



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE
A. G. Kawamura, Secretary

DMS Notice
D – 08 – 8

November 13, 2008

Discard: Retain

TO WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Park Billing Settlement

Enclosed is a stipulated final judgment and permanent injunction involving recent litigation against Park Billing, Co Inc. for violations of the Business and Professions Code, California Code of Regulations, Public Utilities Code, California Edison tariff rules, and Southern California Gas Company tariff rules. We are very pleased with the fine work done by Tulare, Madera, Santa Cruz, Monterey, Yolo, Amador, Los Angeles Counties, and DMS staff for their investigative work and Tulare County Deputy District Attorney Richard B. Isham for negotiating this settlement.

Tulare County should be sure to report the penalties in the County Monthly Report (CMR). All participating counties should also separately record their individual investigative cost reimbursements in the appropriate columns in the report. We in weights and measures are pleased with the capable support and hard work from the Deputy District Attorney Richard B. Isham of the Tulare County District Attorney's Office.

Sincerely,

Edmund E. Williams

Enclosure

cc: Device Enforcement Program Special Investigators
Kevin Masuhara, Director, County/State Liaison
Philip J. Cline, District Attorney, Tulare County

1 PHILLIP J. CLINE
 2 DISTRICT ATTORNEY OF TULARE COUNTY
 3 RICHARD B. ISHAM, SBN 37996
 4 DEPUTY DISTRICT ATTORNEY
 5 701 West Center Street
 6 Visalia, California 93291
 7 Telephone: (559) 624-1054
 8 Facsimile: (559) 624-1077

FILED
 TULARE COUNTY SUPERIOR COURT
 VISALIA DIVISION

SEP 30 2008

LARAYNE CLEEK, CLERK
 BY: _____

6 Attorneys for Plaintiffs

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 FOR THE COUNTY OF TULARE

9	THE PEOPLE OF THE STATE OF)	
10	CALIFORNIA,)	No. 07 - 225187
	Plaintiffs,)	
11)	STIPULATED FINAL
	vs.)	JUDGMENT AND
12)	INJUNCTION
13	PARK BILLING, INC., a)	
	Corporation, RANCHO FIESTA)	
14	MOBILE ESTATES, and DOES 1)	
	through 20, inclusive,)	
15)	
	Defendants)	
16)	

17 Plaintiffs, THE PEOPLE OF THE STATE OF CALIFORNIA, by and
 18 through it attorneys PHILLIP J. CLINE, District Attorney for the
 19 County of Tulare, by RICHARD B. ISHAM, Deputy District Attorney,
 20 having filed their Complaint herein against defendants PARK
 21 BILLING, CO., INC., a corporation, sued herein as PARK BILLING,
 22 INC., a corporation, and RANCHO FIESTA MOBILE ESTATES, also known
 23 as RANCHO FIESTA MOBILHOME PARK, said Defendants having
 24 stipulated and consented to this Stipulated Final Judgment and
 25 Injunction (hereinafter referred to as "Final Judgment") prior to
 26 the taking of any evidence and without this judgment constituting
 27

28 _____
 Stipulated Final Judgment and Injunction

1 evidence of any admissions by any Defendants regarding any issue
2 of law or fact alleged in the Complaint; and

3 The court having considered the pleadings and the
4 stipulation of the parties, and Good Cause appearing therefore

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

6 1. This Court has jurisdiction over the subject matter of
7 the Complaint and over the parties hereto.

8 2. Pursuant to sec. 527 of the Code of Civ. Proc., sec.
9 17203 of the Bus. & Prof. Code and the Court's inherent equity
10 powers, Defendant PARK BILLING, CO., INC., their successors,
11 assigns and all persons, corporations or other entities acting
12 under, by, through or on behalf thereof, or acting in concert or
13 participation with or for defendants, be permanently restrained
14 and enjoined from:
15

16 (a) Providing bills in which a "no read" is indicated
17 by the meter reader and no usage is applied one month
18 followed by a large usage the following month, resulting in
19 an inappropriately applied baseline allowance over a 30-day
20 period as opposed to a 60-day period.

21 (b) Violating the laws of the State of California,
22 including: Bus. & Prof. Code secs. 12024, 12024.1, 12024.2,
23 12026 and 12107, Cal. Code of Reg., Title 4, Div. 9, Ch. 1,
24 secs. 3.33, UR.2.2 and Ch.5, sec. 4090.

25 (c) Engaging in any unfair business practice as
26 defined in Bus. & Prof. Code sec. 17200.
27

1 (d) Plaintiff shall not initiate enforcement
2 proceedings of the injunctive measures herein with respect to
3 defendant PARK BILLING, CO., INC., their successors, assigns and
4 all persons, corporations or other entities acting under, by,
5 through or on behalf thereof, or acting in concert or
6 participating with or for defendants, until such time as there
7 exist unresolved issues referenced in any Notice of Violation(s),
8 as to matters in contention arising after January 1, 2009, issued
9 by any duly authorized governmental agency with respect to
10 billing practices of said defendant of its submetered tenants.
11

12 3. Pursuant to sec. 527 of the Code of Civ. Proc., sec.
13 17203 of the Bus. & Prof. Code and the Court's inherent equity
14 powers, Defendant FIESTA MOBILE ESTATES, their successors,
15 assigns and all persons, corporations or other entities acting
16 under, by, through or on behalf thereof, or acting in concert or
17 participation with or for defendants, be permanently restrained
18 and enjoined from:

19 (a) Unlawfully billing submetered tenants of the
20 RANCHO FIESTA MOBILE ESTATES for utility charges from any public
21 utility supplying utilities services to said mobile home park and
22 its tenants and providing incorrect information to any company
23 providing billing services for the submetered tenants of the
24 RANCHO FIESTA MOBILE ESTATES;

25
26 (b) Violating submetering laws of the State of
27 California, including: Bus. & Prof. Code secs. 12024, 12024.1,

28

Stipulated Final Judgment and Injunction

1 12024.2. 12026 and 12107, Civil Code secs. 798.38(a) and 798.43.1
2 subs. (a), (b) and (c); Pub. Util. Code sec. 739.5 subs. (a) and
3 (e); Cal. Code of Reg., Title 4, Div. 9, Ch. 1, secs. 3.33,
4 UR.2.2 and Ch. 5, sec. 4090, and So. Calif. Ed. Rule No. 18, E.3,
5 G and Sch. DMS-2, Spec. Cond. 6.a and So. Calif. Gas Co. Rule No.
6 24 B.2(a) to 8-11-05, Rule No. 24B.1.d.2(a) from 8-11-05 and sch.
7 GS/GSL, Spec. Cond. 2.

8
9 (c) Engaging in any unfair business practice as
10 defined in Bus. & Prof. Code sec. 17200, as such practices
11 pertain to the actions and laws referenced in Paragraphs 3(a) and
12 3 (b) herein.

13 (d) Plaintiff shall not initiate enforcement
14 proceedings of the injunctive measures herein with respect to
15 defendant FIESTA MOBILE ESTATES (their successors, assigns and
16 all persons, corporations or other entities acting under, by,
17 through or on behalf thereof, or acting in concert or
18 participating with or for defendants) until such time as there
19 exist unresolved issues referenced in any Notice of Violation(s),
20 as to matters in contention arising after January 1, 2009, issued
21 by any duly authorized governmental agency with respect to
22 billing practices of said defendant of its submetered tenants.

23
24 4. The injunctive provisions set forth in this Final
25 Judgment shall become effective January 1, 2009, after which they
26 shall expire on December 31, 2011.

1 5. DEFENDANT PARK BILLING, CO., INC., shall pay
2 plaintiffs the following amounts within fourteen (14) days from
3 the date this Final Judgment and Injunction is entered by the
4 court:

5 (a) As and for penalties, the sum of Twenty Thousand
6 Dollars (\$20,000.00). Payment shall be made by cash, certified
7 or cashier's check. Said sum shall be payable to "Tulare County
8 District Attorney".

9 (b) As and for investigative expenses, the total sum
10 of Forty-Two Thousand Eighty-Eight 09/100 (\$42,088.09) payable
11 to the agencies indicated below. Payment shall be made by cash,
12 certified or cashier's check. Said sums shall be payable to
13 "Tulare County District Attorney" and subsequently disbursed as
14 follows:
15

16 (1) The sum of Twenty-Five Thousand, Four Hundred
17 Thirty-Eight 00/100 Dollars (\$25,438.00) shall be
18 disbursed to:

19 Tulare County Agriculture Commissioner
20 4437 So. Laspina
21 Tulare, Ca 93274

22 (2) The sum of One Hundred Fifty-six 00/100
23 Dollars (\$156.00) shall be disbursed to:

24 Santa Cruz County Agriculture Commissioner
25 Weights and Measures
26 640 Capitola Road
27 Santa Cruz, CA 95062

28 (3) The sum of Nine Hundred Twenty 88/100 Dollars
(\$920.88) shall be disbursed to:

 Monterey County Agriculture Commissioner
 c/o Sheila Salazar

1 1428 Abbott Street
2 Salinas, CA 93901

3 (4) The sum of Six Thousand, One Hundred Sixty
4 00/100 Dollars (\$6,160.00) shall be disbursed to:

5 Yolo County Agriculture Commissioner
6 70 Cottonwood Street
7 Woodland, CA 95695

8 (5) The sum of Three Thousand, Four Hundred
9 Thirty-Three 56/100 Dollars (\$3,433.56) shall be disbursed
10 to:

11 Amador County Agriculture Commissioner
12 12200-B Airport Road
13 Jackson, CA 95642

14 (6) The sum of Three Thousand, Eighty-three
15 40/100 Dollars (\$3,083.40) shall be disbursed to:

16 Los Angeles County Dept. of Agricultural Commissioner
17 Weights and Measures (ACWM)
18 11012 Garfield Avenue
19 South Gate, CA 90280

20 (7) The sum of Two Thousand, Eight Hundred
21 Ninety-six 25/100 Dollars (\$2,896.25) shall be disbursed
22 to:

23 State of California Department of Food and
24 Agriculture,
25 Division of Measurement Standards
26 6790 Florin Perkins Road, Suite 100
27 Sacramento, CA 95828

28 (d) The sum of Thirteen Thousand Thirty-three and
61/100 Dollars (\$13,033.61), being the sum of overcharges
to consumers as revealed by the investigation of the Tulare
County Agriculture Commissioner, Division of Weights and
Measures, shall be payable to "Tulare County District
Attorney" for distribution to Proteus, Inc., a non-profit

1 corporation, for support of underserved persons who receive
2 submetered utility services within the County of Tulare.

3 6. All payments made pursuant to this Final Judgment
4 shall be distributed by the Tulare County District Attorney
5 Office as provided in Paragraph 5 of this Final Judgment and
6 Defendants shall deliver the payments specified in Paragraph 5 of
7 this Final Judgment to:

8 Richard B. Isham
9 Deputy District Attorney
10 Office of the Tulare County District Attorney
11 701 West Center Street
12 Visalia, CA 93291

13 7. By stipulating to this Final Judgment to bring this
14 matter to a close, Defendants are not admitting liability or
15 fault nor should this Final Judgment be interpreted as a
16 determination of liability or fault.

17 8. The parties have waived the right to appeal this Final
18 Judgment, have waived service and notice of this Final Judgment
19 and acknowledge receipt of a conformed copy thereof.

20 This Final Judgment shall take effect immediately upon
21 entry hereof.

22 Dated: 9/30/08

23 MELINDA M. REED

24 Patrick J. O'Hara,
25 JUDGE OF THE SUPERIOR COURT