

OFFICE OF THE ATTORNEY GENERAL  
STATE OF FLORIDA  
DEPARTMENT OF LEGAL AFFAIRS

In the Investigation of:  
AJMIR FUEL INC d/b/a  
Marathon Gas Station and  
Afroza Chowdhury, an individual,

AG Case Number: L17-3-1150

Respondents.

ASSURANCE OF VOLUNTARY COMPLIANCE

Pursuant to the provisions of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Chapter 501, Part II, Florida Statutes, and Section 501.160, Florida Statutes (2017), the Office of the Attorney General, State of Florida, Department of Legal Affairs ("Attorney General") has investigated certain acts and practices of AJMIR FUEL INC d/b/a Marathon Gas Station and Afroza Chowdhury (collectively "Respondents"), related to the sale and offer for sale of petroleum products, drinking water, and pricing during a declared state of emergency.

Respondents enter into this Assurance of Voluntary Compliance ("AVC") with the Attorney General without an admission of wrongdoing and for the purpose of resolving this matter only. Pursuant to Section 501.207(6), Florida Statutes, the Attorney General accepts this AVC in termination of its investigation.

**1. FACTUAL BACKGROUND**

1.1 AJMIR FUEL INC d/b/a Marathon Gas Station ("Marathon") is a Florida for-profit corporation with its principal place of business located at 1201 Broadway Avenue, Riviera Beach, Florida 33404. Marathon is engaged in the sale and offering for sale of goods, including, but not limited to, petroleum products and drinking water.

  
Initials

1.2 Afroza Chowdhury (“Chowdhury”) is an individual residing in Palm Beach County, Florida. Chowdhury is, and has been at all times material hereto, a manager and owner of Marathon. Chowdhury directly participates in, manages, operates, and controls the operations of Marathon including, but not limited to, making all operational and financial decisions for Marathon.

1.3 On September 4, 2017, following the forecast from the National Hurricane Center suggesting Hurricane Irma was a major hurricane which would travel up the entire spine of Florida and pose a severe threat to the entire State of Florida, Governor Rick Scott, issued Executive Order Number 17-235 declaring a state of emergency in every county in the State of Florida (“State of Emergency”). Section 9 of Executive Order Number 17-235 provides as follows:

Pursuant to Section 501.160, Florida Statutes, it is unlawful and a violation of Section 501.204 for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

1.4 Upon declaration of the State of Emergency relating to Hurricane Irma, Attorney General Pam Bondi activated a price gouging hotline to enable consumers to report excessive increases in the price of essential items such as food, ice, gas, lodging, lumber, and water during the State of Emergency.

1.5 During a state of emergency, a price for the sale or offer for sale of any essential commodity as defined by Section 501.160(1)(a), Florida Statutes, is considered “unconscionable” under Section 501.160(1)(b)(2), Florida Statutes, if “the amount charged grossly exceeds the average price at which the same or similar commodity was readily obtainable in the trade area during the 30 days immediately prior to a declaration of state of emergency, unless the increase in the amount charged is attributable to additional costs incurred in connection with...the sale of the

commodity..., or regional, national, or international market trends.” Section 501.160(1)(b)(2), Florida Statutes (2017).

1.6 Based upon complaints from consumers alleging that Marathon engaged in unconscionable pricing relating to the sale or offering for sale of petroleum products and water during the State of Emergency, the Attorney General initiated an investigation into Respondents’ business acts and practices.

1.7 With respect to petroleum products, during the Hurricane Irma State of Emergency, Respondents ran out of regular and mid-grade unleaded fuel and only were able to offer consumers REC fuel. During this same time period, prior to the State of Emergency, Respondents sold REC fuel at \$3.69 per gallon. However, during the State of Emergency, Respondents increased the cost of the REC fuel sold to consumers to \$4.29.

1.8 With respect to the sale of drinking water, during the 21-day period immediately prior to September 9, 2017, when no state of emergency was in effect, the average price charged to consumers by Respondents for a 40-count case of water was \$11.00. However, during the State of Emergency, Respondents increased the cost for the same commodity from \$11.00 per case to \$13.00 per case.

1.9 The increases in the prices charged by Respondents for both fuel and drinking water were the result of Respondents’ deliberate actions and not related to either an increase in the costs incurred in the sale of the commodity or any relevant market trend that would impact the cost of the commodity during the State of Emergency.

1.10 This AVC is based upon the Factual Background detailed herein. The Attorney General shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way or this AVC not be complied with in full.

**2. JURISDICTION AND VENUE**

2.1 The parties agree that the State of Florida has jurisdiction over Respondents for the purposes of entering into this AVC and any enforcement actions arising out of this AVC.

2.2 It is further agreed by the parties that venue for any matters relating to or arising out of this AVC shall lie solely in Palm Beach County, Florida.

**3. COMPLIANCE TERMS**

3.1 Respondents, including its agents and employees, agree to be permanently enjoined from selling, or offering to sell, petroleum or any other essential commodities at an unconscionable price within any area for which a state of emergency is declared in violation of FDUTPA and Section 501.160, Florida Statutes.

3.2 Respondents agree to designate a contact person within Marathon to receive, review, and respond to consumer complaints related to Hurricane Irma price gouging allegations and inquiries escalated to Marathon by the Attorney General.

**4. MONETARY TERMS**

**Consumer Restitution**

4.1. Respondents shall provide refund checks in the amount of **Twenty-Five Dollars and Zero Cents (\$25.00)** per consumer to the two (2) consumers who reported to the Attorney General that they paid increased fuel charges during the pertinent period herein at the time that Respondents sign and return the partially executed copy of the AVC and other required payment detailed below in paragraphs 4.2 and 4.3. Respondents shall provide refund checks in the amount of **Ten Dollars and Zero Cents (\$10.00)** per consumer to the two (2) consumers who reported to the Office of the Attorney General that they paid increased drinking water charges during the pertinent period herein at the time that Respondents sign and return the partially

executed copy of the AVC and other required payment detailed below in paragraphs 4.2 and 4.3. The Attorney General shall timely provide the names of the consumers to whom Respondents should make the consumer restitution checks payable. The total amount of restitution to be made to these consumers by Respondents is **Seventy Dollars and Zero Cents (\$70.00)**.

4.2 In addition, Respondents are responsible for restitution to consumers who, within thirty (30) calendar days of the Effective Date of this AVC, have filed complaints or affidavits with the Attorney General and who have been determined by the Attorney General to be owed restitution. Upon conclusion of the thirty (30) calendar day period, the Attorney General shall provide Respondents with a list of consumers and the restitution amount due to each consumer (“Additional Consumer Restitution List”). Respondents shall provide restitution to each applicable consumer within thirty (30) calendar days of receipt of the Additional Consumer Restitution List. Respondents shall provide sufficient documentation to the Attorney General that Respondents made full and timely payment of all appropriate amounts due to the consumer.

4.3 Respondents shall review their books and records and refund any additional overcharges from the October 5 to October 8, 2016 time period no later than thirty (30) calendar days after the Effective Date of this AVC. Respondents will provide an accounting and proof of payment of any such additional refund payment to the Attorney General within ten (10) calendar days of making any such payment.

#### **Attorney’s Fees and Costs**

4.4 Respondents shall pay to the Attorney General the sum of **One Thousand Dollars and Zero Cents (\$1,000.00)** for attorney’s fees and costs. Payment shall be made by wire transfer, cashier’s check, or other certified funds payable to the **Department of Legal Affairs Revolving Trust Fund** and shall be sent to the attention of Assistant Attorney General Carol E. A DeGraffenreidt, Office of the Attorney General, 1515 North Flagler Drive, Suite 900, West Palm Beach, FL 33401, simultaneously with the submission of Respondents’ partially executed copy of

this AVC.

**Civil Penalties**

4.5 Respondents shall additionally pay civil penalties in the amount of **One Thousand Dollars and Zero Cents (\$1,000.00)** to the Attorney General pursuant to Section 501.164, Florida Statutes. Payment shall be made by wire transfer, cashier's check, or other certified funds payable to the **Department of Legal Affairs General Revenue Fund** and shall be sent to the attention of Assistant Attorney General Carol E. A DeGraffenreidt, Office of the Attorney General, 1515 North Flagler Drive, Suite 900, West Palm Beach, FL 33401, simultaneously with the submission of Respondents' partially executed copy of this AVC.

**5. FAILURE TO COMPLY WITH TERMS AND CONDITIONS OF AVC**

5.1 In the event Respondents fail to comply with the Monetary Terms pursuant to Section "**4. MONETARY TERMS**" above, Respondents shall be in default of this AVC and hereby stipulate to entry of a final judgment against them, jointly and severally, in favor of the Attorney General for the outstanding monies due. Evidence of the failure to pay in accordance with the terms and conditions of this AVC may be in the form of an affidavit from the Attorney General.

5.2 Respondents acknowledge and agree that any failure to comply with the terms and conditions of this AVC is, by statute, *prima facie* evidence of a violation of FDUTPA, and will subject Respondents to any and all civil penalties and sanctions provided by law, including the award of attorney's fees and costs.

**6. ACCEPTANCE OF THE AVC**

6.1 The Attorney General may refuse to accept this AVC at her discretion, and the AVC shall only become effective upon the South Florida Bureau Chief's execution of this AVC.

6.2 This AVC may be signed in multiple counterparts, each of which shall be considered an original, and all of which together will constitute one and the same agreement.

6.3 The effective date ("Effective Date") of this AVC is the date on which the AVC is fully executed by the parties.

## 7. BUSINESS RECORDS

7.1 In connection with the Attorney General's future monitoring of Respondents, Respondents agree to retain documents and information reasonably sufficient to establish their compliance with the provisions of this AVC for **two (2) years** from the Effective Date of this AVC. Respondents shall provide the Attorney General reasonable access to such documents and information upon written request from the Attorney General, and Respondents shall produce documents and information requested by the Attorney General within **fifteen (15) calendar days** of the written request.

## 8. CONSTRUCTION OF AVC

8.1 This AVC is the result of joint negotiations between the parties and shall be deemed to have been drafted by both the Attorney General and Respondents. In the event of a dispute, this AVC shall not be construed against either party. Nothing herein shall be construed to limit or bar any other governmental entity from pursuing other available remedies against Respondents for acts and practices addressed by this AVC.

8.2 The Attorney General has not approved any of Respondents' business practices, and Respondents shall not use the existence of this AVC to in any way imply such approval.

8.3 If any clause, provision, or section of the AVC shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this AVC, and this AVC shall be construed and enforced as if such

illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

8.4 Nothing in this AVC is to be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against Respondents or any other person or entity.

8.5 This AVC is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this AVC, and it supersedes all previous negotiations and agreements. The parties have made no representations or warranties to each other than those representations expressly stated in this AVC. Moreover, neither party's decision to enter into this AVC is based upon any statements by the other party which are not contained in the instant AVC.

## 9. APPLICABILITY

9.1 Within thirty (30) calendar days of the Effective Date, Respondents shall make the terms and conditions of this AVC known to any managers, members, officers, directors, employees, agents, independent contractors, or other persons who are substantially affected by this AVC and are involved in the businesses, projects, and/or activities of Respondents, or anyone else acting for or on behalf of Respondents. Within thirty (30) calendar days of the Effective Date, Respondents shall provide a copy of the price gouging statute, Section 501.160, Florida Statutes, to any managers, members, officers, directors, employees, agents, independent contractors, or anyone else acting for or on behalf of Respondents.

9.2 The obligations imposed by this AVC are continuing in nature and shall apply to Respondents' successors and assigns as well as any and all current or new officers, employees, agents, representatives or any other persons who become engaged in the business or activities of Respondents.



**10. CHANGES IN LAW OR BUSINESS PRACTICES**

10.1 Respondents shall not alter either their business practices or the organizational identity of any existing business entities or create any new business entities as a method of avoiding the obligations and terms and conditions set forth in this AVC.

**11. MISCELLANEOUS**

11.1 Notice to any of the parties to this AVC as may be required shall be made by certified mail at the addresses set forth below unless any party notifies the other parties in writing of another address to which notices should be provided.

To Respondents:

AJMIR FUEL INC d/b/a Marathon Gas Station  
and/or Afroza Chowhdury  
1201 Broadway Avenue  
Riviera Beach, Florida 33404

To the Attorney General:

Carol E. A. DeGraffenreidt, Assistant Attorney General  
Office of the Attorney General  
Consumer Protection Division  
Waterview Building  
1515 North Flagler Drive, Suite 900  
West Palm Beach, FL 33401

**IN WITNESS WHEREOF**, Respondents have caused this AVC to be executed by an authorized representative in the County and State listed below, as of the date affixed thereon.

**SIGNATURES ON SEPARATE PAGE(S)**

**BY MY SIGNATURE**, I, Afroza Chowdhury, hereby affirm that I am acting in my capacity and within my authority as the owner and manager of AJMIR FUEL INC d/b/a Marathon Gas Station, and that I am binding AJMIR FUEL INC d/b/a Marathon Gas Station to the terms and conditions of this AVC.

AJMIR FUEL INC d/b/a  
MARATHON GAS STATION

AFROZA CHOWDHURY

By: Afroza Chowdhury  
Title: President/Owner  
Date: November \_\_\_\_, 2017

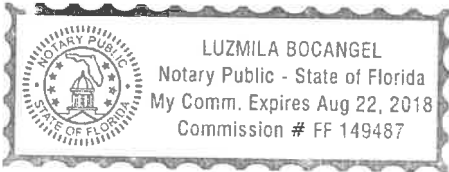
AFROZA CHOWDHURY

Afroza Chowdhury, individually  
and as authorized Officer for  
AJMIR FUEL INC d/b/a LLC d/b/a  
MARATHON GAS STATION  
Date: November \_\_\_\_, 2017

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared Afroza Chowdhury, as an authorized officer of AJMIR FUEL INC d/b/a Marathon Gas Station, Days, who acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 19<sup>th</sup> day of December, 2017.

Sworn to and subscribed before me this 19<sup>th</sup> day of December, 2017.



Luzmila Bocangel  
NOTARY PUBLIC  
(print, type or stamp commissioned name of  
Notary Public)

Personally known \_\_\_\_\_ or Produced identification  (check one) Type of Identification  
Produced: Florida Driver License

**OFFICE OF THE ATTORNEY GENERAL**

By: *Sarah L. De*  
Carol E. A. DeGraffenreidt, Assistant Attorney General  
Office of the Attorney General  
Department of Legal Affairs  
1515 North Flagler Drive, Suite 900  
West Palm Beach, Florida, 33401  
Telephone No.: (561) 837-5007  
Facsimile No.: (561) 837-5109  
Electronic mail: [Carol.DeGraffenreidt@myfloridalegal.com](mailto:Carol.DeGraffenreidt@myfloridalegal.com)

Dated: 1/17/18

Accepted this 1<sup>th</sup> day of January, 2017

*Sarah L. Shullman*  
Sarah L. Shullman, South Florida Bureau Chief  
Office of the Attorney General  
Department of Legal Affairs  
1515 North Flagler Drive, Suite 900  
West Palm Beach, Florida, 33401  
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Facsimile No.: (561) 837-5109  
Electronic mail: [sarah.shullman@myfloridalegal.com](mailto:sarah.shullman@myfloridalegal.com)

Dated: 1/17/18