



CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

Karen Ross, Secretary

December 16, 2015

DMS NOTICE  
P-15-04  
DISCARD: RETAIN

**TO:** WEIGHTS AND MEASURES OFFICIALS

**SUBJECT:** Settlement – SAFEWAY Inc., a Delaware Corporation

Enclosed is a copy of the Final Judgment and Injunction Pursuant to Stipulation issued against Safeway Inc. The case was filed on November 6, 2015, by the District Attorney's Office for Contra Costa County, San Joaquin County, Solano County, and Kern County for making deceptive, false, and misleading statements, violations of California Business and Professions Code (BPC) sections 13413 and 13532, unfair competition, a violation of BPC section 17200, and false and misleading advertising, a violation of BPC section 17500.

The California Department of Food and Agriculture, Division of Measurement Standards (Department) worked with Contra Costa County, San Joaquin County, Solano County, and Kern County weights and measures officials on this case. The total settlement was for \$400,000.00. Civil penalties amounted to \$280,000.00 to the Contra Costa County, San Joaquin County, Solano County and Kern County District Attorney's Office, Agency costs were \$70,000.00, and restitution costs were \$50,000.00.

Contra Costa County, San Joaquin County, Solano County, and Kern County should be sure to report these penalties on the County Monthly Report.

The Department appreciates the fine work done by Contra Costa County, San Joaquin County, Solano County, and Kern County District Attorney's office along with the state and county investigators that documented and caused to be prosecuted these violations. If you have any questions, please contact Clark Cooney, Chief, Enforcement Branch at (916) 229-3000 or [Clark.Cooney@cdfa.ca.gov](mailto:Clark.Cooney@cdfa.ca.gov).

Sincerely,

Kristin J. Macey  
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



1 MARK A. PETERSON, State Bar No. 111961  
District Attorney for Contra Costa County  
2 GARY E. KOEPEL, State Bar No. 104596  
Deputy District Attorney  
3 900 Ward Street, 4<sup>th</sup> Floor  
Martinez, California 94553  
4 Telephone: (925) 957-8788

5 (For list of additional Plaintiff's counsel,  
See attached Exhibit 1)

6 *Attorneys for the People of the State of California*

7

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

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FOR THE COUNTY OF CONTRA COSTA

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THE PEOPLE OF THE STATE OF  
CALIFORNIA,

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Plaintiff,

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vs.

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SAFEWAY INC., a Delaware Corporation,

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Defendant.

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It is hereby stipulated by and between Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA, through its attorneys Mark A. Peterson, Contra Costa County District Attorney, by Gary E. Koepfel, Deputy District Attorney; Tori Verber Salazar, San Joaquin County District Attorney, by Celeste Kaisch, Deputy District Attorney; Krishna A. Abrams, Solano County District Attorney, by Diane Newman, Deputy District Attorney; and Lisa S. Green, Kern County District Attorney, by John Mitchell, Deputy District Attorney, (hereafter, "Plaintiff") and Defendant SAFEWAY INC., a Delaware Corporation, (hereafter,

FILED

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STEPHEN M. HAST  
CLERK OF THE SUPERIOR COURT  
COUNTY OF CONTRA COSTA

BY: DEPUTY CLERK D. WEBER

Case No.: **C15-02013**

STIPULATED FINAL JUDGMENT

1 “Defendant”), through its attorney, Theodore Bell, having consented to the entry of this Final  
2 Judgment without the taking of evidence, without trial or adjudication of any facts herein, and  
3 without this Final Judgment constituting any evidence or admission by said Defendant  
4 regarding any issue of fact alleged in said Complaint, and good cause appearing:  
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6 IT IS HEREBY ORDERED, ADJUDICATED AND DECREED that:

7 1. This action is brought under California law and this court has jurisdiction over  
8 the subject matter hereof and the parties hereto.

9 **INJUNCTION**

10 2. Pursuant to Business and Professions Code Sections 17203 and 17536,  
11 Defendant, and its principals, employees, and successors acting under, by, through or on  
12 behalf of Defendant, with actual or constructive notice of this judgment are hereby enjoined  
13 and restrained from violating the provisions of Sections 13413, 13532 and 17500 of the  
14 California Business and Professions Code by advertising a single price for fuel, where dual  
15 pricing is used, without informing the consumer in and on the same advertising medium,  
16 of any and all conditions and limitations on the price so advertised.  
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18 3. Pursuant to Business and Professions Code Sections 17203 and 17536, Defendant,  
19 and its principals, employees, and successors acting under, by, through or on behalf of  
20 Defendant, with actual or constructive notice of this judgment are hereby enjoined and  
21 restrained from violating the provisions of Sections 17200 and 17500 of the California  
22 Business and Professions Code by promoting the sale of gift card by offering a special benefit  
23 for their purchase, without clearly and conspicuously advising the consumer of any conditions,  
24 limitation, or exclusions associated with the gift card promotion.  
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1 MONETARY PROVISIONS

2 4. Defendant shall pay Plaintiff, the People of the State of California, a total settlement  
3 amount of **Four Hundred Thousand Dollars (\$400,000.00)**, as follows:

4 Civil Penalties:

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6 5. Defendant shall pay Plaintiff the sum of Two Hundred and Eighty Thousand  
7 Dollars (\$280,000.00) pursuant to Business and Professions Code sections 17206. Pursuant to  
8 Government Code section 26506, the amount paid pursuant to this paragraph shall be  
9 distributed in the following manner:

10 (1) Seventy Thousand Dollars (\$70,000.00) by check made payable to the  
11 Contra Costa County District Attorney's Office.

12 (2) Seventy Thousand Dollars (\$70,000.00) by check made payable to the  
13 Treasurer of San Joaquin County.

14 (3) Seventy Thousand Dollars (\$70,000.00) by check made payable to the  
15 Solano County District Attorney's Office.

16 (4) Seventy Thousand Dollars (\$70,000.00) by check made payable to the Kern  
17 County District Attorney's Office.

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20 Partial Cost Recovery:

21 6. Defendant shall pay Plaintiff the sum of Seventy Thousand Dollars (\$70,000.00)  
22 for costs. The amount paid pursuant to this paragraph shall be distributed in the following  
23 manner:  
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25 (1) Twenty Five Thousand Dollars (\$25,000.00) by check made payable to the  
26 Contra Costa County District Attorney's Office.  
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(2) Fifteen Thousand Dollars (\$15,000.00) by check made payable to the San Joaquin County District Attorney's Office.

(3) Six Thousand Seven Hundred and Nine Dollars and Thirty Eight Cents (\$6,709.38), by check made payable to the Solano County District Attorney's Office.

(4) Six Thousand Seven Hundred and Nine Dollars and Thirty Eight Cents (\$6,709.38), by check made payable to the Kern County District Attorney's Office.

(5) Twelve Thousand Eight Hundred and Ninety Four Dollars and Twenty Three Cents (\$12,894.23) by check made payable to the California Department of Food and Agriculture Division of Measurement Standards.

(6) Two Thousand Three Hundred and Thirty Eight Dollars and Thirty Cents (\$2,338.30) by check made payable to the Contra Costa Division of Weights and Measures.

(7) One Thousand Three Hundred and Forty Eight Dollars and Seventy One Cents (\$1,348.71) by check made payable to the San Joaquin County Division of Weights and Measures.

7. The above referenced payments, identified in paragraphs 5 and 6, shall be made as follows: on or before November 13, 2015, Defendant shall deliver all checks required to be paid pursuant to paragraph 9 of this Stipulated Final Judgment to the Contra Costa County District Attorney's office, Attention: Gary E. Koeppl, 900 Ward Street, Martinez, California 94553.

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1 **Restitution**

2 8. The parties having recognized the impracticality of identifying aggrieved consumers  
3 who suffered actual loss and the impracticality of providing direct restitution to said  
4 consumers, and the disproportionate cost of making restitution to individual consumers would  
5 far exceed the benefit consumers would gain; thus, pursuant to California Business and  
6 Professions Code Section 17203, Defendants shall be given credit for restitution in the amount  
7 of Fifty Thousand Dollars (\$50,000.00) for expenditures made in their remedial efforts  
8 addressing the violations alleged by the Plaintiff in the filed complaint.  
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10 **RETENTION OF JURISDICTION AND COSTS**

11 9. This Stipulated Final Judgment does not constitute an adjudication of the  
12 substantive merits of any claim or defense in this case; nor does this Judgment constitute an  
13 admission of any liability or wrongdoing by Defendant. By agreeing to this Stipulated Final  
14 Judgment, Defendant does not concede any vicarious liability for the acts of its franchisees.  
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16 10. Jurisdiction is retained for the purpose of enabling any party to this Final Judgment  
17 to apply to the court at any time for such further orders or directions as may be necessary or  
18 appropriate for carrying out this Final Judgment; for the resolution of any dispute; or for the  
19 modification or termination of any of the injunctive provisions herein, for the enforcement of  
20 compliance therewith, or for the punishment of violation thereof.  
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22 11. Reasonable attorney's fees incurred by Plaintiff as a result of any violation of this  
23 Stipulated Judgment, if such violation is proven in a court of law by a preponderance of the  
24 evidence, shall be recoverable as costs pursuant to California Civil Code of Civil Procedure  
25 sections 685.040 and 1033.5(a)(10)(A).  
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1 **EXISTING LAW AND SEVERABILITY**

2 12. Nothing contained herein shall be construed as relieving Defendant of the  
3 obligation to comply with applicable California and Federal laws, regulations and rules, nor  
4 shall any of the provisions of this Stipulated Judgment be deemed permission to engage in any  
5 act or practice prohibited by such laws, regulations or rules.  
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7 13. Neither this Judgment nor the Stipulation shall be deemed approval by Plaintiff of  
8 any of Defendant's business practices, and Defendant shall make no representation that  
9 Plaintiff has given such approval.  
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11 14. Whenever possible each provision of this Stipulated Judgment shall be interpreted  
12 in such a manner as to be effective and valid under applicable law, but if any provision of this  
13 Stipulated Judgment shall be prohibited, void, invalid, or unenforceable under applicable law,  
14 such provision shall be ineffective to the extent of such prohibition, voidability, invalidity or  
15 unenforceability without invalidating the remaining provisions of this Stipulated Judgment,  
16 which shall be given full effect without regard to the invalid provision.  
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18 **EFFECTIVE DATE**

19 15. This Stipulated Final Judgment shall take effect immediately upon entry thereof.  
20 The parties waive their right to appeal this judgment both as to form and content.  
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23 Dated: NOV 05 2015

**TERRI MOCKLER**

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JUDGE OF THE SUPERIOR COURT

Exhibit 1

*Additional Counsel for the Plaintiff*

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4 TORI VERBER SALAZAR, District Attorney  
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5 CELESTE KAISCH, SBN. 234174  
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13 LISA S. GREEN, District Attorney  
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18 Attorneys for Plaintiff  
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