



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

May 17, 2013

DMS NOTICE
QC - 13 - 07
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Kohl's Department Stores, Inc., Settlement

Enclosed is a final judgment and permanent injunction pursuant to stipulation issued by the District Attorney's Office of the County of Sacramento in conjunction with the District Attorneys of the Counties of Fresno, Santa Cruz, and Santa Clara filed against Kohl's Department Stores, Inc., a Delaware corporation, on April 24, 2013. The judgment and injunction are for overcharging customers, a violation of California Business and Professions Code sections 12024.2.

The investigation was led by the Division of Measurement Standards (DMS) with assistance from 22 additional county jurisdictions. Kohl's Department Stores, Inc., was ordered to pay a settlement of \$488,810.53 which included \$409,500.00 in civil penalties, \$78,875.53 for agency costs, and \$435.00 court filing costs.

Sacramento 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, 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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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

KOHL'S DEPARTMENT STORES, INC., a Delaware
Corporation,

Defendant.

NO.: 34-203-00142320

**FINAL JUDGMENT AND
PERMANENT INJUNCTION
PURSUANT TO STIPULATION**

Plaintiff, the People of the State of California ("the People"), appearing through its attorneys, JAN SCULLY, District Attorney for the County of Sacramento, by Ruth M. Young, Deputy District Attorney; ELIZABETH A. EGAN, District Attorney for the County of Fresno, by Michael Brummel, Deputy District Attorney; BOB LEE, District Attorney for the County of Santa Cruz, by Kelly Walker, Assistant District Attorney and JEFFREY F. ROSEN, District Attorney for the County of Santa Clara, by Tiyen Lin, Deputy District Attorney; and Defendant KOHL'S DEPARTMENT STORES, INC., ("Kohl's") a Delaware Corporation, appearing through its attorney, a licensed California attorney, and it appearing to the Court that the People and Defendant have stipulated to the entry of this Final Judgment and Permanent Injunction Pursuant to Stipulation ("Final Judgment or "Injunction") prior to the taking of any proof, and without trial or adjudication of any issue of fact or law; and the Court having considered the matter and the pleadings, and good cause appearing therefore;

1 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 **JURISDICTION**

3
4 1. This action is brought under California law, and this Court has jurisdiction of the
5 subject matter and the parties.

6 **APPLICABILITY**

7 2. This Final Judgment is applicable to Kohl's, its officers, directors, representatives,
8 successors, assignees, and all persons, partnerships, corporations, and other entities acting under,
9 by, through, on behalf of, or in concert with Kohl's, with actual or constructive notice or knowledge
10 of this Final Judgment.

11 **DEFINITIONS**

12 3. As used in the Final Judgment, the following terms have the following meanings:

13 A. "California Kohl's Store" means a retail department store located within the
14 State of California that bears the "Kohl's" name and is operated by Kohl's or an affiliate of Kohl's.

15 B. "Lowest Advertised Price" means the current, non-retracted advertised price
16 for the item at the store at which the item is scanned, not including applicable advertised Kohl's
17 transaction-level discounts.

18 C. "Non-retracted advertised price" means the stated, advertised or sale price.

19 D. "Transaction-level discounts" means specific discounts which are computed
20 at the time of sale. Transaction-level discounts include discounts computed upon the presentation
21 of a coupon, or those given to specific categories of consumers, such as senior citizen discounts or
22 discounts to users of Kohl's credit cards.

23 E. "Overcharge Policy" means Kohl's policy, as set forth in Section 5 of this
24 Final Judgment, for addressing situations in which the Scanned Price exceeds the Lowest
25 Advertised Price at the time of sale.

26 F. "Scanned Price" means the selling price displayed by the Kohl's cash register
27 after the item is scanned.

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INJUNCTION

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2 4. Pursuant to California Business & Professions Code §§ 17203 and 17535, Kohl's is
3 permanently enjoined and restrained, with respect to any and all California Kohl's Stores from
4 committing, directly or indirectly, the following violations of California Business & Professions
5 Code §§ 17200 and 17500:

6 A. Representing a non-retracted price on an item, store shelf or sign near the
7 item and charging a greater price for the item than represented.

8 B. Charging an amount greater than the Lowest Advertised Price, posted,
9 marked or quoted price for a commodity, in violation of Business and Professions Code § 12024.2,
10 subdivision (a)(1).

11 C. Computing, at the time of sale of a commodity, an amount greater than a
12 true extension of a price per unit that is then advertised, posted, marked, displayed, or quoted for
13 that commodity, in violation of Business and Professions Code § 12024.2, subdivision (a)(1).

14 D. Charging an amount greater than the Lowest Advertised Price posted on a
15 commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any
16 limitation of the time period for which the posted price is in effect, in violation of Business and
17 Professions Code § 12024.2, subdivision (a)(2).

18 5. Pursuant to Business and Professions Code §§ 17203 and 17535, Kohl's is hereby
19 ordered and mandated to implement and adhere to the following Overcharge Policy at California
20 Kohl's Stores:

21 A. Subject to Section 5.B, if a Scanned Price for an item is higher than Kohl's
22 Lowest Advertised Price, Kohl's shall, upon notice, immediately offer the item for sale to the
23 customer at the Lowest Advertised Price and refund any excess amount collected for the item, if
24 applicable.

25 B. Kohl's Overcharge Policy shall be adhered to as stated above at all times and
26 without limitation except as provided in paragraph C below. This includes the following:

27 (i) Kohl's Overcharge Policy applies to each product overcharged during
28 checkout by a customer, and

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(ii) Kohl's Overcharge Policy applies without limitation as to the number of times it applies to an individual customer.

C. If the item was moved to an incorrect shelf or display location by a customer so as to give the misimpression of a lower price or applicable sale, or if the price or signage for the item was fraudulently altered, Kohl's may charge the Scanned Price for the item.

D. Any cashier or other Kohl's employee made aware, by any means and for any reason, of an overcharge, shall take immediate steps to comply with Kohl's Overcharge Policy whether at the point of sale or at a later time. Customers who bring an overcharge(s) to the attention of the cashier will immediately receive the remedy provided in this Section 5. Customers who bring an overcharge(s) to the attention of the cashier prior to completing their purchase transaction at the point of sale shall not be asked to wait in line again. Customers who bring an overcharge(s) to the attention of the cashier after completing their purchase transaction at the point of sale may, at the discretion of the cashier, either be immediately assisted by the cashier or directed to the customer service desk in order to receive the remedy pursuant to this section.

E. Kohl's shall not make any statements or take any actions which would directly or indirectly prevent or discourage Kohl's Overcharge Policy from being followed, complied with, enforced or adhered to by Kohl's employees, consumers, or other parties.

COMPLIANCE

6. For the purpose of securing compliance with the terms of this Final Judgment, Kohl's shall, within thirty (30) days from the date of entry of this Final Judgment or date of hire, notify in writing all California store managers and all multi-store managers responsible for leading California Kohl's Stores (including District Managers, Regional Managers and Territory Mangers) of Kohl's obligations under this Final Judgment.

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1 **MONETARY RELIEF**

2 7. Pursuant to California Business and Professions Code §§ 17203, 17206, 17207,
3 17356.5 and 17535, Kohl's shall pay \$488,375.53 in total settlement for costs and civil penalties as
4 set forth below:

5 A. Pursuant to California Business and Professions Code §§ 17203 and 17535,
6 and in settlement of costs to the People, Kohl's shall pay the sum of \$78,875.53 in total for costs.
7 Said costs to be paid by one check made payable to the "Sacramento County District Attorney."
8 Said costs shall be distributed to the agencies listed below in the following amounts:

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<u>District Attorney Costs</u>	<u>Amount</u>
Fresno County District Attorney's Office	\$5,000.00
Santa Cruz County District Attorney's Office	\$5,000.00
Santa Clara County District Attorney's Office	\$5,000.00
Sacramento County District Attorney's Office	\$5,000.00

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<u>Agency Costs</u>	<u>Amount</u>
California Department of Food and Agriculture Division of Measurement Standards	\$3,158.40
Butte County Weights and Measures	\$400.00
Contra Costa Weights and Measures	\$680.00
Humboldt County Weights and Measures	\$981.69
Los Angeles County Department of Agriculture Commissioner / Weights & Measures	\$6,435.60
Marin County Weights and Measures	\$1,862.13
Merced County Ag Commissioner Weights and Measures	\$160.83
Monterey County Ag Commissioner Weights and Measures	\$712.50
County of Orange Weights and Measures	\$1,386.00
Riverside County Division of Weights and Measures	\$5,286.46
Sacramento County Weights and Measures	\$14,820.00
San Bernardino County Department of Weights and Measures	\$3,638.75
County of San Diego Department of Agriculture, Weights and Measures	\$2,600.93

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FULL AND FINAL JUDGMENT

16. This Final 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 affected by the issues alleged in the Complaint.

17. The clerk is directed to enter this Final Judgment forthwith.

DATED: 4/24/13



JUDGE OF THE SUPERIOR COURT

RUDOLPH LONCKE