



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE
Karen Ross, Secretary

September 17, 2020

DMS Notice
QC – 20 – 02
Discard: Retain

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Settlement – J.C. Penney Corporation, Inc., a Delaware Corporation

Enclosed is a copy of the Final Judgment that includes a permanent injunction issued against J.C. Penney Corporation, Inc., a Delaware Corporation. The Orange County District Attorney filed the case on June 8, 2020, in conjunction with the District Attorneys' offices for Shasta County and Yolo County, for overcharging consumers and making false or misleading statements with regards to the price of an item, violations of California Business and Professions Code §§ 12024.2 and 17500.

The California Department of Food and Agriculture (Department), Division of Measurement Standards (DMS), worked with weights and measures investigators from Orange, Yolo, Shasta, Sonoma, Monterey, and San Bernardino counties on this case. The total settlement was for \$375,000. Civil penalties amounted to \$300,000, agency costs were \$50,000, and cy pres restitution of \$25,000 was placed in the Consumer Protection Trust Fund.

The Department sincerely appreciates the work performed 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 regarding this notice, please contact DMS by email at dms@cdfa.ca.gov or phone at (916) 229-3000.

Sincerely,

Kristin Macey
Director

Enclosure

cc: Hyrum Eastman, County/State Liaison, CDFA



FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 08 2020

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

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14 Attorneys for Plaintiff

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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF ORANGE – CENTRAL JUSTICE CENTER
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19
20 THE PEOPLE OF THE STATE OF CALIFORNIA, }

21 Plaintiff,

22 v.

23 J.C. PENNEY CORPORATION, INC., A
24 DELAWARE CORPORATION

25 Defendant.

Case No. *30-2020-01138456*

PROPOSED FINAL JUDGMENT

26
27 The plaintiff, the People of the State of California, appearing through its attorneys Todd
28 Spitzer, District Attorney of the County of Orange, by Priscilla Cloud, Deputy District Attorney;

1 Jeff Reisig, District Attorney of the County of Yolo, by Lawrence Barilly, Deputy District
2 Attorney; and Stephanie A. Bridgett, District Attorney of the County of Shasta, by Anand "Lucky"
3 Jesrani, Senior Deputy District Attorney; and the defendant, J.C. Penney Corporation, Inc.,
4 appearing through its attorneys Sheppard Mullin Richter and Hampton LLP, by Moe Keshavarzi,
5 Attorney at Law, having stipulated and consented to the entry of Judgment without the defendant
6 admitting any wrongdoing, without the taking of proof and without this Final Judgment
7 constituting any admission by the defendant as to any issue of law or fact alleged in the
8 Complaint, and the Court having considered the matter and the pleadings, and good cause
9 appearing, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

10 **VENUE AND JURISDICTION**

- 11 1. This Court has jurisdiction of the subject matter and the parties.
12 2. Venue as to all matters between these parties lies in this Court.

13 **APPLICABILITY**

14 3. The injunctive provisions of this Judgment are applicable to the defendant, J.C.
15 Penney Corporation, Inc., and to all principals, employees, representatives, successors, and all
16 persons, corporations or other entities acting by, through, or on behalf of the defendant and to all
17 employees, representatives, persons, corporations or other entities acting in concert with, or
18 participating with the defendant with actual or constructive knowledge of this Injunction and Final
19 Judgment.

20 **INJUNCTION**

21 4. The defendant, J.C. Penney Corporation, Inc., hereafter sometimes "JCP," is hereby
22 permanently enjoined and restrained under Business and Professions Code sections 17203 and
23 17535 from engaging in any of the following acts or practices in the State of California concerning
24 the sale or distribution of its consumer products:

- 25 A. Charging an amount greater than the lowest advertised posted, marked or
26 quoted price for a commodity in violation of Business and Professions code section
27 12024.2, subdivision (a)(1.)
28

1 C. JCP shall identify and assign an employee at each California JCP store who
2 shall support in-store price accuracy compliance and work with the Corporate Pricing
3 Compliance Team as needed on price accuracy issues. This employee shall also be tasked
4 with assuring that pricing is consistent and accurate within his or her individual JCP store.

5 D. JCP shall document all consumer complaints as follows:

6 If a store associate learns of a pricing discrepancy through a consumer complaint or any
7 other method that cannot be resolved at the store level, the store associate will inform the
8 store management and the store management shall communicate or cause to be
9 communicated the pricing discrepancy to the Corporate Pricing Compliance Team. The
10 Corporate Pricing Compliance Team shall investigate the pricing discrepancy with the goal
11 of correcting the discrepancy as quickly as possible, especially with respect to issues that
12 appear to impact more than one store.

13 6. JCP shall conduct semi-annual price accuracy audits. The first audit shall take
14 place within ninety days of entry of this Final Judgment. Audit results shall be entered into an
15 audit report system which shall be reviewed by the Corporate Pricing Compliance Leader or the
16 Corporate Pricing Compliance Team. The results of each audit shall be made available to
17 representatives of the Orange County District Attorney's Office, the Yolo County District
18 Attorney's Office and/or the Shasta County District Attorney's Office upon request by
19 representatives of any of the three District Attorney Offices. Members of the three District
20 Attorney Offices shall keep the results of the audits confidential unless one or more of the offices
21 determine, in their sole discretion, that further law enforcement action is warranted.

22 7. JCP shall implement a Scan Right Guarantee Program within ninety days of entry
23 of this Final Judgment. The Scan Right Guarantee Program shall consist of, at a minimum, the
24 following:

25 A. If JCP becomes aware that an item in store has scanned at a price that is
26 higher than the lowest advertised price, JCP shall refund the difference to the customer and
27 shall also provide the customer with a \$5 gift card at the point of sale.

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pursuant to the Unfair Competition Law (Business and Professions Code section 17200 et seq.) by the California Attorney General, district attorneys and city attorneys authorized to bring such actions pursuant to Business and Professions Code section 17206.

(5) \$3,875 shall be made payable to the County of Orange for costs of investigation by the Orange County Agricultural Commissioner/Sealer.

(6) \$705 shall be made payable to the Yolo County Department of Weights and Measures for costs of investigation.

(7) \$1,570.31 shall be made payable to the Shasta County Department of Weights and Measures for costs of investigation.

(8) A separate check of \$3,580.12 shall be made payable to the Shasta County Department of Weights and Measures for costs of investigation.

(9) \$750 shall be made payable to "CDFA - Reimb 050" for costs of investigation by the California Division of Measurement Standards.

(10) \$1106 shall be made payable to the Sonoma Sealer of Weights and Measures for costs of investigation.

(11) \$1,945.45 shall be made payable to the Monterey County Department of Weights and Measures for costs of investigation.

(12) \$2,769 shall be made payable to San Bernardino County Agriculture/Weights and Measures for costs of investigation.

(13) \$11,233.04 shall be made payable to The County of Orange for costs of investigation by the Orange County District Attorney's Office.

(14) \$11,233.04 shall be made payable to the Yolo County District Attorney's Office for costs of investigation.

(15) \$11,233.04 shall be made payable to the Shasta County District Attorney's Office for costs of investigation.

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DISCLAIMER OF ADMISSION OF LIABILITY

10. This Stipulated Final Judgment and the defendant's agreement are not and shall not be construed as evidence of an admission, or as an admission by the defendant of any fact, issue of law or violation of law raised by the Complaint filed in this action.

NO PRESUMPTIONS AGAINST DRAFTER

11. If an ambiguity requiring interpretation arises regarding any provision of this Final Judgment, there is no presumption that documents should be interpreted against any party. The presumption set forth in Civil Code section 1654 is not applicable.

12. The failure of the plaintiff to enforce any provision of this Final Judgment shall not be deemed a waiver of such provision nor shall it in any way affect the validity of this Final Judgment. The failure of the plaintiff to enforce any provision shall not preclude the plaintiff from later enforcing the same or other provisions of this Final Judgment.

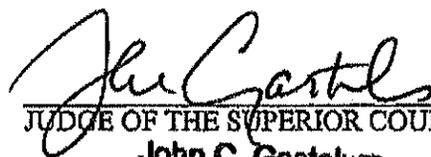
RETENTION OF JURISDICTION

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

14. Except as otherwise expressly provided herein, each party shall bear its own attorney's fees and costs.

15. The clerk is ordered to enter this Final Judgment, and this Final Judgment shall take effect immediately upon entry.

DATED: 6-8-2020



JUDGE OF THE SUPERIOR COURT
John C. Gastelum