FILED

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY AUG 13 AM 8:01

CLERK OF DISTRICT COURT
BLACK HAWK COUNTY, IOWA

STATE OF IOWA ex rel., THOMAS J. MILLER (99AG25112), ATTORNEY GENERAL OF IOWA,	)	EQUITY NO. EQCV106329
Plaintiff,	)	
vs.	)	PETITION IN EQUITY
JERRY L. FRATZKE, Individually and d/b/a/ PRONTO MARKET,	)	
Defendants.	)	

COMES NOW the State of Iowa ex rel. Thomas J. Miller, Attorney General of Iowa, by Stephen E. Reno, Assistant Attorney General, pursuant to the Iowa Consumer Fraud Act, Iowa Code section 714.16, and for its claim against the defendants states:

PARTIES

1. Thomas J. Miller is the Attorney General of Iowa and brings this action on behalf of the State of Iowa, a sovereign state of the United States of America.

2. Defendant Jerry Fratzke ("Fratzke") resides at 12920 Dubuque Road, Jesup, Black Hawk County, Iowa, and is the owner of Defendant Pronto Market, with locations in Sumner, Iowa, and Fairbank, Iowa, as well as other sites within the State of Iowa.

3. Fratzke manages, controls and directs business policies, activities, operations, acts, and financial transactions of Pronto Market, directly and/or indirectly through agents and employees.

JURISDICTION AND VENUE

4. Iowa Code section 714.16(7) authorizes the Attorney General of Iowa to commence equitable proceedings against any person who has engaged in, is engaging in, or is about to engage in any unfair, deceptive, fraudulent or other practice declared to be unlawful by Iowa Code section 714.16. The Attorney General may seek a temporary restraining order, preliminary injunction, permanent injunction, consumer reimbursement or civil penalties not to exceed Forty Thousand Dollars ($40,000.00) per violation. In addition, the Attorney General is entitled to recover court costs, investigation costs, and reasonable attorneys' fees pursuant to Iowa Code section 714.16(11).

5. Venue for this action lies in Black Hawk County, Iowa, the residence and principal place of business of Fratzke, pursuant to Iowa Code section 714.16(10).

FACTS

6. Fratzke, individually and doing business as Pronto Market, operates convenience stores located at 117 W. First Street, Sumner, Iowa, and 104 Fourth Street, Fairbank, Iowa, as well as other Pronto Market locations in Iowa.

7. At the Sumner and Fairbank, Iowa locations, Fratzke individually, and d/b/a Pronto Market, engages in sales of regular unleaded and ten percent (10%) ethanol-enhanced, higher octane gasolines and other products to Iowa consumers as well as residents of other states.

ALLEGATIONS

8. Plaintiff realleges the allegations of paragraphs one (1) through seven (7).

9. On or about June 17, 2008, Ivan Hankins ("Hankins"), Bureau Chief of the Weights and Measures Bureau ("Bureau") of the Iowa Department of Agriculture and Land Stewardship ("IDALS"), was informed that documentation obtained by Bureau Inspector Lisa Kurt indicated the Fairbank and Sumner Pronto Markets were receiving shipments of E85 and E75 blended ethanol fuel from bulk fuel distributor Consolidated Energy Company of Jesup, Iowa, and that those shipments were being dumped into the underground storage tanks located at Fairbank and Sumner Pronto Markets, including the underground storage tank(s) that served unleaded regular gasoline pumps. Copies of five (5) Consolidated Energy Company Invoices ("invoices") addressed to the Pronto Market at Fairbank and three (3) invoices addressed to the Pronto Market at Sumner dated from March 10, 2008, through June 6, 2008, each indicating the delivery and dumping of E85 blended ethanol fuel and E75 blended ethanol fuel into the Fairbank and Sumner Pronto Markets' underground storage tanks, are attached hereto and marked as "Exhibit A".

10. On June 17, 2008, Bureau Inspector Kurt took samples from each of the underground storage tanks located at the Fairbank and Sumner Pronto Markets.

11. Those samples, subsequently tested by Magellan Midstream Partners, L.P. ("Magellan") of Kansas City, Missouri, indicated E85 and E75 blended ethanol fuel to be present in Fairbank and Sumner Pronto Market underground storage tanks. Four (4) Laboratory Analysis Reports prepared by Magellan and showing the presence of E85 and E75 blended ethanol fuel in the underground storage tanks at both the Fairbank and Sumner Pronto Markets

are attached hereto and marked as "Exhibit B".

12. At no time has either the Fairbank or the Sumner Pronto Market had a fuel pump dedicated exclusively to E85 blended ethanol fuel, a product that requires special vehicle engine modifications before it can be used properly and which can damage vehicle engines that have not been so modified.

13. The Bureau's Invoice and Magellan Laboratory Analysis Report reviews show that since March 10, 2008, the Fairbank and Sumner Pronto Markets owned by Fratzke have purchased in excess of two thousand five hundred (2,500) gallons of E85 and E75blended ethanol fuel, which was then improperly and fraudulently sold as either unleaded regular gasoline or ten percent (10%) ethanol enhanced fuel.

REQUEST FOR INJUNCTIVE AND OTHER RELIEF

14. Pursuant to Iowa R. of Civ. P. 9, no bond is required of the State of Iowa in seeking injunctive relief.

15. The State of Iowa has not previously presented a petition for a temporary injunction, restraining order or other injunctive relief to, nor has a petition been denied by any Judge of the Iowa District Court.

16. It is in the public interest that immediate injunctive relief be entered to prevent the unlawful practices described herein and to minimize the losses and damages that will result if the defendants continue the practices as described during pendency of this action. Unless injunctive relief by way of a temporary restraining order is forthcoming, additional consumers will suffer unnecessary loss.

WHEREFORE, plaintiff prays the Court:

A. Enter an immediate temporary restraining order pursuant to Iowa Code section 714.16(7) requiring all Defendants and their officers, directors, employees, agents, successors, assigns, and all other persons, individually and in any business or corporate capacity, acting in concert with or participating with the Defendants, who have actual or constructive notice of the Court's injunction, by personal service or otherwise, to cease and desist from further sales of all E85 and E75 blended ethanol fuel;

B. Upon notice and hearing as the Court deems appropriate, enter a preliminary injunction pursuant to Iowa Code section 714.16(7), requiring all Defendants and their officers, directors, employees, agents, successors, assigns, and all other persons, individually and in any business or corporate capacity, acting in concert with or participating with the defendants, who have actual or constructive notice of the Court's injunction, by personal service or otherwise, to cease and desist from further sales of all E85 and E75 blended ethanol fuel;

C. After a hearing on the merits, enter a permanent injunction pursuant to Iowa Code section 714.16(7) to enjoin the Defendants and their officers, directors, employees, agents, successors, assigns, and all other persons, individually and in any business or corporate capacity, acting in concert with or participating with the Defendants, who have actual or constructive notice of the Court's injunction, by personal service or otherwise, from engaging in the unfair and deceptive practices set forth herein and which violate Iowa Code section 714.16, and barring the Defendants and their officers, directors, employees, agents, successors, assigns, other related business entities, and all other persons acting in concert or participating with the Defendants from

making unfair and deceptive statements, misrepresentations, or promises to consumers associated with sales of all E85 and E75 blended ethanol fuel;

D. Award monetary reimbursement to consumers who have purchased who can account for and show that they purchased what they believed to be unleaded regular gasoline or ten percent (10%) ethanol enhanced fuel from Fratzke's Fairbank and Sumner Pronto Market locations and such administrative costs as are necessary to implement restitution relief pursuant to Iowa Code section 714.16(7);

E. Require that in the event the Defendants should be permitted to sell E85 and/or E75 blended ethanol fuel at any of its facilities in the future, a designated underground storage tank and fuel pump shall be installed at such sites;

F. Assess additional civil penalties, where applicable, pursuant to Iowa Code section 714.16A;

G. Award plaintiff its investigative costs and attorneys' fees pursuant to Iowa Code section 714.16(11);

H. Assess civil penalties pursuant to Iowa Code section 714.16(7) in an amount not to exceed Forty Thousand Dollars ($40,000.00) per violation, per defendant;

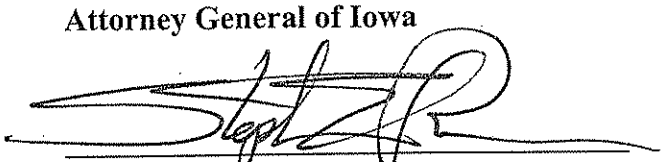
I. Award plaintiff interest as allowed by law;

J. Pursuant to Iowa Code section 714.16(7), assess the costs of this action against the Defendants; and

K. Enter such other equitable relief as the Court believes fair and appropriate.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



STEPHEN E. RENO, AT0006506
Assistant Attorney General
Iowa Attorney General's Office
Lucas Building, Ground Floor
321 E. 12th Street, Room 018
Des Moines, IA 50319
Phone: (515) 281-5351
Fax: (515) 242-6072
ATTORNEY FOR PLAINTIFF

R:\20\PRONTO MARKET Petition in Equity

DELIVER TO: JACK RECHKEMMER

FROM: BILLING

FAX PAGE: 1 OF 1

CONSOLIDATED ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE
167307

Date 4/23/2008

SOLD TO
PRONTO FAIRBANK MARKET
BOX 365
FAIRBANK, IA 50629

131550
PAGE 1

SHIP TO
FAIRBANK, IA
PO: 424901

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	4/22/08	FROST #10	NET 10 DAYS	11	167307

Fed. Tax	St. Tax	DESCRIPTION			Qty. Ship'd	Unit Price	Amount
.133	.19	GASAHOL (SB)-DEALER	BL#	424901	2580	3.33439	8602.73#5
.133	.19	GASAHOL E75 BLEND	BL#	424901	221	3.00795	664.76
.244	.225	#2 ULTRA LS CLR	BL#	301912	1200	4.07432	4889.18
		SPLIT LOAD CHARGE	BL#	424901	1	17.50	17.50
		EPC CHARGE	BL#	424901	4001	.01	40.01
		GAS CORRECTIONS			221	.1793	-39.63
		FEDERAL ETH TAX CREDIT					
				SUBTOTAL			14174.55
		1780940 PAYMENT DUE 5/02/2008 TOTAL					14174.55

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-1

DELIVER TO: JACK RECHKEMMER

FROM: BILLING

FAX PAGE: 1 OF 1

CONSOLIDATED
ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

167636

Date 5/09/2008

SOLD TO
PRONTO FAIRBANK MARKET
BOX 365
FAIRBANK, IA 50629

131550

PAGE 1

SHIP TO
FAIRBANK, IA

PO: 426490

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	5/08/08	FROST #10	NET 10 DAYS	11	167636

Fed. Tax	St. Tax	DESCRIPTION			Qty. Shp'd	Unit Price	Amount
.133	.19	GASAHOL E85 BLEND	BL#	426489	140	3.06695	429.37
.133	.19	GASAHOL (SB)-DEALER	BL#	426489	1859	3.49139	6490.49#5
		SPLIT LOAD CHARGE	BL#	426490	1	17.50	17.50
		EPC CHARGE	BL#	426490	3000	.01	30.00
		GAS CORRECTIONS			140	.2282	-31.95
		FEDERAL (ETH) TAX CREDIT					
				SUBTOTAL			11147.03
		1790848 PAYMENT DUE 5/18/2008 TOTAL					11147.03

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-2

DELIVER TO: JACK RECHKEMMER

FROM: BILLING

FAX PAGE: 1 OF 1

CONSOLIDATED ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

167731

Date 5/14/2008

SOLD TO

PRONTO FAIRBANK MARKET
BOX 365

FAIRBANK, IA 50629

131550

PAGE 1

SHIP TO

FAIRBANK, IA

PO: 427031

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	5/13/08	FROST #14	NET 10 DAYS	11	167731

Fed. Tax	St. Tax	DESCRIPTION			Qty. Ship'd	Unit Price	Amount
.133	.19	GASAHOL E85 BLEND	BL#	427031	190	3.06895	583.10
.133	.19	GASAHOL (SB)-DEALER	BL#	427031	2810	3.55339	9985.03#5
		SPLIT LOAD CHARGE	BL#	427031	1	17.50	17.50
		EPC CHARGE	BL#	427031	4000	.01	40.00
.244	.225	#2 ULTRA LS CLR	BL#	427029	1000	4.27867	4278.67
		GAS CORRECTIONS			190	.2282	-43.36
		FEDERAL (ETH) TAX CREDIT					
				SUBTOTAL			14860.94
		1793270 PAYMENT DUE 5/23/2008 TOTAL					14860.94

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT A-3

DELIVER TO: JACK RECHKEMMER

FROM: BILLING

FAX PAGE: 1 OF 4

CONSOLIDATED ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

167891

Date 5/27/2008

SOLD TO
PRONTO FAIRBANK MARKET
BOX 365
FAIRBANK, IA 50629

131550
PAGE 1

SHIP TO
FAIRBANK, IA
PO: 427976

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	5/20/08	FROST #14	NET 10 DAYS	11	167891

Fed. Tax	St. Tax	DESCRIPTION			Qty. Shp'd	Unit Price	Amount
.133	.19	GASAHOL E85 BLEND	BL#	427976	110	3.0622	336.84
.133	.19	GASAHOL (SB)-DEALER	BL#	427976	1389	3.6129	5018.32#5
		SPLIT LOAD CHARGE	BL#	427976	1	17.50	17.50
		EPC CHARGE	BL#	427976	1499	.01	14.99
		GAS CORRECTIONS			110	.2282	-25.10
				SUBTOTAL			5362.55
		1799179 PAYMENT DUE 5/30/2008 TOTAL					5362.55

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-4

DELIVER TO: JACK RECHKEMMER

FROM: BILLING

FAX PAGE: 1 OF 1

CONSOLIDATED ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

168161

Date 6/06/2008

SOLD TO
PRONTO FAIRBANK MARKET 131550
BOX 365
PAGE 1
FAIRBANK, IA 50629

SHIP TO
FAIRBANK, IA
PO: 429536

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	6/05/08	FROST #10	NET 10 DAYS	11	168161

Fed. Tax	St. Tax	DESCRIPTION			Qty. Ship'd	Unit Price	Amount
.133	.19	GASAHOL (SB)-DEALER	BL#	429536	6354	3.50564	22274.84#5
.133	.19	GASAHOL E85 BLEND	BL#	429536	450	3.0579	1376.06
.244	.225	#2 ULTRA LS CLR	BL#	429535	1201	4.21354	5060.46
		EPC CHARGE	BL#	429535	8005	.01	80.05
		GAS CORRECTIONS			450	.2282	-102.69
		FEDERAL (ETH) TAX CREDIT					
				SUBTOTAL			28688.72
		1805063 PAYMENT DUE 6/15/2008 TOTAL					28688.72

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-5

CONSOLIDATED ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

№ 166439

Date 3/10/2008

132100

PAGE 1

SOLD TO:
PRONTO SUMNER MARKET
117 W. 1ST STREET
SUMNER, IA 50674

SHIP TO:
SUMNER, IA
PO:420889

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	3/07/08	FROST #11	1% 10 NET 11	11	166439

Fed. Tax	St. Tax	DESCRIPTION		Qty. Shp'd	Unit Price	Amount
		GASAHOL (SB)-DEALER	BL# 420889	7598	3.01524	22909.79
5 .133	.19	GASAHOL E85 BLEND	BL# 420889	899	2.61686	2352.56
.133	.19	BPC CHARGE	BL# 420889	8497	.01	84.97
		GAS CORRECTIONS		899	.1793	-161.19
		FEDERAL ETH TAX CREDIT				
			SUBTOTAL			25186.13
		YOU MAY DEDUCT 252.63 IF PAID 3/17/2008				25186.13
			TOTAL			-262.14
		1757600				24933.

PD 3-14-08
41261

5. A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-6

CONSOLIDATED
ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

№ 166542

Date 3/15/2008

SOLD TO

PRONTO SUMNER MARKET 132100
117 W. 1ST STREET
PAGE 1
SUMNER, IA 50674

SHIP TO

SUMNER, IA

PO:421322

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	3/12/08	FROST #11	1% 10 NET 11	11	166542

Fed. Tax	St. Tax	DESCRIPTION			Qty. Shp'd	Unit Price	Amount
.133	.19	GASAHOL (SB)-DEALER	BL#	421322	3300	3.09976	10229.21
.133	.19	GASAHOL E75 BLEND	BL#	421325	200	2.72165	544.33
		SPLIT LOAD CHARGE	BL#	421322	1	12.50	12.50
		EPC CHARGE	BL#	421322	3500	.01	35.00
		GAS CORRECTIONS			200	.1793	-35.86
		FEDERAL ETH TAX CREDIT					
		YOU MAY DEDUCT 107.73	SUBTOTAL				10786.18
		IF PAID 3/22/2008					
		1760500	TOTAL				10786.18
							-107.73
							10677.45

pd 3-20-08 41275

A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-7

CONSOLIDATED
ENERGY COMPANY
Box 317 Jesup, Iowa 50648

INVOICE

№ 166778

Date 3/27/2008

Pd 4-3-08 40082

SOLD TO

PRONTO SUMNER MARKET 132100
117 W. 1ST STREET
PAGE 1
SUMNER, IA 50674

SHIP TO

SUMNER, IA

PO:422755

Bill of Lading No.	Date Shipped	Shipped Via	Terms	Salesman	Our Order No.
BELOW	3/26/08	FROST #14	1% 10 NET 11	11	166778

	Fed. Tax	St. Tax	DESCRIPTION			Qty. Ship'd	Unit Price	Amount
5	.133	.19	GASAHOL (SB)-DEALER	BL#	422755	4444	3.12286	13877.99
	.133	.19	GASAHOL E85 BLEND	BL#	422755	306	2.92938	896.39
			SPLIT LOAD CHARGE	BL#	422755	1	12.50	12.50
			GAS CORRECTIONS	BL#	422755	306	.2282	69.83
			EPO CHARGE	BL#	422755	4750	.01	47.50
			YOU MAY DEDUCT 147.74 ... IF PAID 4/05/2008				SUBTOTAL	14904.21
			1766363				TOTAL	14904.21
								—147.74
								14756.47

Pd 4-3-08 40083

5 A-C. This product does not meet the requirements for reformulated gasoline and may not be used in any reformulated gasoline area.

STATE'S EXHIBIT
A-8

MAGELLAN MIDSTREAM PARTNERS, L.P.

Laboratory Analysis Report

Date Printed: 6/27/2008

Report To: Mike Harrington
Weights and Measures Bureau, IDALS
2230 South Ankeny Blvd
Iowa Laboratory Facility
Ankeny IA 50023-9093

Submitted By: Darryl Brown
Iowa Dept of Agri&Land Steward
2230 S. Ankeny Blvd
Ankeny IA 50023

cc:

Sample ID: KS08061326
Sample Date: 06/17/2008
Type of Sample: Gasohol
Sample Point: Pump 1
Sample Description: #2 Unleaded gas Pronto Fairbanks
Sample Notes:

Method	Results	
D 4815 - Oxygenates		
	<0.05 vol. % Methanol	<0.05 mass % Methanol
	18.43 vol. % Ethanol	19.58 mass % Ethanol
	<0.05 vol. % Isopropanol	<0.05 mass % Isopropanol
	<0.05 vol. % t-Butanol	<0.05 mass % t-Butanol
	<0.05 vol. % n-Propanol	<0.05 mass % n-Propanol
	<0.05 vol. % MTBE	<0.05 mass % MTBE
	<0.05 vol. % s-Butanol	<0.05 mass % s-Butanol
	<0.06 vol. % DIPE	<0.06 mass % DIPE
	<0.05 vol. % Isobutanol	<0.05 mass % Isobutanol
	<0.05 vol. % ETBE	<0.05 mass % ETBE
	<0.05 vol. % t-Pentanol	<0.05 mass % t-Pentanol
	<0.05 vol. % n-Butanol	<0.05 mass % n-Butanol
	<0.05 vol. % TAME	<0.05 mass % TAME
	6.81 mass % total Oxygen	
D 2699 - Research Octane Number		
	96.8	
D 2700 - Motor Octane Number		
	86.0	
(R+M)/2 - Average Octane Number		
	91.4	

6/27/2008

STATE'S EXHIBIT B-1

MAGELLAN MIDSTREAM PARTNERS, L.P.

Laboratory Analysis Report

Date Printed: 6/27/2008

Report To: Mike Harrington
Weights and Measures Bureau, IDALS
2230 South Ankeny Blvd
Iowa Laboratory Facility
Ankeny IA 50023-9093

cc:

Submitted By: Darryl Brown
Iowa Dept of Agri&Land Steward
2230 S. Ankeny Blvd
Ankeny IA 50023

Sample ID: KS08061332 **Type of Sample:** Gasohol
Sample Date: 06/17/2008 **Sample Point:** pump 1
Sample Description: 3 Gasohol Pronto-Fairbanks
Sample Notes:

Method	Results	
D 4815 - Oxygenates		
	<0.05 vol. % Methanol	<0.05 mass % Methanol
	14.83 vol. % Ethanol	15.83 mass % Ethanol
	<0.05 vol. % Isopropanol	<0.05 mass % Isopropanol
	<0.05 vol. % t-Butanol	<0.05 mass % t-Butanol
	<0.05 vol. % n-Propanol	<0.05 mass % n-Propanol
	<0.05 vol. % MTBE	<0.05 mass % MTBE
	<0.05 vol. % s-Butanol	<0.05 mass % s-Butanol
	<0.06 vol. % DIPE	<0.06 mass % DIPE
	<0.05 vol. % Isobutanol	<0.05 mass % Isobutanol
	<0.05 vol. % ETBE	<0.05 mass % ETBE
	<0.05 vol. % t-Pentanol	<0.05 mass % t-Pentanol
	<0.05 vol. % n-Butanol	<0.05 mass % n-Butanol
	<0.05 vol. % TAME	<0.05 mass % TAME
	5.50 mass % total Oxygen	
D 2699 - Research Octane Number		
	95.1	
D 2700 - Motor Octane Number		
	85.2	
(R+M)/2 - Average Octane Number		
	90.2	

6/27/2008

913-647-8500
1090-A Sunshine Road, Kansas City, KS 66115

STATE'S EXHIBIT B-2

MAGELLAN MIDSTREAM PARTNERS, L.P.

Laboratory Analysis Report

Date Printed: 6/27/2008

Report To: Mike Harrington
Weights and Measures Bureau, IDALS
2230 South Ankeny Blvd
Iowa Laboratory Facility
Ankeny IA 50023-9093

Submitted By: Darryl Brown
Iowa Dept of Agri&Land Steward
2230 S. Ankeny Blvd
Ankeny IA 50023

cc:

Sample ID: KS08061325 Type of Sample: Gasohol
Sample Date: 06/18/2008 Sample Point: Pump 2
Sample Description: Gasohol Pronto-Summer 6
Sample Notes:

Method	Results		
D 4815 - Oxygenates			
	<0.05 vol. % Methanol		<0.05 mass % Methanol
	12.94 vol. % Ethanol		13.82 mass % Ethanol
	<0.05 vol. % Isopropanol		<0.05 mass % Isopropanol
	<0.05 vol. % t-Butanol		<0.05 mass % t-Butanol
	<0.05 vol. % n-Propanol		<0.05 mass % n-Propanol
	<0.05 vol. % MTBE		<0.05 mass % MTBE
	<0.05 vol. % s-Butanol		<0.05 mass % s-Butanol
	<0.06 vol. % DIPE		<0.06 mass % DIPE
	<0.05 vol. % Isobutanol		<0.05 mass % Isobutanol
	<0.05 vol. % ETBE		<0.05 mass % ETBE
	<0.05 vol. % t-Pentanol		<0.05 mass % t-Pentanol
	<0.05 vol. % n-Butanol		<0.05 mass % n-Butanol
	<0.05 vol. % TAME		<0.05 mass % TAME
	4.81 mass % total Oxygen		
D 2699 - Research Octane Number			
	95.2		
D 2700 - Motor Octane Number			
	85.2		
(R+M)/2 - Average Octane Number			
	90.2		

6/27/2008

913-647-8500
1090-A Sunshine Road, Kansas City, KS 66115

KS08061325

STATE'S EXHIBIT
B-3

MAGELLAN MIDSTREAM PARTNERS, L.P.

Laboratory Analysis Report

Date Printed: 6/27/2008

Report To: Mike Harrington
Weights and Measures Bureau, IDALS
2230 South Ankeny Blvd
Iowa Laboratory Facility
Ankeny IA 50023-9093

cc:

Submitted By: Darryl Brown
Iowa Dept of Agri&Land Steward
2230 S. Ankeny Blvd
Ankeny IA 50023

Sample ID: KS08061328
Sample Date: 06/18/2008
Sample Description: 5 Unleaded Gas Pronto-Summer
Sample Notes:

Type of Sample: Gasohol
Sample Point: Pump 1

Method	Results
D 4815 - Oxygenates	
	<0.05 vol. % Methanol
	0.22 vol. % Ethanol
	<0.05 vol. % Isopropanol
	<0.05 vol. % t-Butanol
	<0.05 vol. % n-Propanol
	<0.05 vol. % MTBE
	<0.05 vol. % s-Butanol
	<0.06 vol. % DIPE
	<0.05 vol. % Isobutanol
	<0.05 vol. % ETBE
	<0.05 vol. % t-Pentanol
	<0.05 vol. % n-Butanol
	<0.05 vol. % TAME
	0.08 mass % total Oxygen
	<0.05 mass % Methanol
	0.24 mass % Ethanol
	<0.05 mass % Isopropanol
	<0.05 mass % t-Butanol
	<0.05 mass % n-Propanol
	<0.05 mass % MTBE
	<0.05 mass % s-Butanol
	<0.06 mass % DIPE
	<0.05 mass % Isobutanol
	<0.05 mass % ETBE
	<0.05 mass % t-Pentanol
	<0.05 mass % n-Butanol
	<0.05 mass % TAME
D 2699 - Research Octane Number	
	90.7
D 2700 - Motor Octane Number	
	83.8
(R+M)/2 - Average Octane Number	
	87.3

6/27/2008

913-647-8500
1090-A Sunshine Road, Kansas City, KS 66115

STATE'S EXHIBIT B-4

FILED

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

08 AUG 13 AM 8:10

CLERK OF DISTRICT COURT
BLACK HAWK COUNTY, IOWA

THE STATE OF IOWA ex rel. THOMAS J. MILLER, 99AG45000 ATTORNEY GENERAL OF IOWA, Plaintiff, v. JERRY L. FRATZKE, individually and d/b/a PRONTO MARKET Defendants.	)))))))))))	EQUITY NO. EQCV106329 AFFIDAVIT

I, Lisa A. Kurt, being duly sworn, state that:

1. On or about June 17, 2008, while performing my assigned duties as a weights and measures inspector for the Iowa Department of Agriculture and Land Stewardship, I discovered eight (8) invoices for E85, E75 and other blended ethanol fuels delivered by Consolidated Energy Company to the Fairbank and Sumner Pronto Markets owned by Jerry L. Fratzke.

2. Neither the Fairbank nor the Sumner Pronto Market had fuel pumps specifically designated for fuels containing ethanol blended fuel of greater than ten percent (10%).

3. I took fuel samples from the underground storage tanks located at the Fairbank and Sumner, Iowa, Pronto Market convenience stores to determine the ethanol content and am credibly informed that ethanol levels exceeded ten percent (10%).

4. It is my understanding that ethanol levels exceeding ten percent (10%) may damage motors in vehicles not specifically modified to handle higher ethanol levels.

Dated this 30TH day of JULY, 2008.

Lisa A. Kurt

Lisa A. Kurt
Weights and Measures Inspector
Iowa Department of Agriculture
and Land Stewardship

On this 30TH day of JULY, 2008, Lisa A. Kurt, personally known to me, executed this Affidavit as his voluntary act and deed.

Notary Public for the State of Iowa

NOTARIAL SEAL IOWA

STEPHEN E. RENO
COMMISSION NO. 163473
MY COMMISSION EXPIRES
1-10-10

R:/20/PRONTO MARKET Affidavit Lisa Kurt.wpd

IN THE IOWA DISTRICT COURT FOR BLACK HAWK COUNTY

FILED
08 AUG 13 AM 8:37
CLERK OF DISTRICT COURT
BLACK HAWK COUNTY, IOWA

STATE OF IOWA ex rel. THOMAS J. MILLER, 99AG25112 ATTORNEY GENERAL OF IOWA, Plaintiff, vs. JERRY L. FRATZKE, Individually and d/b/a PRONTO MARKET, Defendants.	))))))))))))	EQUITY NO. EQCV106329 ORDER GRANTING TEMPORARY INJUNCTIVE RELIEF

Now on this 13 day of Aug, 2008 the Court having reviewed the State's Petition with request for a temporary restraining order, preliminary injunction and permanent injunction and the Affidavit of Lisa Kurt, weights and measures inspector for the Iowa Department of Agriculture and Land Stewardship, attached thereto, and, having heard statements of counsel and being otherwise advised in the premises, FINDS that the State's request for a temporary restraining order should be granted prior to hearing.

The Court further FINDS that hearing on the Petition should be immediately set to give the defendants the opportunity to move the Court to dissolve the temporary restraining order entered.

1. The Court specifically FINDS that defendants made the following misleading claims, assertions and misrepresentations:

a) Vehicle fuels being sold at the Fairbank and Sumner Pronto Markets as unleaded regular fuel with no ethanol enhancement and ten percent (10%) ethanol enhanced fuel, in fact, contained levels of blended ethanol fuel in excess of ten percent (10%) ethanol.

b) Consumers received no notification that E85 and E75 blended ethanol fuel was being mixed with unleaded regular fuel, that should have no ethanol enhancement, and/or ten percent (10%) ethanol enhanced fuel.

2. The Court also FINDS that defendants have specifically omitted and otherwise failed to inform purchasers of their motor vehicle fuel products that said products were being sold in a manner other than advertised.

IT IS THEREFORE ORDERED that a hearing on the State's request for injunctive relief shall be held on the 22 day of SEPT 2008, at 11:00 a. m. at the Black Hawk County Courthouse, 316 E. 5th Street, Waterloo, Iowa. Defendants shall be given 15 days notice prior to hearing.

IT IS FURTHER ORDERED that until such time as the Court may modify or terminate the temporary restraining order herein granted by written order, said Order shall remain in full force and effect.

IT IS SO ORDERED this 13 day of AUG, 2008.

/S/ Judge Fister

JUDGE, First District Court
JON C. FISTER

Copies to:

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Assistant Attorney General
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Des Moines, Iowa 50319
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