



1 JEFFREY S. ROSELL
District Attorney of the County of Santa Cruz
2 EDWARD T. BROWNE, STATE BAR NO. 167638
Assistant District Attorney
3 701 Ocean Street, Room 200
Santa Cruz, CA 95060
4 Telephone: (831) 454-2400
Email: edward.browne@santacruzcounty.us

5 *Attorneys for the People of the State of California*

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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CRUZ

10	THE PEOPLE OF THE STATE OF CALIFORNIA,)	Case No. 23CV01069
11	Plaintiff,)	[PROPOSED] FINAL JUDGMENT AND
12	v.)	INJUNCTION PURSUANT TO
13	GARFIELD BEACH CVS, L.L.C., a California)	STIPULATION
14	limited liability company;)	(Bus. & Prof. Code, § 17200 et seq.)
15	LONGS DRUG STORES CALIFORNIA, L.L.C., a)	<i>Exempt from fees per Gov. Code, § 6103</i>
16	California limited liability company; and CVS)	
17	PHARMACY, INC., a Rhode Island corporation,)	
18	Defendants.)	

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20 Plaintiff, the People of the State of California, by and through Jeffrey S. Rosell, District
21 Attorney of Santa Cruz County; Diana Becton, District Attorney of Contra Costa County; Lisa A.
22 Smittcamp, District Attorney of Fresno County; Lori E. Frugoli, District Attorney of Marin County;
23 Morgan Gire, District Attorney of Placer County; Michael A. Hestrin, District Attorney of Riverside
24 County; Thien Ho, District Attorney of Sacramento County; Jason Anderson, District Attorney of
25 San Bernardino County; Ronald J. Freitas, District Attorney of San Joaquin County; Stephanie A.
26 Bridgett, District Attorney of Shasta County; Krishna A. Abrams, District Attorney of Solano
27 County; and Jeff W. Reisig, District Attorney of Yolo County, filed its Complaint in this matter
28 pursuant to Business and Professions Code, § 17200 *et seq.* The People and Defendants Garfield

1 Beach CVS, L.L.C., Longs Drug Stores California, L.L.C. and CVS Pharmacy, Inc., have stipulated
2 to entry of this Final Judgment Pursuant to Stipulation (“Final Judgment”) to resolve all the matters
3 alleged in the People’s Complaint.

4 NOW THEREFORE, the People and Defendants having requested this Court to enter this
5 Final Judgment, and the Court having considered the Final Judgment reached between the parties, IT
6 IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

7 **JURISDICTION AND VENUE**

8 1. The Superior Court of California, County of Santa Cruz, has subject matter
9 jurisdiction over the matters alleged in this action and personal jurisdiction over the parties to this
10 Final Judgment.

11 **INJUNCTIVE RELIEF**

12 2. Pursuant to Business and Professions Code section 17203, Defendants and its
13 successors are enjoined from engaging in the following acts at Defendants’ California stores:

- 14 a. Selling and offering for sale over-the-counter drugs after their expiration date has
15 passed in violation of Health and Safety Code section 110286.
16 b. Selling and offering for sale infant formula and baby food products, required by
17 the federal Food, Drug and Cosmetics Act to have a “use by” date on their
18 packaging, past said “use by” date in violation of Health and Safety Code section
19 114094.5.

20 **CIVIL PENALTIES AND COST RECOVERY**

21 **Cost recovery**

22 3. Defendants shall pay SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) for
23 partial reimbursement of costs of investigation and other costs of enforcement. Payment of the total
24 cost recovery shall be made to those prosecutors’ offices appearing herein in the amounts set forth in
25 Exhibit A1.

26 **Civil Penalties**

27 4. Defendants shall pay FIVE MILLION NINE HUNDRED THOUSAND DOLLARS
28 (\$5,900,000.00) as civil penalties pursuant to Business and Professions Code section 17206. Payment

1 of the total civil penalties shall be made to those prosecutors' offices appearing herein in the amounts
2 set forth in Exhibit A2.

3 **Restitution**

4 5. The Parties recognize the infeasibility of identifying consumers who may have
5 purchased expired over-the-counter drugs and applicable baby food and infant formula past their
6 "use by" dates, the impracticality of providing direct restitution to said consumers, and the
7 disproportionate cost of making restitution to individual consumers, which would far exceed the
8 benefit consumers would gain. Hence, pursuant to Business & Professions Code section 17203,
9 Defendants shall pay, as *cy pres* restitution, ONE MILLION DOLLARS (\$1,000,000.00) for the sole
10 benefit of citizens of the State of California. Payment of the total *cy pres* restitution shall be made to
11 those NGOs and food security-related non-profits named and in the amounts set forth in Exhibit A3.
12 Said *cy pres* restitution shall consist of new charitable contributions only and not be attributable to
13 any charitable contributions planned prior to entry of this Final Judgment.

14 **Filing Fees**

15 6. Defendants shall pay filing fees in the amount of \$435.00 for each Defendant payable
16 at filing of this Final Judgment in a check to the "Superior Court of the State of California" delivered
17 to the District Attorney's Office for the County of Santa Cruz, Attention: Edward T. Browne,
18 Assistant District Attorney, to deliver to the Court upon acceptance of the filing of this action.

19 **Form of Payment**

20 7. The payment of all cost recovery and civil penalties set forth in paragraphs 3 and 4
21 above, shall be made by separate checks payable as set forth in Exhibits A1 and A2, and delivered to
22 the District Attorney's Office for the County of Santa Cruz, Attention: Edward T. Browne, Deputy
23 District Attorney, for distribution pursuant to the terms of this Final Judgment. Said payments shall
24 be made within thirty (30) days following the Effective Date, as defined herein.

25 8. The payment of *cy pres* restitution set forth in paragraph 5 above, shall be made
26 payable directly to the recipients and in the amounts listed in Exhibit A3. Said payments shall be
27 within thirty (30) days following the Effective Date, as defined herein.

28 **ENFORCEMENT OF FINAL JUDGMENT AND PENALTIES**

1 all amounts required under the Final Judgment, the injunctive provisions in Paragraph 2 will
2 terminate automatically seven (7) years after the Effective Date.

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4 **NOTICES**

5 15. All submissions and notices required by this Final Judgment must be sent to:

6 **For the People:**

7 Edward T. Browne
8 Assistant District Attorney
9 Santa Cruz County District Attorney's Office
701 Ocean Street, Room 200
10 Santa Cruz, CA 95060

11 Andres H. Perez
12 Deputy District Attorney
Marin County District Attorney's Office
3501 Civic Center Drive, Room 145
13 San Rafael, CA 94903

14 David J. Irely
15 Assistant Chief Deputy District Attorney
Yolo County District Attorney's Office
16 Consumer Fraud and Environmental Protection Division
301 Second Street
17 Woodland, CA 95695

18 **For Defendants:**

19 Thomas Moffatt
20 President, Garfield Beach CVS, L.L.C.
One CVS Drive, MC1160
21 Woonsocket, RI 02895

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23 Thomas Moffatt
24 President, Longs Drug Stores of California, L.L.C.
One CVS Drive, MC1160
25 Woonsocket, RI 02895

26 Thomas Moffatt
27 Vice President and Secretary
CVS Pharmacy, Inc.
One CVS Drive, MC 1160
28 Woonsocket, RI 02895

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2 With a copy to their counsel (that is not binding as notice):
3 Rachel E. K. Lowe
4 Alston & Bird LLP
5 333 South Hope Street, 16th Floor
6 Los Angeles, CA 90071

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8 16. Any party may change its notice name and address by informing the other party in
9 writing, but no change is effective until it is received. All notices and other communications required
10 or permitted under this Final Judgment that are properly addressed as provided in this paragraph are
11 effective upon delivery if delivered personally or by overnight mail, or are effective five (5) days
12 following deposit in the United States mail, postage prepaid, if delivered by mail, or the day that
13 electronic mail is sent if sent before 5 p.m. to the electronic mail addresses of the designated
14 recipients for notice concurrent with sending the notice by overnight mail.

15 **EFFECT OF FINAL JUDGMENT**

16 17. Except as expressly provided in this Final Judgment, nothing in this Final Judgment is
17 intended nor may it be construed to preclude the People from exercising their authority under any
18 law, statute, or regulation. Except as expressly provided in this Final Judgment, Defendants retain all
19 of its defenses to the People's exercise of the aforementioned authority.

20 **FUTURE REGULATORY CHANGES**

21 18. Nothing in this Final Judgment excuses Defendants from meeting any more-stringent
22 requirement that may be imposed by applicable law or by any change in the applicable law. To the
23 extent any future statutory or regulatory change makes Defendants' obligations less stringent than
24 those provided for in this Final Judgment, Defendants' compliance with the changed law will be
25 deemed compliance with this Final Judgment.

26 **NO WAIVER OF RIGHT TO ENFORCE**

27 19. The People's failure to enforce any provision of this Final Judgment may neither be
28 deemed a waiver of such provision nor in any way affect the validity of this Final Judgment. The
People's failure to enforce any such provision does not preclude them from later enforcing the same
or any other provision of this Final Judgment. Except as expressly provided in this Final Judgment,

1 Defendants retain all defenses allowed by law to any such later enforcement. No oral advice,
2 guidance, suggestions, or comments by employees or officials of any party regarding matters covered
3 in this Final Judgment may be construed to relieve any party of its obligations under this Final
4 Judgment.

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6 **PAYMENT OF LITIGATION EXPENSES AND FEES**

7 20. Other than the costs specified in Paragraph 3 of this Final Judgment and a filing fee
8 payable to the Superior Court by each of the named Defendants, the Parties shall bear their own
9 attorney's fees, costs, and any other expenses related to this action.

10 **INTERPRETATION**

11 21. The Final Judgment was drafted equally by all Parties hereto. Accordingly, any and
12 all rules of construction including Civil Code section 1654, which provides that ambiguity is
13 construed against the drafting party, shall not apply to the interpretation of this Final Judgment.

14 **INTEGRATION**

15 22. This Final Judgment constitutes the entire agreement between the parties and may not
16 be amended or supplemented except as provided for herein. No oral advice, guidance, suggestions or
17 comments by employees or officials of any Party shall be construed to relieve any Party of its
18 obligations under this Final Judgment. No oral representations have been made or relied upon other
19 than as expressly set forth herein.

20 **INCORPORATION OF EXHIBITS**

21 23. Exhibits "A1," "A2," and "A3" are incorporated herein by reference.

22 **CONTINUING JURISDICTION**

23 24. The Court will retain continuing jurisdiction to enforce the terms of this Final
24 Judgment and to address any other matters arising out of or regarding this Final Judgment.

25 **MODIFICATION**

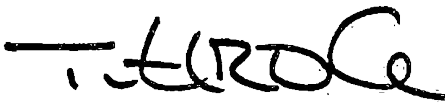
26 25. This Final Judgment may be modified only on noticed motion by one of the parties
27 with approval of the Court, or upon written consent by all of the parties and the approval of the
28 Court.

EFFECTIVE DATE

26. The Effective Date of this Final Judgment is the date of the signature of the Court entering this Final Judgment.

IT IS SO ORDERED.

Dated: 5/10/2023 8:48:21 AM

By: 

JUDGE OF THE SUPERIOR COURT
Timothy Volkmann

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EXHIBIT A 1 COSTS

Agency	Total Costs to Agency
Alameda Co. District Attorney's Office	\$ 1,500.00
Contra Costa Co. District Attorney's Office	\$ 19,000.00
Fresno Co. District Attorney's Office	\$ 19,000.00
Marin Co. District Attorney's Office	\$ 110,000.00
Placer Co. District Attorney's Office ¹ (see below)	\$ 10,000.00
Riverside Co. District Attorney's Office ² (see below)	\$ 12,000.00
Sacramento Co. District Attorney's Office ³ (see below)	\$ 8,000.00
San Bernardino Co. District Attorney's Office	\$ 16,000.00
San Joaquin Co. District Attorney's Office	\$ 110,000.00
Santa Cruz Co. District Attorney's Office	\$ 110,000.00
Shasta Co. District Attorney's Office	\$ 16,000.00
Solano Co. District Attorney's Office	\$ 12,000.00
Yolo Co. District Attorney's Office	\$ 156,500.00
Total - Prosecutor Costs	\$ 600,000.00
¹ PLACER: The money paid to the Placer County District Attorney as costs, pursuant to this stipulation, shall be for the sole and exclusive use of the District Attorney as reimbursement for costs expended in the enforcement of the consumer protection and environmental laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.	
² RIVERSIDE Costs: "Defendant" shall pay \$12,000.00 as costs to the Riverside County District Attorney's Office. Said sum will be paid in the form of a check made payable to the District Attorney, County of Riverside.	
³ SACRAMENTO: The money paid to the Sacramento District Attorney as costs, pursuant to this stipulation, shall be for the sole and exclusive use of the District Attorney as reimbursement for costs expended in the enforcement of the consumer protection and environmental laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.	

EXHIBIT A 2 CIVIL PENALTIES

Agency	Civil Penalties - Business and Professions § 17200 Penalties
Alameda Co. District Attorney's Office	\$ 25,000.00
Amador Co. District Attorney's Office	\$ 12,500.00
Butte Co. District Attorney's Office	\$ 12,500.00
Calaveras Co. District Attorney's Office	\$ 12,500.00
Contra Costa Co. District Attorney's Office	\$ 475,000.00
El Dorado Co. District Attorney's Office	\$ 12,500.00
Fresno Co. District Attorney's Office	\$ 475,000.00
Los Angeles Co. District Attorney's Office	\$ 12,500.00
Marin Co. District Attorney's Office	\$ 475,000.00
Merced Co. District Attorney's Office	\$ 12,500.00
Monterey Co. District Attorney's Office	\$ 12,500.00
Napa Co. District Attorney's Office	\$ 12,500.00
Nevada Co. District Attorney's Office	\$ 12,500.00
Placer Co. District Attorney's Office ¹ (see below)	\$ 475,000.00
Riverside Co. District Attorney's Office ² (see below)	\$ 475,000.00
Sacramento Co. District Attorney's Office ³ (see below)	\$ 475,000.00
San Bernardino Co. District Attorney's Office	\$ 475,000.00
San Joaquin Co. District Attorney's Office ⁴ (see below)	\$ 475,000.00
Santa Clara Co. District Attorney's Office	\$ 12,500.00
Santa Cruz Co. District Attorney's Office	\$ 475,000.00
Shasta Co. District Attorney's Office	\$ 475,000.00
Solano Co. District Attorney's Office ⁵ (see below)	\$ 475,000.00
Sonoma Co. District Attorney's Office	\$ 12,500.00
Stanislaus Co. District Attorney's Office	\$ 12,500.00
Sutter Co. District Attorney's Office	\$ 12,500.00
Tuolumne Co. District Attorney's Office	\$ 12,500.00
Yolo Co. District Attorney's Office	\$ 475,000.00
Totals - Prosecutor Civil Penalties	\$ 5,900,000.00

¹ PLACER: The money paid to the Placer County District Attorney as penalties pursuant to Business and Professions Code section 17206, shall be for the sole and exclusive use of the District Attorney to augment the enforcement of consumer and environmental protection laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

² RIVERSIDE Penalties: Business and Professions Code §17200: "Defendant" shall pay \$ 475,000.00 to the Riverside County District Attorney's Office as civil penalties for violations of Business and Professions Code section 17200. Pursuant to Business and Professions Code section 17206(b), said sum will be paid in the form of a check made payable to the District Attorney, County of Riverside; sums to be distributed as follows: 100 percent will be deposited into the consumer protection prosecution account in the General Fund of Riverside County.

³ SACRAMENTO: The money paid to the Sacramento District Attorney as penalties pursuant to Business and Professions Code section 17206, shall be for the sole and exclusive use of the District Attorney to augment the enforcement of consumer and environmental protection laws and in no manner shall supplant or cause any reduction of any portion of the District Attorney's budget.

EXHIBIT A-2 -- CIVIL PENALTIES

⁴ SAN JOAQUIN: Business and Professions Code § 17200 Penalties shall be paid to the "Treasurer of San Joaquin County".

⁵ SOLANO: Court further orders that these proceeds are designated as non-supplanting funds to be used by the Solano County District Attorney's Office only for the investigation and prosecution of environmental protection cases including, without limitation, those cases that can potentially be brought as unfair competition actions pursuant to B&P Code Section 17200 et seq.

Pursuant to Government Code section 26506, any civil penalties recovered in a civil action "brought jointly in the name of the People of the State of California by the Attorney General, one or more district attorneys, or by one or more city attorneys, or any combination thereof, shall be paid as approved by the court."

EXHIBIT A3

FEIN	Charitable Organization	County	Contact Information	Contribution Amount
94-1646278	Public Health Institute/Faces for the Future	Alameda -Statewide	555 12th Street, Suite 600 Oakland, CA 94607 https://www.phi.org/our-work/programs/faces-for-the-future-coalition/	\$500,000.00
95-4288926	Upward Bound House	Los Angeles County	1104 Washington Avenue Santa Monica. CA 90403 310.458.7779 https://www.upwardboundhouse.org	\$250,000.00
77-0320851	Central California Food Bank	Fresno	The Wonderful Food Center 4010 E Amendola Dr. Fresno, CA 93725 559-237-3663 https://ccfoodbank.org	\$125,000.00
68-0002165	The Emergency Food Bank	San Joaquin	7 West Scotts Avenue, Stockton, CA 95203 (209) 464-7369 http://www.stocktonfoodbank.org/Get-Involved/Donations	\$125,000.00
			Total:	\$1,000,000.00