



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

DMS NOTICE
QC – 11 - 08

December 19, 2011

Discard: Retain

TO WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Grant Laboratories, Inc. Settlement

Attached is a Stipulated Final Judgment against Grant Laboratories. It was issued by the District Attorneys' Office of Solano County in conjunction with Marin, Napa, Shasta, and Sonoma Counties' District Attorneys on November 14, 2011 for selling short measure ant bait in violation of California Business and Professions Codes 12024.

We value the excellent work done on behalf of the people, by the various District Attorneys' Offices as well as the State and county investigators who tested these products. Grant Laboratories was assessed \$139,000 in civil penalties, \$100,000 for investigative costs, and \$10,000 in cy pres restitution for a total of \$249,000.

Solano County should be sure to report these penalties in the County Monthly Report (CMR). All participating counties should separately record their individual investigative cost reimbursements in the appropriate columns in the report.

Sincerely,

Kristin J. Macey
Director

Cc: Edmund Williams, Director, CDFA County Liaison Office



ENDORSED FILED
Clerk of the Superior Court

NOV 14 2011

By J. BAPP
DEPUTY CLERK

1 DONALD A. du BAIN
2 District Attorney, County of Solano
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5 Fairfield CA 94533
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8 (For list of additional plaintiff's counsel,
9 see attached Exhibit 1)

10 Attorneys for Plaintiff

11 SUPERIOR COURT OF CALIFORNIA
12 IN AND FOR THE COUNTY OF SOLANO

13 THE PEOPLE OF THE STATE OF
14 CALIFORNIA,

15 Plaintiff,

16 v.

17 GRANT LABORATORIES, INC.,

18 Defendant.

Case No. FCS 038799

FINAL JUDGMENT AND INJUNCTION
PURSUANT TO STIPULATION

19 Plaintiff, the People of the State of California, appearing through its attorneys, Donald
20 A. du Bain, District Attorney of Solano County, by Diane Taira, Deputy District Attorney,
21 Edward S. Berberian, District Attorney of Marin County, by Robert Nichols, Deputy District
22 Attorney, Gary Lieberstein, District Attorney of Napa County, by Daryl Roberts, Deputy
23 District Attorney, Stephen S. Carlton, District Attorney of Shasta County, by Erin Dervin,
24 Deputy District Attorney, and Jill R. Ravitch, District Attorney of Sonoma County, by
25 Matthew T. Cheever, Deputy District Attorney, and defendant Grant Laboratories, Inc., a
26 California corporation, with its principle place of business at 1340 Treat Boulevard, Suite
27 600, Walnut Creek, California, appearing through its attorneys Paul Hastings LLP, by Robert
28

1 Hoffman, Esq.; and it appearing to the Court that the parties hereto have stipulated and
2 consented to the entry of this Final Judgment and Injunction Pursuant to Stipulation ("Final
3 Judgment") without the taking of proof, and the Court having considered the matter and the
4 pleadings, and good cause appearing therefore,

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

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

8 2. This Final Judgment is applicable to defendant Grant Laboratories, Inc., and to
9 its agents, servants, employees, officers, directors, representatives, successors and assigns,
10 subsidiaries and divisions, and to any and all persons, employees, corporations, and other
11 entities who are acting in concert or participating with defendant, with actual or constructive
12 notice of this Final Judgment (hereinafter collectively referred to as "Grant" or "Defendant").
13 Plaintiff and Defendant are hereinafter collectively referred to as "the Parties."

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15 **INJUNCTIVE RELIEF**

16 3. For purposes of this Final Judgment, the word "Commodity" shall mean any
17 Grant product packaged, distributed or sold to kill ants.

18 4. Defendant shall be and is hereby enjoined and restrained, pursuant to
19 California Business and Professions Code sections 17203, 17204 and 17535, from directly or
20 indirectly doing any of the following practices or acts within or from the State of California:

21 A. Packaging or selling, as defined in California Business and Professions
22 Code section 12009, any Commodity in a quantity less than as represented on the package of
23 the Commodity, or as represented elsewhere in a location intended, or likely, to be displayed
24 to any consumer or potential consumer of the Commodity.

25 B. Making any misleading or untrue statement in violation of Business and
26 Professions Code section 17500 with respect to any net-weight statement on any package of
27 any Commodity packaged or sold by Defendant.

28 C. Selling or offering for sale any Commodity having a quantity or net

1 weight that is less than as represented on the package of the Commodity, or as represented
2 elsewhere in a location intended, or likely, to be displayed to any consumer or potential
3 consumer of the Commodity.

4 D. Failing, while engaged in the packaging, selling or distributing of any
5 packaged or labeled commodity, to establish and maintain adequate controls and procedures
6 reasonably designed to achieve compliance with Business and Professions Code sections
7 17200, 17500, 12024, and 12600, et seq., such controls and procedures to include reasonable
8 check-weight protocols (to achieve accuracy in filling, packaging and labeling) and other
9 reasonable quality-control protocols.

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MONETARY RELIEF

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5. Pursuant to Business and Professions Code sections 17203, 17206 and 17536,
13 Defendant shall, on or before the date of the approval of this Judgment, pay civil penalties, costs,
14 and *cypres* restitution in the total amount of Two Hundred Forty Nine Thousand Dollars and No
15 Cents, (\$249,000.00). Said payment shall be made in the form of a certified check made payable
16 to the Solano County District Attorney, and delivered to Diane Taira, Solano County District
17 Attorney's Office at 675 Texas St., 4th Fl., #4500, Fairfield, CA 94533, and shall be allocated and
18 distributed by the Solano County District Attorney as follows:

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A. Civil penalties in the amount of One Hundred Thirty Nine Thousand
20 dollars (\$139,000.00), in equal amounts to the Solano, Marin, Napa, Shasta, and Sonoma District
21 Attorneys.

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B. Costs of One Hundred Thousand dollars (\$ 100,000.00), to the various
23 state and local regulatory and law enforcement agencies that contributed resources to this
24 investigation and prosecution, as follows:

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Marin County Department of Agriculture/Weights & Measures	\$ 562.00
Napa County Department of Agriculture/Weights & Measures	\$ 1,584.00
Solano County Department of Agriculture/Weights & Measures	\$ 979.00
Sonoma County Department of Agriculture/Weights & Measures	\$ 1,236.00
Marin County District Attorney's Office	\$19,127.80

1	Napa County District Attorney's Office	\$19,127.80
2	Shasta County District Attorney's Office	\$19,127.80
3	Solano County District Attorney's Office	\$19,127.80
4	Sonoma County District Attorney's Office	\$19,127.80

5 The portion provided to the Napa County District Attorney's Office shall be deposited into the
6 Napa District Attorney's Consumer Protection Trust Fund.

7 C. *Cy pres* restitution: The Parties having recognized the impossibility of
8 identifying aggrieved consumers who suffered actual loss, and the impracticality of providing
9 direct restitution to said consumers, and the disproportionate cost of making restitution to
10 individual consumers which would far exceed the benefit consumers would gain, the Court
11 therefore orders that *cy pres* restitution, in the amount of Ten Thousand dollars (\$10,000.00),
12 shall be paid to the California Department of Agriculture, Division of Measurement
13 Standards. The Division shall use these funds to conduct a quantity assurance survey
14 verifying that various packaged products offered for sale in California in fact contain the
15 represented quantity of the product sold. This survey shall be conducted statewide and be
16 completed on or before July 1, 2013. The California Department of Agriculture, Division of
17 Measurement Standards shall report their findings in writing to representatives of the People
18 of the State of California within 30 days of the completion of the survey.

19 6. Jurisdiction shall be retained by one court for such further orders and
20 directions as may be necessary or appropriate for carrying out this Final Judgment or for
21 enforcement of its terms. If after the expiration of five (5) years following the entry of this Final
22 Judgment, there have been no material violations of the injunctive provisions of this Final
23 Judgment, then Defendant may move the Court for an order dissolving the provisions of
24 Paragraph 4, above.

25 7. Plaintiff's failure to seek enforcement of any provision of this Final Judgment
26 shall in no way be deemed a waiver of such provision, nor in any way affect the validity of
27 this Final Judgment or any term thereof. Plaintiff's failure to seek to enforce any such
28 provision shall not preclude or estop Plaintiff from later seeking to enforce the same or any
other provision of this Final Judgment.

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8. This Final Judgment shall take effect immediately upon entry hereof.

Dated: ~~NOV 8 2011~~

DAVID EDWIN POWER
Judge of the Superior Court

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EXHIBIT 1

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