



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

June 30, 2015

DMS NOTICE
P-15-02
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Settlement – Pennzoil - Quaker State Company, dba SOPUS Products

Enclosed is a copy of the Final Judgment Pursuant to Stipulation issued against Pennzoil - Quaker State Company, dba SOPUS Products, operating in California under the name SOPUS Products. The case was filed on June 8, 2015, by the District Attorney's Offices of Fresno and Napa County for making deceptive, false, or misleading statements, violations of California Business and Professions Code (BPC) Section 13413, and for not providing the required API service classification, a violation of BPC Section 13482.

The California Department of Food and Agriculture, Division of Measurement Standards (Department) worked with Napa County weights and measures officials on this case. The total settlement was for \$95,878. Civil penalties amounted to \$33,933, agency costs were \$16,012, prosecuting agencies received \$10,000, and the Department received \$33,933 in cy pres restitution.

Napa County should report these penalties on the County Monthly Report.

The Department appreciates the fine work done by both the Napa and Fresno County District Attorney's offices along with the state and county investigators that documented and caused to be prosecuted these violations. If you have any questions, please contact Andrea Alley, Supervising Special Investigator, Petroleum Enforcement at (916) 229-3049, or andrea.alley@cdfa.ca.gov.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



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16 Attorneys for Plaintiff

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF NAPA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

PENNZOIL-QUAKER STATE COMPANY dba
SOPUS PRODUCTS,

Defendant.

NSC NO.

26-66614

FINAL JUDGMENT PURSUANT
TO STIPULATION

Plaintiff, the People of the State of California (“the People”), appears through its attorneys, Gary Lieberstein, District Attorney of Napa County, by Catherine C. Borsetto, Deputy District Attorney, and Lisa A. Smittcamp, District Attorney of Fresno County, by Edward T. Browne; and Defendant, Pennzoil-Quaker State Company, doing business as SOPUS Products, a Delaware corporation (hereinafter, “PQS”), appears through its attorney, Robin A. Wofford, Esq. The Court

ENDORSED

JUN 08 2015

CLERK OF THE NAPA SUPERIOR COURT
BY S. FERINA
DEPUTY

RECEIVED
JUN 09 2015
NAPA COUNTY
DISTRICT ATTORNEY

1 finds that the parties hereto have stipulated and consented to the entry of this Final Judgment, and
2 the Court having considered the matter and good cause appearing therefore,

3 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

4 1. This Court has jurisdiction of the subject matter hereof and of the parties hereto.

5 2. This Final Judgment is applicable to PQS and to each of its agents, servants,
6 employees, representatives, officers, directors, managers, successors and assigns, with actual or
7 constructive notice of this Final Judgment.

8 3. Defendant PQS shall be and is hereby enjoined and restrained, pursuant to Business
9 & Professions Code §§ 17203 and 17535, from doing, directly or indirectly, any of the following, for
10 a period of three (3) years from the date of entry of this Final Judgment:

11 A. Making a deceptive, false or misleading statement, as prohibited by California
12 Business & Professions Code §13413, by failing to conspicuously mark each container of passenger
13 car motor oil ("PCMO") manufactured by PQS for sale or distribution in California with the API
14 service classification to the extent required by California Business & Professions Code § 13482 and
15 California Code of Regulations Title 4, Section 4150. Throughout this injunction, the term "PCMO"
16 shall mean engine oils for passenger cars, light-duty trucks, and similar vehicles, consistent with the
17 definition of that term in the Glossary (Annex I) to API 1509, Engine Oil Licensing and Certification
18 System;

19 B. Selling or distributing PCMO manufactured by PQS for sale or distribution in
20 California, unless each container of such oil is conspicuously marked with the API service
21 classification to the extent required by California Business & Professions Code § 13482 and
22 California Code of Regulations Title 4, Section 4150, as currently worded or as amended during the
23 term of this injunction. Nothing in this Final Judgment shall be interpreted to mean that PQS is at
24 any time relieved of any obligation it has under California Business & Professions Code sections
25 13413 or 13480; however, this injunction does not apply to, nor impose any obligations related to,
26 California Business & Professions Code sections 13413 or 13480.

1 4. Defendant PQS shall be and is hereby ordered and mandated, pursuant to Business &
2 Professions Code §§ 17203, 17204 and 17535, to do all of the following for a period of one (1) year
3 from the date of entry of this Final Judgment:

4 A. Upon notification from the California Department of Food and Agriculture
5 Division of Measurement Standards, or any California county Department of Weights and Measures
6 that any PCMO manufactured by PQS for sale or distribution in California allegedly fails to be
7 conspicuously marked with the API service classification to the extent required by California
8 Business & Professions Code §13482 and California Code of Regulations Title 4, Section 4150, PQS
9 shall promptly take all reasonable steps to alert California retailers in possession of said oil that such
10 oil is not properly marked, that it should not be sold and that PQS will take all reasonable steps to
11 remove the product from the market until it is labeled properly.

12 B. Upon changing the formulation of any PCMO, PQS shall run or obtain all tests
13 required by API 1509, Engine Oil Licensing and Certification System. Nothing in this Final
14 Judgment shall be interpreted to mean that PQS is at any time relieved of any obligation it has under
15 California Business & Professions Code section 13460 or 13461; however, this injunction does not
16 apply to, nor impose any obligations related to, California Business & Professions Code sections
17 13460 or 13461.

18 C. Within thirty (30) days of the date of the filing of this Final Judgment, provide
19 a copy of this Final Judgment to PQS's Compliance Officer(s). The term "PQS's Compliance
20 Officer(s)" means the employee(s), agent(s), or officer(s) of PQS who has/have direct responsibility
21 for PQS's compliance with this Final Judgment.

22 D. Provide a copy of this Final Judgment to PQS's future Compliance Officer(s)
23 within ten (10) days after the person commences his or her responsibilities during the one (1) year
24 injunction period beginning with the date of entry of this Final Judgment.

25 E. Obtain from each of PQS's Compliance Officers who was/were provided a
26 copy of this Final Judgment pursuant to the terms of subparagraphs 5(F) and/or 5(G), above, a
27 legible written acknowledgment of having received a copy of said provisions, that sets forth his/her
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1 name and position, that he/she has read and understands these provisions, that he/she agrees to fully
2 abide by these provisions, and that is signed by the Compliance Officer. PQS shall maintain such
3 documents for a minimum of three (3) years from the date of their creation.

4 F. Maintain and upon request make available, within thirty (30) days of any
5 written request, to representatives of the People for inspection and copying, a list of all of PQS's
6 Compliance Officer(s) and copies of all legible signed written acknowledgments of having received
7 a copy of this Final Judgment as required by subparagraph 5(F) and/or 5(G) above.

8 5. Nothing in this Final Judgment shall be interpreted to mean that PQS is at any time
9 relieved of any obligation it has under the laws of the State of California.

10 6. Defendant shall pay a civil penalty in the amount of Thirty Three Thousand Nine
11 Hundred and Thirty Three Dollars and no cents (\$33,933.00), pursuant to Business & Professions
12 Code §§17206 and 17536, which amount shall be paid to each of the prosecutors' offices on a pro-
13 rata basis, pursuant to Government code §26506. Defendant shall pay the civil penalty within 15
14 days after the time of entry of this Final Judgment, provided the People provide necessary
15 documentation, including W-9 forms, immediately upon the Parties' agreement to the terms of this
16 Stipulated Final Judgment.

17 7. The Parties having stipulated, the Court hereby finds that it is impractical to provide
18 direct restitution to consumers who may have been affected by Defendants' alleged unlawful
19 business practices and that the costs of administering any such direct restitution program would far
20 exceed any benefit to individual consumers derived therefrom. For these reasons, pursuant to
21 Business and Professions Code §§ 17203 and 17535, the Parties have agreed and the Court approves
22 a restitution payment under the doctrine of *cy pres*, in the amount of Thirty Three Thousand, Nine
23 Hundred and Thirty Three Dollars and No Cents (\$33,933.00), made payable to the California State
24 Division of Measurement and Standards, Petroleum Division, within 15 days after the time of entry
25 of this Final Judgment, provided the People provide necessary documentation, including W-9 forms,
26 immediately upon the Parties' agreement to the terms of this Stipulated Final Judgment.

1 8. Defendant shall pay, pursuant to Business & Professions Code §17203, investigative
2 costs in the amount of Sixteen Thousand and Twelve Dollars and No Cents (\$16,012.00), divided as
3 follows:

4 A. Five Thousand Dollars and No Cents (\$5,000.00) to the California State
5 Division of Measurement Standards, Petroleum Division.

6 B. One Thousand and Twelve Dollars and No Cents (\$1,012.00) to the Napa
7 County Department of Weights & Measures.

8 The balance, Ten Thousand Dollars and No Cents (\$10,000.00) divided evenly
9 among the prosecuting agencies. This payment shall be delivered to the Napa County District
10 Attorney's Office, 931 Parkway Mall, Napa, California 94558 to the attention of Catherine C.
11 Borsetto, Deputy District Attorney, in trust, for distribution equally among the prosecuting offices.

12 9. Jurisdiction is retained for the purposes of enabling any party to this Final Judgment
13 to apply to the Court at any time for such order or directions as may be necessary or appropriate for
14 the construction of or carrying out of this Final Judgment, for the modification or termination of any
15 of the injunctive provisions thereof, for the enforcement of compliance therewith, or for the
16 punishment of violations thereunder.

17 10. This Final Judgment shall take effect immediately upon entry thereof.

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20 Dated: JUN 08 2015

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DIANE M. PRICE

Judge of the Superior Court