
Attorney General

By: Stanley F. Pruss (P33718)
Assistant Attorney General
Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
517-335-0855

Date Filed: September 19, 2000

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

IN THE MATTER OF:

WAL-MART STORES, INC.

AG No. 9905489

ASSURANCE OF DISCONTINUANCE

The Complainant is Jennifer M. Granholm, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan. The Respondent is Wal-Mart Inc. ("Wal-Mart").

This Assurance of Discontinuance ("Assurance") concerns the resolution of alleged violations of the Pricing and Advertising of Consumer Items Act (the "PACIA"), MCL 445.351, et seq; and the Michigan Consumer Protection Act (the "CPA"), MCL 445.901 et seq. Wal-Mart agrees not to contest (a) the authority of the Department of Attorney General to execute this Assurance; or, (b) any terms or conditions set forth herein.

The entry of this Assurance by Wal-Mart is neither an admission of liability with respect to any issue dealt with in this Assurance nor is it an admission or denial of any factual allegations or legal conclusions stated or implied herein.

The Parties agree that the terms and conditions of the Assurance are fair, reasonable and consistent with the public interest and the doctrines of applicable law.

I. JURISDICTION

The Ingham County Circuit Court has jurisdiction over the subject matter of this action pursuant to MCL 445.359(1) and MCL 445.905(1). The Court also has personal jurisdiction over the Respondent for the enforcement of this Assurance. Respondent waives all objections and defenses that it may have as to the jurisdiction of the Court or to venue in this Court.

II. PARTIES BOUND

2.1 This Assurance shall apply to and be binding upon Wal-Mart and its successors. Wal-Mart is responsible for compliance with the terms of this Assurance, and shall ensure that all of its Michigan retail outlets are in compliance with the terms and conditions of this Assurance.

2.2 The signatories to this Assurance certify that they are authorized to execute and legally bind the parties they represent.

III. DEFINITIONS

3.1 "Class of item" shall have the meaning provided in MCL 445.351(c).

3.2 "Assurance" means this Assurance and any appendix hereto.

3.3 "Respondent" means Wal-Mart.

3.4 "Wal-Mart retail outlets" means any and all Wal-Mart stores presently open to the public in Michigan and any additional stores opened by Wal-Mart in Michigan in the future.

3.5 "Parties" means the Complainant and Respondents.

3.6 "Complainant" means Jennifer M. Granholm, Attorney General of the State of Michigan, on behalf of the People of the State of Michigan.

3.7 All other terms shall have the meaning specifically defined in the PACIA and the CPA.

IV. STATEMENT OF PURPOSE

In entering into the Assurance, the mutual objective of Complainant and Wal-Mart is to resolve, without litigation, the alleged violations of the PACIA and CPA, the demand for payment of civil penalties, and the reimbursement of costs and expenses incurred by the Departments of Attorney General and Agriculture in investigating this matter and enforcing the PACIA and CPA.

V. IMPLEMENTATION OF COMPLIANCE MEASURES

5.1 Wal-Mart shall have all of Wal-Mart's Michigan retail outlets in full compliance with the PACIA and the CPA on or before August 1, 2000.

5.2 Wal-Mart shall immediately implement and continuously comply with the terms and conditions of the following Price Verification Policy:

A. At all times Wal-Mart shall maintain adequate resources including, but not limited to, appropriate staffing levels, equipment and signage to fully comply with the PACIA and the CPA.

B. Wal-Mart shall utilize the Customer Satisfaction Cards located at each register to record item pricing errors noted by the cashiers. On a daily basis the cards shall be sent to the store manager's office and distributed to the department managers responsible for the offending item for immediate correction.

C. Prior to the 25th of each month, a member of management will complete a compliance price check along with the Store Manager in each Michigan Wal-Mart store. Errors shall be noted and attached to the written report that is reviewed and signed by the Store Manager. The management associate responsible for the department with offending items shall work with the hourly department manager to effect immediate correction.

D. Wal-Mart District Managers shall audit each of their Michigan stores along with the Store Manager on a quarterly basis to assure compliance with item pricing laws. The STAR (Store Total Activity Report) Report shall be utilized to check compliance. Results shall be maintained in written form by the District Manager. Following each audit, a plan of action shall be devised to correct any errors.

5.3. The monthly and quarterly pricing audits shall be written and retained for a one

(1) year period commencing August 1, 2000. The reports shall be made available to Complainant upon request. The written pricing audits shall not be admissible as evidence to prove a violation of the PACIA or the CPA, however, the pricing audit reports may be offered into evidence for any other purpose as it relates solely to the PACIA, CPA or this Assurance. The absence of the pricing audit reports may be introduced as evidence pursuant to MRE 803(7) to prove a violation of this Assurance.

5.4 Pursuant to MCL 445.353(3), Wal-Mart may designate up to 25 classes of items or individual items that will not be individually price marked, provided the classes of items or individual items are listed and posted on a clear, readable and conspicuous sign located in the Customer Service Area in each Wal-Mart retail outlet. In addition, Wal-Mart must comply with the signage requirements of MCL 445.353(4).

VI. PAYMENT OF CIVIL PENALTY

6.1 Wal-Mart shall pay to the State of Michigan the sum of \$250,000 as a civil penalty. Payment of \$125,000 shall be made within thirty (30) days of the entry of this Assurance. Payment of the remaining \$125,000 shall be made on or before January 1, 2001 subject to subsection 6.2.

6.2 The second payment of \$125,000 shall be waived if state investigators determine that Wal-Mart is in full compliance with the PACIA during the period August 1, 2000, through December 31, 2000. In the event no inspection or investigation is performed, it shall be presumed that Wal-Mart is in full compliance with the PACIA.

6.3 Payment shall be made by check payable to the "State of Michigan" and remitted to the Assistant-In-Charge, Stanley F. Pruss, Consumer Protection Division, PO Box 30213, Lansing, MI 48909. The check shall reference *Wal-Mart, Assurance of Discontinuance, No. 9905489, Dept. of Ag., Consumer Protection Section.*

VII. REIMBURSEMENT OF COSTS AND EXPENSES

7.1 Within thirty (30) days of the entry of this Assurance, Wal-Mart shall pay the sum of \$25,000.00 to the State of Michigan to reimburse the state for its legal, investigative and administrative expenses relating to historical compliance efforts directed at Wal-Mart.

7.2 Payment shall be remitted in the same manner as specified in subsection 6.3.

VIII. DISPUTE RESOLUTION

8.1 The dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under this Assurance and shall apply to all provisions of this Assurance. Any dispute that arises under this Assurance shall in the first instance be the subject of informal negotiations between the parties. The period of negotiations shall not exceed ten (10) days from the date of written notice by any party that a dispute has arisen, but it may be extended by agreement between the parties. The period for informal negotiations shall end when Complainant provides a written statement setting forth its proposed resolution of the dispute to Wal-Mart.

8.2 If the parties fail to resolve a dispute by informal negotiations, then the dispute shall be resolved in accordance with the resolution proposed by the Complainant unless, within ten (10) days after receipt of the Complainant's proposed resolution, Wal-Mart files a petition for resolution with the Ingham Circuit Court setting forth the matters in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Assurance.

IX. COVENANT NOT TO SUE BY COMPLAINANT AND RESERVATION OF RIGHTS

9.1 In consideration of the implementation of compliance measures, the payment of the civil penalty and the reimbursement of the costs and expenses that will be made by Wal-Mart under the terms of this Assurance, and except as specifically provided in this Section,

Complainant covenants not to sue or to take administrative action against Wal-Mart for Covered Matters.

9.2 "Covered Matters" shall include any liability to the State of Michigan for the following:

- (a) All claims for violations of the PACIA and the CPA through the period August 1, 2000;
- (b) Payment of all civil penalties for violations of the PACIA and the CPA through August 1, 2000; and
- (c) Reimbursement of costs and expenses incurred by the Departments of Attorney General and Agriculture through August 1, 2000.

9.3 The covenant not to sue set forth in this Section does not pertain to any matters other than those expressly specified in "Covered Matters" in paragraph 9.2. Complainant reserves, and this Assurance is without prejudice to, all rights against Wal-Mart with respect to all other matters including, but not limited to, the following:

- (a) Liability arising from a violation by Wal-Mart of a requirement of this Assurance;
- (b) Liability for violations of the PACIA and the CPA that occur after August 1, 2000.

X. NOTICES

All notices, deliveries or other communications required or permitted hereunder shall be in writing and shall be deemed given when sent by facsimile transmission and confirmed by certified or registered mail (unless otherwise specified) addressed as follows:

- a) If to Complainant:
Consumer Protection Division
PO Box 30213
Lansing MI 48909

- b) If to Wal-Mart:
Sallie Stroud
Vice-President, Assistant General Counsel
Wal-Mart Stores, Inc.
702 S.W. 8th Street
Bentonville, AR 72716-8095

XI. GENERAL PROVISIONS

11.1 This Assurance shall be binding upon, inure to the benefit of, and apply to the parties and their successors-in-interest. This Assurance shall not create any private rights or causes of action in any third-parties.

11.2 No change or modification of this Assurance shall be valid unless in writing and signed by both parties.

XII. APPLICABLE LAW

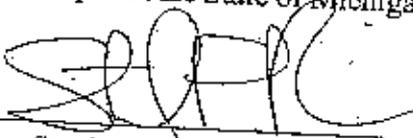
This Assurance shall be construed in accordance with and governed by the internal laws of the State of Michigan.

XIII. TERMINATION

If all substantive terms of this Assurance are met by Wal-Mart, this Assurance shall terminate on September 1, 2001 except that the requirements of Sections V, VIII and IX shall survive. The parties shall be allowed to reopen this Assurance for purposes of addressing any matters arising under Sections V, VIII or IX and this Court shall have continuing jurisdiction for such purposes.

Dated: 9/19/06

Jennifer M. Granholm, Attorney General, on behalf
of the People of the State of Michigan.

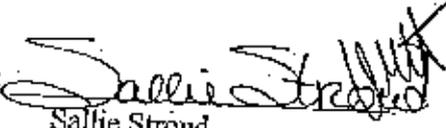
By: 

Stanley F. Pruss (P33718)
Assistant Attorney General

Consumer Protection Division
PO Box 30213
Lansing MI - 48909
517-335-0855; Fax 517-335-1935

Wal-Mart Stores, Inc.

Dated: 8-30-00

By: 

Sallie Stroud
Vice-President, Assistant General Counsel

Wal-Mart Stores, Inc.
702 S.W. 8th Street
Bentonville, AR 72716-8095
501-273-4505; Fax 501-277-5991