



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

Karen Ross, Secretary

October 10, 2014

DMS NOTICE
QC - 14 - 05
DISCARD: RETAIN

TO: WEIGHTS AND MEASURES OFFICIALS

SUBJECT: Settlement - 7-Eleven, Inc., a Texas Corporation

Enclosed is a copy of the Final Judgment Pursuant to Stipulation issued against 7-Eleven, Inc., a Texas Corporation. The case was filed on September 8, 2014, by the District Attorney's office of San Diego County in conjunction with the District Attorneys' offices of Riverside, Santa Clara, Napa, and Sonoma for overcharging consumers, in violation of California Business and Professions Code Section 12024.2.

The California Department of Food and Agriculture, Division of Measurement Standards (Department) worked with weights and measures investigators from over 16 counties on this case. The total settlement was for \$300,000. Civil penalties amounted to \$190,000, agency costs were \$200,000, and \$10,000.00 of cy pres restitution was placed in the Consumer Protection Prosecution Trust Fund.

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.

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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2 GINA F. DARVAS, State Bar No. 163221
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3 330 W. Broadway, Suite 1300
San Diego, California 92101
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F I L E D
Clerk of the Superior Court

SEP 08 2014

By: R. LINDSEY-COOPER, Deputy

5 For a list of additional Plaintiff's
6 counsel, see attached Exhibit A.

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA

9 IN AND FOR THE COUNTY OF SAN DIEGO

10 THE PEOPLE OF THE STATE OF CALIFORNIA,

CASE NO. **37-2014-00028459-CU-BT-CTL**

11 Plaintiff,

**FINAL JUDGMENT PURSUANT
TO STIPULATION**

12 v.

13 7-ELEVEN, INC., a Texas Corporation,

14 Defendant.

15 Plaintiff, the People of The State of California, having filed its complaint, and
16 Defendant 7-Eleven, Inc., a Texas corporation, having accepted service of the complaint; and
17 Plaintiff, appearing through its attorneys BONNIE DUMANIS, District Attorney San Diego
18 County, by Gina Darvas, Deputy District Attorney; PAUL ZELLERBACH, District Attorney
19 Riverside County, by Elise J. Farrell, Sr. Deputy District Attorney; JEFFREY F. ROSEN,
20 District Attorney Santa Clara County, by Yen B. Dang, Supervising Deputy District Attorney;
21 GARY LIEBERSTEIN, District Attorney County of Napa, by Catherine C. Borsetto, Deputy
22 District Attorney; and JILL R. RAVITCH, District Attorney County of Sonoma, by Matthew T.
23 Cheever, Deputy District Attorney; and Defendant, 7-Eleven, Inc., a Texas Corporation,
through its attorneys, Arnold & Porter LLP , by James F. Speyer, Esq.; and

24 Plaintiff and Defendant having stipulated and consented to the entry of this Final
25 Judgment ("Judgment") prior to the taking of any proof, and without trial or adjudication of any
26 issue or fact or law herein, and without this Final Judgment being construed as an admission or
27 denial by 7-Eleven of any fact, liability, issue of law, conclusion of law or violation of any
28 statutory or regulatory law; and

1 The Court having considered the pleadings;

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

3 1. This action is brought under California law and this court has jurisdiction of this
4 matter and its parties.

5 2. The provisions of this Judgment are applicable to Defendant 7-Eleven, Inc., a
6 Texas corporation, and to its officers, directors, employees, and representatives acting within
7 the course and scope of their agency and employment, and to successors and assignees of
8 Defendant. Unless otherwise stated, all obligations imposed upon Defendant 7-Eleven, Inc. by
9 the terms of this Judgment are ordered pursuant to Business & Professions Code §§ 17203 and
10 17535.

11 INJUNCTION

12 3. Defendant 7-Eleven, Inc., a Texas corporation (“7-ELEVEN”), and all persons
13 and entities set forth in Paragraph 2 above are hereby permanently enjoined and restrained,
14 pursuant to Business and Professions Code sections 17203 and 17535, from directly or
15 indirectly engaging in any of the following acts or practices:

- 16 A. Making or causing to be made to the public any statement representing a
17 price for an item offered for sale and causing to be charged or charging a
18 greater price at the time the item is purchased in violation of the
19 California Business and Professions Code section 17500;
- 20 B. At the time of the sale of a commodity, causing to be charged or
21 charging an amount greater than the lowest price posted on the
22 commodity itself or on a shelf tag that corresponds to the commodity,
23 notwithstanding any limitation of the time period for which the posted
24 price is to be in effect, in violation of Business & Professions Code
25 §12024.2(a);
- 26 C. Failing to ensure that promotional prices sent to stores in California are
27 correctly coded in the Point of Sale (“POS”) system; and
- 28 D. Failing to ensure that prices coded in the POS system match promotional
materials sent to stores in California.

4. 7-ELEVEN, and all persons and entities set forth in Paragraph 2 above, are
ordered for a period of three (3) years from the date of entry of this Judgment to initiate and
enforce in all existing 7-ELEVEN Stores in California, and in every future 7-ELEVEN Store in

1 California, before opening for business, a program to promote pricing accuracy. Such program
2 shall consist of at least the following:

3 A. 7-ELEVEN shall designate a person at its corporate headquarters who
4 will be responsible for receiving franchisee calls/complaints and
5 consumer calls/complaints, regarding pricing accuracy from all 7-
6 ELEVEN Stores in California. 7-ELEVEN shall provide the name of the
7 designated person and his/her contact information to Plaintiff as
8 designated below. This person shall be responsible for documenting the
9 complaint(s), researching any issue raised by the complaint(s) and
10 correcting the problem(s), if any. 7-ELEVEN shall provide the name and
11 contact information of any individual who replaces or supplements the
12 individual originally designated within 45 calendar days of that
13 assignment. Notifications are to be sent by letter to the Consumer
14 Protection Unit, San Diego District Attorney's Office, 330 W.
15 Broadway, Suite 750, San Diego, California 92101.

16 B. In addition, 7-ELEVEN shall designate a person at its corporate
17 headquarters who will be responsible for pricing accuracy. This
18 designated pricing accuracy representative shall be responsible for
19 reviewing the content of promotional advertising sent to franchisees for
20 accuracy, including verifying that the promotional advertising matches
21 the point-of-sale computer system information regarding pricing
22 accuracy. This person shall coordinate with the person designated in
23 paragraph 4A, so that pricing issues are appropriately and timely
24 resolved. 7-ELEVEN shall provide the name of the designated person
25 and their contact information to Plaintiff as designated below. 7-
26 ELEVEN shall provide the name and contact information of any
27 individual who replaces or supplements the individual originally
28 designated within 45 calendar days of that assignment. Notifications are
to be sent by letter to the Consumer Protection Unit, San Diego District
Attorney's Office, 330 W. Broadway, Suite 750, San Diego, California
92101.

C. 7-ELEVEN or its designee shall, for three calendar years beginning in

1 2015, conduct an audit of each store in California twice a year, once in
2 the first quarter and once in the third quarter, for the following purposes:

- 3 1. To verify, through inspections of a random sampling of
4 no less than 50 items, that prices charged by the store on
5 its POS system are in accordance with the lowest
6 advertised, posted, marked or quoted price, excluding
7 taxes, for each product or combination of products.
- 8 2. To verify, at the time of inspection, that promotional
9 prices are correctly coded in the Point of Sale ("POS")
10 system and that the prices coded in the POS system match
11 promotional materials sent to the store.
- 12 3. The results of these store audits will be kept for the term
13 provided in Paragraph 4 and made available for inspection
14 by the California Division of Measurement Standards
15 and/or the local County Department of Weights &
16 Measures.

17 A detailed log shall be maintained with the following
18 information:

- 19 a. Date the internal store audit was conducted;
- 20 b. Description of the items audited;
- 21 c. Posted price of the items audited;
- 22 d. Scanned price of the items audited;
- 23 e. If a discrepancy exists, the corrective measure
24 recommended to be taken;
- 25 f. The name of the individual who conducted the
26 audit.

27 The results of these internal store audits will be available
28 for inspection by the California Division of
Measurement Standards and/or the local County
Department of Weights & Measures.

D. Any pricing errors discovered during the above-mentioned reviews in 4C

1 shall be promptly transmitted to the franchisee, along with a strong
2 recommendation to correct any error. If the pricing error is the result of
3 an error in the POS, the individual conducting the audit shall within 48
4 hours of discovering the error, transmit any errors in pricing to the
5 person designated pursuant to Paragraph 4A above, at 7-ELEVEN's
6 corporate headquarters.

7 E. 7-ELEVEN shall provide all franchisees with the appropriate resources,
8 technology, and training reasonably necessary to ensure pricing
9 accuracy, and shall provide a reasonable interval between the time it
10 communicates suggested price revisions to franchisees and the time such
11 revisions, if accepted by the franchisee, appear in the POS system.
12 Training will be made available annually to franchisees. Such training
13 will educate the franchisees about how to avoid overcharging and price
14 scanning errors and maintain compliance with Business and Professions
15 Code §§ 12024.2 and 17500.

16 F. If 7-ELEVEN or its designee determines that the franchisee charged a
17 price in excess of the lowest advertised price, or otherwise engaged in
18 any form of deceptive pricing, 7-ELEVEN shall confer with the
19 franchisee to identify the source of the overcharge and determine how to
20 correct the issue(s) identified.

21 G. 7-ELEVEN shall ensure that each store location in California displays a
22 sign which notifies customers of the price accuracy laws referenced
23 herein and their rights thereunder. This sign shall be displayed at the
24 check-out lane in a location where it is noticeable and easily readable by
25 a customer who is standing in the check-out lane. The sign shall provide
26 the following information:

- 27 1. Customers should check their receipt and notify store
28 management immediately of any overcharge;
2. Customers are legally entitled to pay no more than the
lowest advertised price for any good or service offered at
the store;
3. Customers may lodge a price accuracy complaint with 7-

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ELEVEN; and

- 4. The telephone number and website address for 7-ELEVEN’s designated corporate contact for price accuracy, as referenced in 4A above.
- 5. 7-ELEVEN will investigate each complaint and take corrective action where appropriate.

MONETARY RELIEF

5. Pursuant to Business and Professions Code sections 17206 and 17536, 7-ELEVEN shall, on the date of filing of this Judgment, pay to Plaintiff \$190,000.00 by check payable to the “Riverside County District Attorney,” and delivered to Elise J. Farrell, Sr. Deputy District Attorney, Special Prosecutions Section, Riverside County District Attorney, 3960 Orange Street, Riverside, CA 92501. The Riverside County District Attorney shall then distribute this payment in equal amounts to the District Attorneys prosecuting this action as provided in Business and Professions Code §§ 17206(c) and 17536(c).

6. 7-ELEVEN shall, on the date of the filing of this Judgment, pay to Plaintiff costs in the amount of \$200,000.00 by check payable to the “Riverside County District Attorney,” and delivered to Elise J. Farrell, Sr. Deputy District Attorney, Special Prosecutions Section, Riverside County District Attorney, 3960 Orange Street, Riverside, CA 92501. The Riverside County District Attorney shall then distribute this payment as follows:

California Dept. of Food and Agriculture	\$24,617.22
Contra Costa County Dept. of Agriculture	\$50.27
Kern County Dept. of Agriculture and Measurement Standards	\$980.94
Imperial County Agriculture Commissioner	\$2,138.79
Los Angeles County Agricultural Commissioner, Weights and Measures	\$49,493.91
Marin County Dept. of Agriculture, Weights and Measures	\$18,905.75
Madera County Dept. of Agriculture, Weights and Measures	\$54.74
Napa County Agricultural Commissioner	\$7,556.25
Orange County Agricultural Commissioner	\$2,311.60
Riverside County Agricultural Commissioner	\$20,887.70

1	San Bernardino County Dept. of Agriculture,	
2	Weights and Measures	\$24,073.68
3	San Diego County Dept. of Agriculture, Weights and Measures	\$7,730.72
4	Santa Barbara County Agricultural Commissioner,	
5	Weights and Measures	\$1,528.83
6	Santa Clara County Dept. of Agriculture,	
7	Weights and Measures Division	\$10,908.15
8	Sonoma County Agriculture Commissioner,	
9	Weights and Measures	\$12,359.83
10	Stanislaus County Dept. of Agriculture, Weights and Measures	\$887.95
11	Ventura County Weights and Measures	\$15,513.67

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13 7. The Court hereby finds that it is impractical and impossible to identify or to
14 provide direct restitution to consumers who may have unknowingly been overcharged by 7-
15 ELEVEN such that direct restitution is too impractical, costly, and would far exceed any
16 benefit to individual consumers. Thus, 7-ELEVEN shall pay, pursuant to Business and
17 Professions Code sections 17203 and 17535, *cy pres* restitution in the sum of Ten Thousand
18 Dollars (\$10,000). Said *cy pres* restitution shall be paid by check payable to the "Riverside
19 County District Attorney," and delivered to Elise J. Farrell, Sr. Deputy District Attorney,
20 Special Prosecutions Section, Riverside County District Attorney, 3960 Orange Street,
21 Riverside, CA 92501. The Riverside County District Attorney shall then distribute this
22 payment to the Consumer Protection Prosecution Trust Fund established in the case of *People*
23 *v. ITT Consumer Financial Corporation* (Alameda Superior court No. 656038-0). The payment
24 required under this paragraph shall be made upon filing of this Judgment.

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RETENTION OF JURISDICTION

8. 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 punishment of violations of the Judgment.

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

SEP 08 2014

Dated: _____

JOAN M. LEWIS

Judge of the Superior Court

EXHIBIT A

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