



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

August 20, 2013

DMS NOTICE
QC - 13 - 09
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: **375-Wind Up, LLC (Milano's Italian Grille Lasagna)**

Enclosed is a copy of the final judgment in its entirety and permanent injunction against 375-Wind Up, LLC. The case was filed by the District Attorney's Office of the City of San Diego in conjunction with the District Attorney of Sacramento County on August 8, 2013 for deceptive packaging/non-functional slack-fill of "Milano's Italian Grille Lasagna" products in violation of California Business and Professions Code Section 12606.2.

The California Department of Food and Agriculture, Division of Measurement Standards worked with county Offices of Weights and Measures from throughout the State. The total settlement was for \$40,000. Civil penalties amounted to \$13,555 and agency costs were \$26,445.

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 Attorney's Offices along with the state and county investigators that documented and caused to be prosecuted these violations. If you have any questions, please contact Kathy de Contreras, Supervising Special Investigator, at (916) 229-3047 or katherine.decontreras@cdfa.ca.gov.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



CITY ATTORNEY
CRIMINAL DIVISION

No Fee GC § 6103

2013 AUG 12 PM 3: 37

FILED
Clerk of the Superior Court

AUG 08 2013

By: K. Mulligan, Deputy

JUL 24 2013 4:11:03

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

375-WIND UP, LLC,
an Illinois limited liability company,
and DOES 1 through 10, inclusive,

Defendants.

Case No. **37-2013-00059289-CU-BT-CTL**

FINAL JUDGMENT IN ITS
ENTIRETY AND PERMANENT
INJUNCTION PURSUANT TO
STIPULATION

Plaintiff, the People of the State of California ("Plaintiff"), by and through its attorneys, Jan I. Goldsmith, City Attorney for the City of San Diego, State of California, by Kristine Lorenz, Deputy City Attorney, and Jan Scully, District Attorney for the County of Sacramento, State of California, by Ruth Young, Deputy District Attorney; and Defendant 375-Wind Up, LLC, an Illinois limited liability company, appearing through its attorneys, Greenberg Traurig, LLP, by Raymond B. Kim, Esquire, having stipulated that this Court has jurisdiction over this matter and this Judgment In Its Entirety And Permanent Injunction ("Judgment") may be signed without the taking of proof, without trial or adjudication of any issue of fact or law herein, and without this Stipulation constituting evidence or an admission by Defendant;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

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JURISDICTION

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

APPLICABILITY

2. The provisions of this Judgment are applicable to Defendant 375-Wind Up, LLC ("Defendant"), and to its officers, directors, employees, agents, and representatives acting within the course and scope of their agency and employment, and to successors and assignees of Defendant, and to all persons, partnerships, corporations, and other entities acting for, through, on behalf of, or in concert with Defendant, with actual or constructive notice of this Judgment. Unless otherwise provided, all obligations imposed upon Defendant by the terms of this Judgment are ordered pursuant to Business and Professions Code sections 17203 and 17535.

3. Defendant shall use good faith efforts to fully and clearly explain the injunctive provisions of this Judgment to each of its officers, employees, designers of packaging and/or any person or entity who may be responsible for the packaging of goods offered for sale in California.

INJUNCTION

4. Defendant 375-Wind Up, LLC, and all persons and entities set forth in paragraph 2 above, are hereby permanent enjoined and restrained from directly or indirectly violating Business and Professions Code sections 17200, 17500, and 12606.2, including but not limited to the following:

- A. Making untrue or misleading statements to members of the public with the intent to sell goods;
- B. Using food containers that are made, formed, or filled as to be misleading;
- and
- C. Using food containers that do not allow the consumer to fully view their contents if they contain nonfunctional slack fill pursuant to California Business and Professions Code Section 12606.2.

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MONETARY RELIEF

5. Upon entry of this Final Judgment, Defendant 375-Wind Up, LLC shall pay forty thousand dollars (\$40,000) in settlement of this matter pursuant to Business and Professions Code sections 12015.5, 17206 and 17536, as set forth below:

A. Within seven (7) days upon Notice of Entry of Final Judgment, cashier's checks in the following amounts shall be made payable to the following agencies for the costs of investigation:

Butte County Department of Weights & Measures	\$ 2,000.00
California Department of Food & Agriculture	\$10,857.00
Contra Costa County Department of Weights & Measures	\$ 758.00
Los Angeles County Department of Weights & Measures	\$ 1,565.00
Marin County Department of Weights & Measures	\$ 632.00
Orange County Department of Weights & Measures	\$ 2,268.00
Riverside County Department of Weights & Measures	\$ 1,524.00
Sacramento County Department of Weights & Measure	\$ 2,350.00
San Bernardino Department of Weights & Measures	\$ 168.00
San Diego County Department of Weights & Measures	\$ 1,969.00
Santa Cruz County Department of Weights & Measures	\$ 364.00
Shasta County Department of Weights & Measures	\$ 330.00
Ventura County Department of Weights & Measures	\$ 1,660.00

B. Within seven (7) days upon Notice of Entry of Final Judgment cashier's checks in the following amounts shall be made payable to the following offices for civil penalties:

San Diego City Attorney's Office	\$ 6,777.50
Sacramento County District Attorney's Office	\$ 6,777.50

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6. All checks shall to the attention of Deputy City Attorney Kristine Lorenz, Office of the San Diego City Attorney, Consumer and Environmental Protection Unit, 1200 Third Avenue, Suite 700, San Diego, California, 92101-4103.

7. Defendant shall bear its own attorney fees and costs.

RETENTION OF JURISDICTION

8. The failure of the People to enforce any provision of this Judgment shall neither be deemed a waiver of such provision, nor shall it in any way affect the validity of this Judgment. The failure of the People to enforce any provision shall not preclude the People from later enforcing the same or other provisions of this Judgment.

9. Jurisdiction is retained for the purpose of enabling any party to this Judgment to apply to the Court at any time for such further orders and directions as may be necessary and appropriate for the construction or carrying out of this Judgment, for the modification of any of its injunctive provisions, and for the enforcement of, compliance with, and for the punishment of violations of the Judgment.

10. All allegations as to Does 1 through 10, inclusive, are dismissed.

11. This Judgment has been reviewed by the Court, and based upon the representations of the parties, the Court finds that it has been entered in good faith and is, in all respects, fair, just, and equitable to protect the public and the individuals who may have been effected by the issues related as more fully described in the Complaint.

12. The clerk is directed to immediately enter this Judgment.

IT IS SO ORDERED.

Dated: AUG 0 8 2013

Judge of the Superior Court
RONALD L. STYN