



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

October 18, 2012

DMS NOTICE
QC - 12 - 12
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Rite Aid Corporation Settlement

Enclosed is a final judgment and permanent injunction pursuant to stipulation issued by the District Attorney's Office of the City of San Diego in conjunction with the District Attorneys of Ventura, Riverside, and Santa Clara Counties filed against Rite Aid Corporation, a Delaware corporation, and Thrifty Payless, Inc. a California corporation doing business as Rite Aid on October 10, 2012. The judgment and injunction are for overcharging customers and misleading advertising, violations of California Business and Professions Code sections 12024.2 and 17500 respectively, and for failure to redeem Rite Aid gift cards with a value of less than \$10.00 for cash upon request of a customer pursuant to California Civil Code section 1749.5.

The investigation was led by the Division of Measurement Standards (DMS) with assistance from eight additional county jurisdictions. Rite Aid was ordered to pay a settlement of \$800,000 which included \$700,000 in civil penalties, \$25,000 for agency costs, and \$75,000 in cy pres to fund DMS' price verification efforts. Additionally, Rite Aid was ordered to put into place a compliance program to assure that cashiers receive training on the proper procedure for redeeming Rite Aid gift cards with a balance of less than \$10.00.

San Diego County should be sure to report these penalties on the County Monthly Report. All participating counties should separately record their individual investigative cost reimbursements in the appropriate columns on the report.

We appreciate the fine work done by the District Attorneys' offices along with the State and county investigators who documented and caused to be prosecuted these violations. If you have any questions, please contact Kathy de Contreras, Supervising Special Investigator, Quantity and Weighmaster Programs, Enforcement Branch at (916) 229-3047, or katherine.decontreras@cdfa.ca.gov.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Edmund Williams, County/State Liaison, CDFA



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No Fee GC § 6103

F I L E D
Clerk of the Superior Court
OCT 10 2012
LEE RYAN, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

RITE AID CORPORATION, a Delaware corporation, and THRIFTY PAYLESS, INC., a California corporation doing business as RITE AID;

Defendants.

Case No. **37-2012-00083218-CU-MC-CTL**

FINAL JUDGMENT AND PERMANENT INJUNCTION PURSUANT TO STIPULATION

Plaintiff, the People of the State of California, by and through its attorneys, Jan I. Goldsmith, City Attorney of San Diego, by Kristine Lorenz, Deputy City Attorney; Gregory D. Totten, District Attorney of Ventura County, by Linda S. Groberg, Senior Deputy District Attorney; Paul Zellerbach, District Attorney of Riverside County, by Elise Farrell, Deputy District Attorney; and Jeff F. Rosen, District Attorney of Santa Clara County, by Tina Nunes-Ober, Deputy District Attorney (collectively "Prosecuting Attorneys") and Defendants, Rite Aid Corporation, a Delaware corporation, and Thrifty PayLess, Inc., a California corporation doing business as RITE AID and owning and operating Rite Aid stores in California (hereinafter "Settling Defendants") through their counsel DLA Piper, LLP (US), by Christopher Young, having stipulated to the entry of this Final Judgment without the taking of proof, without this Judgment constituting evidence against or an admission of any party regarding any issue of law

1 or fact alleged in the Complaint, all parties having waived the right to appeal, and good cause
2 appearing:

3 The court having considered the pleadings,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

5 **JURISDICTION**

6 1. This action is brought under California law and this Court has jurisdiction of its
7 subject matter and parties.

8 **APPLICABILITY**

9 2. The provisions of the Final Judgment are applicable to Settling Defendants, Rite
10 Aid Corporation, a Delaware corporation, and Thrifty PayLess, Inc., a California Corporation,
11 doing business as Rite Aid and to their officers, directors, employees, agents, representatives,
12 predecessors, successors, assignors, assignees, and all persons, partnerships, corporations, and
13 other entities acting under, by, through, or on behalf of, or in concert with Settling Defendants,
14 with actual or constructive notice of this Final Judgment, in connection with the operation of
15 Rite Aid's California stores, including Rite Aid stores opened after the entry of this Final
16 Judgment (collectively, "Enjoined Persons"). All obligations imposed upon Settling Defendants
17 and Enjoined Persons by the terms of this Final Judgment are ordered pursuant to Business and
18 Professions Code sections 17203 and 17535.

19 **DEFINITIONS**

20 3. For the purposes of this Final Judgment, the following definition shall apply:
21 "**Advertised Price**" means the price that is posted or displayed on the commodity itself or on a
22 shelf tag that corresponds to that commodity or the price for a commodity published on the
23 internet or any website or in a newspaper, magazine, or direct mail publication. Nothing herein
24 will be construed to mean that a consumer will be eligible for the **Advertised Price** if he or she
25 fails to qualify under the applicable terms disclosed in conjunction with the **Advertised Price**,
26 so long as said terms are clearly disclosed. However, any **Advertised Price** posted on a
27 commodity itself or on a shelf tag that corresponds to that commodity is subject to Business and
28 Professions Code section 12024.2 subdivision (a)(2).

1 first exercising reasonable care to verify the truthfulness, accuracy and
2 readability of each statement contained in the brochure, document or
3 advertisement.

4 F. Representing that a consumer will receive an immediate cash discount
5 when the discount would only be received on a future purchase.

6 G. Stating in any California advertising medium: "It's like paying..." or
7 "It's like getting it for..." when the item cannot be immediately
8 purchased at the stated price.

9 H. Failing to clearly disclose limitations or restrictions, prior to purchase,
10 regarding quantity, expiration dates and timing of use of "+UP" rewards
11 or any similar discount program.

12 I. Failing to redeem Rite Aid Store Gift Cards with a value of less than
13 TEN DOLLARS (\$10) for cash upon request of a customer.

14 **COMPLIANCE PROGRAM**

15 5. Pursuant to Business and Professions Code section 17203, within 90 (ninety)
16 days of entry of this Final Judgment, Settling Defendants are ordered to implement a
17 comprehensive program to ensure compliance with California Civil Code section 1749.5, to
18 include:

19 A. EMPLOYEE TRAINING. Settling Defendants shall provide training to
20 all employees at its California retail locations on the proper procedure for
21 redeeming Rite Aid Store Gift Cards with a balance of less than TEN
22 DOLLARS (\$10) for cash upon request of a consumer.

23 B. EMPLOYEE NOTICE. Settling Defendants shall provide all California
24 employees who work in the front end of their stores with written notice
25 apprising the employee that Rite Aid Store Gift Cards with a balance of
26 less than TEN DOLLARS (\$10) are redeemable for cash. All employees
27 shall sign a document reflecting their receipt of this notification.
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C. RITE AID CARD CASH BACK PROCEDURES. Settling Defendants shall enable the customer credit card terminals located at each cash register, which will be used for all gift card transactions, to prompt the customer whenever a Rite Aid Store Gift Card used for the transaction has a remaining balance of less than TEN DOLLARS (\$10) asking the customer to choose whether the customer would like to redeem for cash. If the customer selects yes on the screen, the Rite Aid employee shall give the customer the cash balance.

MONETARY RELIEF

8. Upon entry of this Final Judgment, Settling Defendants shall pay by separate check to the below entities costs of investigation in the amount of Twenty-Five Thousand Dollars (\$25,000) payable as follows:

- \$12,601 to the Cashier, Department of Agriculture, Division of Measurement Standards. This money shall be used for the price and quantity verification programs.
- \$5,000 to the Riverside County District Attorney’s Office
- \$1,738.78 to the Ventura County District Attorney’s Office
- \$1,457 to the Santa Clara County District Attorney’s Office
- \$996 to the Ventura County Department of Weights and Measures
- \$428.10 to the Los Angeles County Department of Weights and Measures
- \$658.44 to the Department of Agriculture, Weights & Measures, County of San Diego
- \$1,006.20 to the Riverside Agricultural Commissioner/Sealer
- \$82.78 to the San Bernardino County Agriculture/Weights and Measures
- \$104.70 to the Siskiyou County Division of Weights and Measures
- \$180 to the El Dorado County Department of Agriculture
- \$352 to the Napa County Department of Weights and Measures
- \$395 to the Superior Court of California, County of San Diego as filing fees

All checks shall be delivered to Kristine Lorenz, Deputy City Attorney, San Diego City Attorney’s Office 1200 Third Avenue, Suite 700, San Diego, CA 92101.

1 9. As provided by, and pursuant to Business and Professions Code sections 17206
2 and 17536, upon entry of this Final Judgment, Settling Defendants shall pay to Plaintiff as civil
3 penalties, the sum of Seven Hundred Thousand (\$700,000) divided by equal certified checks
4 made payable to the following entities: City Attorney, City of San Diego; District Attorney,
5 County of Ventura; District Attorney, County of Riverside; and District Attorney, County of
6 Santa Clara and delivered to Kristine Lorenz, San Diego City Attorney's Office 1200 Third
7 Avenue, Suite 700, San Diego, CA 92101.

8 10. Pursuant to Business and Professions Code sections 17203 and 17535,
9 recognizing the infeasibility of identifying consumers who suffered actual loss, the
10 impracticality of providing direct restitution to said consumers, and the disproportionate cost of
11 making restitution to individual consumers, which would far exceed the benefit consumers
12 would gain, the parties agree that Settling Defendants shall pay *cy pres* restitution in the sum of
13 Seventy Five Thousand Dollars (\$75,000) to the California Department of Food and
14 Agriculture, Division of Measurement Standards, to be used for the "price verification"
15 program. A certified check issued pursuant to this paragraph shall be delivered to Kristine
16 Lorenz of the San Diego City Attorney's Office upon entry of this Final Judgment.

17 11. Defendants shall bear their own attorney fees and costs.

18 12. All payments made pursuant to this Judgment and all correspondence and notices
19 required in conjunction with this Judgment shall be made payable to the City Attorney, City of
20 San Diego, and delivered to:

21 Kristine Lorenz, Deputy City Attorney
22 Office of the City Attorney
23 1200 Third Avenue, Suite 700
24 San Diego, CA 92101
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13. The parties waive the right to appeal this Judgment both as to form and content.

TIMING

14. Unless otherwise delineated in the Final Judgment and Permanent Injunction Pursuant to Stipulation, all corrective action with respect to advertising must be completed no later than December 23, 2012.

RETENTION OF JURISDICTION

15. Jurisdiction is retained for the purposes of enabling any party to the Judgment to apply to the Court for such further orders and directions as may be necessary and appropriate for the construction and carrying out of the injunctive provisions of this Judgment, for the modification, release or dissolution of any injunctive or restitution provisions hereof, for enforcement of compliance herewith or for the punishment of violations hereof.

16. Nothing in this Final Judgment shall be construed as relieving Enjoined Persons of their obligation to comply, or prohibit Enjoined Persons from complying, with all applicable state and federal laws, regulations or rules; nor shall any of the provisions of this Final Judgment be deemed to be permission to engage in any acts or practices prohibited by such law, regulation or rule.

17. The injunctive provisions of this Judgment are in addition to all other obligations and duties imposed by law.

18. The Clerk shall enter this Judgment, consisting of seven (7) pages forthwith.

Dated: OCT 10 2012

RONALD S. PRAGER
JUDGE OF THE SUPERIOR COURT
County of San Diego