



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

October 24, 2014

DMS NOTICE
QC - 14 - 07
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Settlement – Mars, Inc., a Delaware Corporation

Enclosed is a copy of the Final Judgment issued against Mars, Inc., a Delaware Corporation. The case was filed on October 2, 2014, by the District Attorney's office of Yolo County in conjunction with the District Attorneys' offices of Fresno and Sacramento for deceptive packaging and improper labeling, in violation of California Business and Professions Code Sections 12606.2 (b), 12606.2 (c), 12609, and 12611.

The California Department of Food and Agriculture, Division of Measurement Standards (Department) worked with weights and measures investigators from Sacramento and Yolo counties on this case. The total settlement was for \$900,515. Civil penalties amounted to \$835,515 and agency costs were \$65,000.

Yolo 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.

The Department appreciates the fine work done 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, Enforcement Branch at (916) 229-3047, or katherine.decontreras@cdfa.ca.gov.

Sincerely,

Kristin J. Macey
Director

Enclosure

cc: Gary Leslie, County/State Liaison, CDFA



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Attorneys for the People

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

MARS INC., a Delaware Corporation,

Defendant.

CASE NO. CV14-1000

FINAL JUDGMENT

FILED
YOLO SUPERIOR COURT
OCT 02 2014
BY M.L. CURIEL
DEPUTY

1 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, having filed its complaint herein,
2 through their attorneys, JEFF REISIG, District Attorney of Yolo County, by LAWRENCE BARLLY,
3 Deputy District Attorney, JAN SCULLY, District Attorney for the County of Sacramento, by DOUG
4 WHALEY, Supervising Deputy District Attorney, and ELIZABETH A. EGAN, District Attorney of
5 Fresno County, by MICHAEL BRUMMEL, Deputy District Attorney; and GIBSON DUNN &
6 CRUTCHER LLP, by WILLIAM WEGNER, a licensed California attorney for defendant Mars Inc., a
7 Delaware corporation, having stipulated that this Final Judgment can be entered without the taking of
8 proof, without this stipulated Final Judgment constituting evidence or an admission by defendant. This
9 court having considered the pleadings and the Stipulation for Entry of Final Judgment, and good cause
10 appearing therefore;

11 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

12 JURISDICTION

13 1. This court has jurisdiction over the subject matter hereof and the parties hereto.

14 APPLICABILITY

15 2. This Judgment is applicable to the following of the Defendant's products and any successor
16 products: Uncle Ben's Whole Grain Fast & Natural Instant Brown Rice, Uncle Ben's Whole Grain
17 White Rice, Dove Moments Boxes, M&M's Theater Boxes, M&M's Premiums Boxes, Dove Dark
18 Chocolate Bar, Dove Milk Chocolate Bar, 3 Musketeers Bar, and 3 Musketeers Dark Mint Bar.

19 3. This Final Judgment is applicable to Defendant and its officers, representatives, successors,
20 assignees, and all persons, partnerships, corporations, and other entities acting under, by, through, on
21 behalf of, or in concert with Defendant, with actual or constructive knowledge of this Final Judgment.
22 This Final Judgment is also applicable to any and all subsidiaries of the Defendant and its respective
23 officers, representatives, successors, assignees and all persons, partnerships, corporations, and other
24 entities acting under, by, through, on behalf of, or in concert with any such subsidiary with actual or
25 constructive knowledge of this Final Judgment.

26 4. Pursuant to Business and Professions Code sections 17203 and 17535, defendant, and its
27 successor(s), officers, employees, agents, representatives, and all person acting in concert or
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1 participation with any of them, with actual or constructive notice of this Final Judgment, are
2 permanently enjoined and restrained from:

3 (a) Packaging its Uncle Ben's Whole Grain Fast & Natural Instant Brown Rice,
4 Uncle Ben's Whole Grain White Rice, Dove Moments Boxes, M&M's Theater Boxes,
5 and M&M's Premiums Boxes, or their successor products, in containers made, formed or
6 filled as to be misleading to consumers, in violation of California Business and
7 Professions Code sections 12602, 12606.2(b), 12606.2(c), 12609, 12611, 17200 and
8 17500; and

9 (b) Packaging its Dove Dark Chocolate Bar, Dove Milk Chocolate Bar, 3 Musketeers
10 Bar, and 3 Musketeers Dark Mint Bar, or their successor products, in packages that
11 contain a declaration of quantity in a color that does not contrast conspicuously with its
12 background, in violation of California Business and Professions Code sections 12602,
13 12609, 12611, 17200, 17500 and California Code of Regulations section 4510.

14 COMPLIANCE

15 5. Defendant shall use good faith efforts to make available and fully and clearly explain the
16 injunctive language of this Final Judgment, including the terms and conditions thereof, to each of its
17 officers, employees, contractors and any persons or entities responsible for the design of packaging of
18 goods offered for sale to California consumers.

19 MONETARY PROVISIONS

20 6. **Settlement Amount.** Defendant shall pay a total of \$900,515.24 in settlement of this
21 matter as set forth below and pursuant to Business and Professions Code sections 12015.5, 17206 and
22 17536:

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1 (a) **Costs.** Defendant shall pay the People as and for investigative and prosecution
2 costs the sum of sixty five thousand dollars (\$65,000.00) which shall be distributed by
3 Plaintiff pursuant to the below schedule:
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5 California Department of Food and Agriculture Division of	\$ 2,550.00
6 Measurement Standards	
7 Yolo County Weights and Measures	\$ 860.00
8 Sacramento County Weights and Measures	\$ 1,752.00
9 Fresno County District Attorney	\$ 19,946.00
10 Sacramento County District Attorney	\$ 19,946.00
11 Yolo County District Attorney	\$ 19,946.00
12 TOTAL COSTS	\$ 65,000.00

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15 (b) **Civil Penalties.** Defendant is hereby ordered, pursuant to Business and Professions Code
16 sections 17207, 17536, 17503 and 17535, to pay a civil penalty of eight hundred thirty five
17 thousand five hundred fifteen dollars and twenty-four cents (\$835,515.24) which shall be
18 distributed equally to the prosecuting agencies bringing this action pursuant to Government Code
19 section 26506.

20 7. **Delivery of Settlement Funds.** All settlement funds shall be delivered to Larry Barly,
21 Office of the Yolo County District Attorney, 301 Second Street, Woodland, CA 95695, on or before the
22 expiration of thirty days following the Entry of Final Judgment. Settlement funds shall be delivered in
23 the form of separate checks made payable as set forth below:

24 (a) Two hundred ninety eight thousand four hundred fifty one dollars and eight cents
25 (\$ 298,451.08) made payable to the Yolo County District Attorney as civil penalties and
26 investigation costs set forth above;
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1 (b) Two hundred ninety eight thousand four hundred fifty one dollars and eight cents
2 (\$ 298,451.08) made payable to the Fresno County District Attorney as civil penalties
3 and investigation costs set forth above;

4 (c) Two hundred ninety eight thousand four hundred fifty one dollars and eight cents
5 (\$ 298,451.08) made payable to the Sacramento County District Attorney as civil
6 penalties and investigation costs set forth above;

7 (d) Two thousand five hundred fifty dollars (\$ 2,550.00) made payable to the State of
8 California Department of Food and Agriculture Division of Measurement Standards as
9 investigation costs set forth above;

10 (e) Eight hundred sixty dollars (\$ 860.00) made payable to the Yolo County
11 Department of Weights and Measures as investigation costs set forth above;

12 (f) One thousand seven hundred fifty two dollars (\$ 1,752.00) made payable to the
13 Sacramento County Weights and Measures as investigation costs set forth above.

14 8. **Time is of the essence.** Any payment not received by the date it is due, or in an amount
15 less than stated in this Final Judgment, is deemed a violation of this Final Judgment and the entire
16 unpaid balance thereof is immediately due and payable and statutory interest of TEN PERCENT (10%)
17 shall accrue on the entire remaining balance without further demand or notice.

18 9. The People agree to provide defendant with reasonable notice as to any alleged
19 violations of this injunction prior to requesting the court to sanction defendant for failure to comply with
20 the terms of this injunction. Reasonable notice is defined as no less than ninety (90) days' notice prior
21 to filing.

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

26 11. At any time after the expiration of five years from the date of entry of this Final
27 Judgment, Defendant may request that the Court order a termination of this injunction provided that:

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1 (a) Written notice is served on the People at least thirty (30) days prior to the request;
2 and;

3 (b) The Defendant submits a certification of affidavit from a responsible corporate
4 officer to show that, for the last five consecutive years there have been no violations of
5 the injunctive terms and conditions herein, and it has not violated California Business and
6 Professions Code sections 17200, 17500, 12606.2 or 12609.

7 12. Except as otherwise expressly provided herein, each party shall bear its own attorneys'
8 fees and costs.

9 13. The language used for the obligations set forth in the Final Judgment are solely for the
10 purposes of settlement and compromise and are in no way intended to be an alteration of California law
11 in any other action. If an ambiguity arises regarding any provision of this Final Judgment that requires
12 interpretation, there is no presumption that the document should be interpreted against any party. The
13 presumption set forth in California Civil Code section 1654 is not applicable.

14 14. Jurisdiction is retained for the purpose of enabling any party to the Stipulated Final
15 Judgment to apply to the Court for such further orders and directions as may be necessary and
16 appropriate for the construction and carrying out of the Stipulated Final Judgment, for the modification
17 or dissolution of any injunctive provisions hereof, for enforcement of compliance herewith, or for the
18 punishment of violations hereof.

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

23 16. The clerk is directed to enter this stipulated Final Judgment forthwith.

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25 DATED: OCT 02 2014

TIMOTHY L. FALL

JUDGE OF THE SUPERIOR COURT