



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

May 15, 2008

DMS Notice
D – 08 – 3

Discard: Retain

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Utility Supply of America Settlement

We have attached a stipulated final judgment involving recent litigation against Utility Supply of America, Inc. for violations of the sections 12510 and 12515 of the California Business and Professions Code. Napa County Deputy District Attorney, Daryl Roberts, representing the District Attorney, has done an outstanding job in providing essential support for the fine work of Napa County weights and measures officials.

Again, we want to be sure that counties reflect the results of the work being done in California by also entering the settlement information into the county monthly reports.

Sincerely,

Edmund E. Williams

cc: Kevin Masuhara, Director, County Liaison
QC Special Investigators
Ron Flores



ENDORSED

MAR 25 2008

Clerk of the Napa Superior Court

By: L. WALKER
Deputy

1 GARY LIEBERSTEIN
2 District Attorney, County of Napa
3 Daryl Roberts, State Bar No. 111981
4 Deputy District Attorney
5 931 Parkway Mall
6 Napa, CA 94559
7 (707) 253-4211

8 Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF NAPA

9 PEOPLE OF THE STATE OF CALIFORNIA,) NSC No. **26-41672**
10)

11 Plaintiff,)

12 vs.)

FINAL JUDGMENT

) PURSUANT TO STIPULATION

13 UTILITY SUPPLY OF AMERICA, INC., et. al.,)

14 Defendants.)

15 Plaintiff, the People of the State of California (hereinafter "the People"), appears
16 through its attorneys, Gary Lieberstein, District Attorney of Napa County, by Daryl A.
17 Roberts, Deputy District Attorney, and defendant, Utility Supply of America, Inc., an Illinois
18 corporation, appears through their attorney, James H. Aiken, Senior Corporate Counsel. It
19 appears to the Court that this final judgment is a final resolution of this matter, that the parties
20 hereto have stipulated and consented to the entry of this final judgment without the taking of
21 proof, that this final judgment does not constitute evidence or an admission by defendant
22 regarding any issue of fact alleged in the complaint, and the Court having considered the
23 matter and good cause appearing therefore,

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

- 25 1. This Court has jurisdiction of the subject matter hereof and of the parties hereto.
26 2. This judgment is applicable to defendant, Utility Supply of America, Inc., an
27 Illinois corporation with its principle place of business located at 3781 Bur Wood Drive,
28 Waukegan, Illinois, 60085, and to each of its agents, servants, employees, representatives,

PCJUN APR 9 2008

1 officers, directors, managers, successors and assigns, and to all persons, employees, and other
2 entities who are acting in concert or participating with defendant, with actual or constructive
3 notice of this judgment, hereinafter referred to as "Defendants".

4 3. Pursuant to Business & Professions Code §§17203 and 17204, Defendants are
5 hereby enjoined and restrained from doing, directly or indirectly, any of the following:

6 A. Selling water meters that contain model and serial numbers which were not
7 prefaced by the terms required by 4 California Code of Regulations §1.10G-S.1(b) and (c), as
8 prohibited by Business & Professions Code §12107, as currently worded or as amended in
9 the future;

10 B. Failing to notify the County Sealer within 24 hours of the sale of such
11 water meters, as prohibited by Business & Professions Code §12515, as currently worded or
12 as amended in the future;

13 C. Selling any incorrect weighing or measuring instrument for commercial
14 purposes, as prohibited by Business & Professions Code §12510(a)(10), as currently worded
15 or as amended in the future.

16 4. Defendants shall be and are hereby ordered and mandated, pursuant to Business
17 and Professions Code §§17203, 17204 and 17535, to do all of the following:

18 A. Within thirty (30) days of the date of the filing of this judgment, provide a
19 copy of the injunctive provisions of this judgment to following officers and managers of
20 defendant, Utility Supply of America, Inc.: the President, the Vice President of Marketing
21 and Merchandising, the Vice President of Operations, the Senior Merchant, the Senior
22 Customer Care Manager, the Customer Care Manager, and the Bids and Quotes Manager.

23 B. Provide a copy of the injunctive provisions of this judgment to Defendant's
24 future President, Vice President of Marketing and Merchandising, Vice President of
25 Operations, Senior Merchant, Senior Customer Care Manager, Customer Care Manager, and
26 Bids and Quotes Manager, within ten (10) days after such person commences his or her
27 responsibilities.

28 C. Obtain from each person who was provided a copy of the injunctive

1 provisions of this judgment pursuant to the terms of subparagraphs A and B, above, a legible
2 written acknowledgment of having received a copy of such provisions, that sets forth his/her
3 name and position, that he/she has read and understands these provisions, and that he/she
4 agrees to fully abide by these provisions. Defendants shall maintain such documents for a
5 minimum of three (3) years from the date of their creation.

6 D. Maintain and upon written request make available, within thirty (30) days of
7 any such request, to representatives of the People copies of all legible signed written
8 acknowledgments of having received a copy of this judgment as required by subparagraph C,
9 above.

10 5. Defendant Utility Supply of America, Inc., is hereby ordered, pursuant to Business
11 & Professions Code §17206, to pay at the time of the filing of this judgment, a civil penalty
12 of Six Thousand Dollars (\$6,000.00), to the Napa County District Attorney's Office.

13 6 Defendant Utility Supply of America, Inc., is hereby ordered, pursuant to Business
14 & Professions Code §17203, to pay at the time of the filing of this judgment, investigative
15 costs in the amount of Five Thousand Four Hundred and Sixty Dollars (\$5,460.00) as
16 follows:

17 A. The sum of Fifteen Hundred Dollars (\$1,500.00) shall be paid to the Napa
18 County District Attorney's Office, for deposit into its Consumer Protection Trust Fund; such
19 funds shall be used for consumer protection purposes only.

20 B. The sum of Three Thousand Nine Hundred and Sixty Dollars (\$3,960.00)
21 shall be paid to the Napa County Agricultural Commissioner for use by that department only.

22 7. Jurisdiction is retained for the purposes of enabling any party to this final judgment
23 to apply to the Court at any time for such order or directions as may be necessary or
24 appropriate for the construction of or carrying out of this final judgment, for the modification
25 or termination of any of the injunctive provisions thereof, for the enforcement of compliance
26 therewith; or for the punishment of violations thereunder.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. This final judgment shall take effect immediately upon entry thereof.

Date: 3/21/08

EDMOND A. GUADAGNI
Judge of the Superior Court