



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

April 7, 2017

DMS NOTICE
QC - 17 - 02
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Settlement – Tropicana Products, Inc.

Enclosed is a copy of the Amended Final Judgment Pursuant to Stipulation issued against Tropicana Products, Inc. The case was filed on March 3, 2017, by the Orange County District Attorney in conjunction with the Santa Cruz County District Attorney for deceptive packaging, a violation of California Business and Professions Code § 12606.2.

The California Department of Food and Agriculture (Department), Division of Measurement Standards (DMS), worked with weights and measures investigators from Orange County and Santa Cruz County on this case. The total settlement was for \$765,060. Civil penalties amounted to \$700,000, agency costs were \$64,625, and a \$435 filing fee.

Orange County needs to report these penalties on the County Monthly Report along with their individual investigative cost reimbursements in the appropriate columns.

The Department sincerely appreciates the work performed by the District Attorneys' offices along with the state and county investigators that documented and caused to be prosecuted these violations. If you have any questions, please contact Katherine de Contreras, Supervising Special Investigator, DMS Enforcement Branch at (916) 229-3047, or katherine.decontreras@cdfa.ca.gov.

Sincerely,

Kristin Macey
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



1 TONY RACKAUCKAS, District Attorney
County of Orange, State of California
2 JOSEPH D'AGOSTINO, Senior Assistant District Attorney
BY: PRISCILLA CLOUD (SBN 98940)
3 Deputy District Attorney
Consumer Protection Unit
4 401 Civic Center Drive West
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6 JEFFREY S. ROSELL, District Attorney
County of Santa Cruz, State of California
7 BY: WILLIAM ATKINSON (SBN 88933)
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Consumer Protection
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Santa Cruz, CA 95060
10 Telephone: (831) 454-2400

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 03 2017

DAVID H. YAMASAKI, Clerk of the Court
BY: *[Signature]* DEPUTY

11 Attorneys for Plaintiff

12
13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF ORANGE - CENTRAL JUSTICE CENTER
15

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA,

18 Plaintiff,

19 vs.

20 TROPICANA PRODUCTS, INC.

21 Defendant.
22

Case No. 30-2017-00904499-CU-BT-CJC
Assigned for All Purposes to:

Judge Andrew P. Banks
Dept: C11

Amended
**PROPOSED FINAL JUDGMENT
PURSUANT TO STIPULATION**

23
24 Plaintiff, The People of the State of California, through its attorneys, Tony Rackauckas,
25 District Attorney of the County of Orange, and Jeffrey S. Rosell, District Attorney of the
26 County of Santa Cruz, by Priscilla Cloud, Deputy District Attorney, County of Orange, and
27 William Atkinson, Supervising Assistant District Attorney, County of Santa Cruz, and
28 Defendant, Tropicana Products, Inc., through its attorneys Wachtell, Lipton, Rosen and Katz,

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1 by A.J. Martinez Attorney at Law, have stipulated and consented to the entry of Judgment
2 without the taking of proof and without this Injunction and Final Judgment Pursuant to
3 Stipulation constituting any admission by Defendant as to any issue of law or fact alleged in
4 the Complaint. The Court having considered the matter, the pleadings, and the Stipulation for
5 Entry of Final Judgment (hereafter Judgment) and for good cause hereby orders:

6 **JURISDICTION AND VENUE**

- 7 1. This Court has jurisdiction of the subject matter and the parties.
8 2. Venue as to all matters between these parties lies in this Court.

9 **APPLICABILITY**

10 3. The injunctive provisions of this Final Judgment are applicable to Defendant,
11 Tropicana Products, Inc., and to all employees, representatives, persons, corporations or other
12 entities acting by, through, under or on behalf of Defendant and to all employees,
13 representatives, persons, corporations or other entities acting in concert with Defendant with
14 actual or constructive knowledge of this Injunction and Final Judgment. The Tropicana
15 Product subject to the injunctive provisions of this Final Judgment is any juice product sold by
16 Tropicana in the 59 ounce paperboard carton in which Tropicana Pure Premium Orange Juice
17 (hereafter referred to as the Tropicana Product) was previously offered for sale in the State of
18 California from 2010 to 2011.

19 **INJUNCTION**

20 4. Pursuant to California Business and Professions Code sections 17203 and
21 17535, Defendant and its agents, independent contractors, partners, associates and
22 representatives, and all persons, corporations or other entities acting in concert or in
23 participation with Defendant, shall be and are permanently enjoined and restrained from,
24 directly or indirectly, engaging in any of the following acts or practices:

- 25 A. Manufacturing, selling, distributing or advertising the Tropicana Product packaged
26 in a manner that violates Business and Professions Code section 17200.
27 ~~B. Failing to abide by each and every provision of Business and Professions Code~~
28 section 12606.2 concerning the Tropicana Product.

1 C. Manufacturing, selling, distributing or advertising the Tropicana Product packaged
2 in a manner that misrepresents the size or quantity of the Products by use of
3 oversized packaging, empty space or non-functional slack fill in violation of
4 Business and Professions Code section 17500.

5
6 5. Defendant shall increase by 10% the current font size of the ounces per carton
7 designation on the Tropicana Product labels.

8 COMPLIANCE PERIOD

9 6. Defendant shall be permitted a period of eight (8) months from the date of
10 Entry of this Final Judgment to bring its Tropicana Products into compliance with these
11 injunctive terms. Defendant shall be permitted to sell Tropicana Products in existing
12 packaging if the Products or their packaging were manufactured prior to October 31, 2017.

13 PENALTIES AND COSTS

14 7. Pursuant to Business And Professions Code sections 17206 and 17536, Defendant
15 shall pay the sum of \$700,000.00 as a civil penalty. Payment is due upon entry of the Injunction
16 and Final Judgment and shall be in the form of two separate checks. One check for
17 \$350,000.00 shall be made payable to The County of Orange. The second check for
18 \$350,000.00 shall be made payable to The Santa Cruz County District Attorney's Office.

19 8. Defendant shall pay the sum of \$64,625.00 for costs of investigation. Payment is
20 due upon entry of the Injunction and Final Judgment and shall be in the form of five separate
21 checks. One check for \$6,625.00 shall be made payable to The Orange County Treasurer c/o
22 The Orange County Agricultural Commissioner. The second check for \$5,000.00 shall be made
23 payable to The County of Santa Cruz c/o the Santa Cruz County Agricultural Commissioner.
24 The third check for \$3,000.00 shall be made payable to the CA Division of Measurement
25 Standards. The fourth check for \$25,000.00 shall be designated as Investigative Costs and
26 shall be made payable to The County of Orange. The fifth check for \$25,000.00 shall be
27 designated as Investigative Costs and shall be made payable to The Santa Cruz District
28 Attorney's Office.

1 9. Defendant shall pay a \$435.00 civil filing fee. Plaintiff shall provide Defendant with
2 instructions concerning the filing fee.

3 10. Payments pursuant to this Final Judgment shall be mailed or delivered to the
4 following address:

5 Orange County District Attorney's Office
6 Consumer Protection Unit
7 401 Civic Center Drive West
8 Santa Ana, California 92701
9 Attention: Priscilla Cloud

10 **JURISDICTION RETAINED**

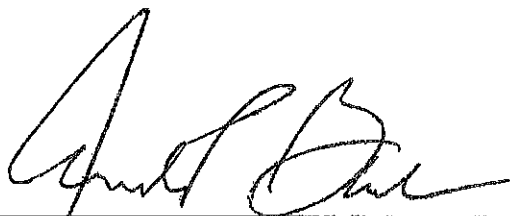
11 11. Jurisdiction is retained for the purpose of enabling any party to this Injunction
12 and Final Judgment to apply to the Court, pursuant to a duly noticed motion, for such further
13 orders and directions as may be necessary and appropriate for the construction of or the
14 carrying out of this Injunction and Final Judgment, for the enforcement of compliance
15 therewith, and for punishment of violations thereof.

16 **EFFECT AND ENTRY**

17 12. This Final Judgment has been reviewed by the Court, and based upon the
18 representations of the parties, the Court finds that it has been entered into in good faith and is
19 in all respects fair, just and equitable to protect members of the public who may have been
20 affected by the issues described in the Complaint.

21 **IT IS SO ORDERED:**

22 DATED: 3-3-17

23 
24 JUDGE OF THE SUPERIOR COURT
25 ANDREW P. BANKS

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