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Superior Court
of the State of California

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See attached Appendix A)

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11 Attorneys for Plaintiff

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14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF SANTA CLARA

16 THE PEOPLE OF THE STATE OF CALIFORNIA,
17 Plaintiff,

CASE NO. 114CV268078

18 vs.

19 SYSCO CORPORATION, a Delaware Corporation;
SYSCO SAN FRANCISCO, INC.,
20 A California Corporation; SYSCO CENTRAL
CALIFORNIA, INC., a California Corporation;
21 SYSCO LOS ANGELES, INC., a Delaware
Corporation; SYSCO RIVERSIDE, INC., a Delaware
22 Corporation; SYSCO SACRAMENTO, INC., a
Delaware Corporation; SYSCO SAN DIEGO, INC., a
23 Delaware Corporation; and SYSCO VENTURA,
INC., a Delaware Corporation,
24 Defendants.

**FINAL JUDGMENT AND
INJUNCTION PURSUANT TO
STIPULATION**

25 The People of the State of California (the "People" or "Plaintiff"), having filed a Complaint
26 and a Stipulation for Entry of Final Judgment ("Stipulation"), and lodged this Final Judgment
27 Pursuant to Stipulation ("Final Judgment"), appear by and through the following District
28

1 Attorneys, who have brought this action in the name of the People pursuant to Business and
2 Professions Code Sections 17200, et seq., and 17500, et seq., and on behalf of the California
3 Department of Public Health (the "Department") pursuant to Health and Safety Code Sections
4 111900 and 111905: Jeffrey F. Rosen, District Attorney of Santa Clara County, by Francisca B.
5 Allen, Deputy District Attorney; Nancy E. O'Malley, District Attorney of Alameda County, by
6 Matthew L. Beltramo, Deputy District Attorney; Edward S. Berberian, District Attorney of Marin
7 County, by Andres H. Perez, Deputy District Attorney; Dean Flippo, District Attorney of
8 Monterey County, by John F. Hubanks, Deputy District Attorney; Gary Lieberstein, District
9 Attorney of Napa County, by Catherine C. Borsetto; Tony Rackauckas, District Attorney of
10 Orange County, by Tracy E. Hughes, Deputy District Attorney; Bob Lee, District Attorney of
11 Santa Cruz County, by Kelly J. Walker, Assistant District Attorney; Stephen S. Carlton, District
12 Attorney of Shasta County, by Anand B. Jesrani, Deputy District Attorney; Donald A. du Bain,
13 District Attorney of Solano County, by Diane M. Taira, Deputy District Attorney; and Jill R.
14 Ravitch, District Attorney of Sonoma County, by Matthew T. Cheever, Deputy District Attorney
15 (collectively the "District Attorneys").

16 Defendants Sysco Corporation, Inc., ("Sysco") and Sysco San Francisco, Inc., Sysco
17 Central California, Inc., Sysco Los Angeles, Inc., Sysco Riverside, Inc., Sysco Sacramento, Inc.,
18 Sysco San Diego, Inc., and Sysco Ventura, Inc., (collectively the "Sysco OpCo Defendants"),
19 appear through their attorneys Allen, Matkins, Leck, Gamble, Mallory & Natsis LLP, by James L.
20 Meeder, Esquire. (Collectively, Sysco and the Sysco OpCo Defendants are referred to herein as
21 the "Defendants").

22 Plaintiff and Defendants (the "Parties") have stipulated that this Final Judgment may be
23 entered without trial or adjudication of any issue of fact or law. The parties enter this Final
24 Judgment pursuant to a settlement of certain disputed claims between the parties as alleged in the
25 Complaint for the purpose of avoiding litigation. Nothing in this Final Judgment shall be
26 construed as an admission by Defendants of any fact, issue of law or violation of law.

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1 **THE SUBJECT MATTER OF THIS STIPULATED FINAL JUDGMENT**

2 1. Sysco OpCo Defendants are wholly-owned subsidiaries of Sysco in the business, as
3 broad line operating companies, of distributing food products for resale throughout the State of
4 California.

5 2. On or about July 8, 2013, the Department, through its Food and Drug Branch,
6 began a statewide investigation into the violations alleged in the Complaint, and subsequently
7 notified the District Attorneys of its investigation. The District Attorneys and the Department
8 have worked together throughout the ensuing investigation. Upon completion of its investigation,
9 the Department referred its investigation findings to the District Attorneys for civil prosecution in
10 lieu of administrative action by the Department. The Department has been informed of and agrees
11 with the terms of this Final Judgment.

12 3. Plaintiff's claims set forth in the Complaint arise out of food storage, transportation
13 and sales practices allegedly engaged in by the Sysco OpCo Defendants, throughout the State of
14 California, that include, but are not limited to: (a) holding perishable food and other food products
15 in unregistered public storage units, sheds, cargo containers, or other similar structures
16 ("Unregistered Sites"); (b) holding perishable and other food products in Unregistered Sites which
17 did not contain any or adequate refrigeration units under insanitary conditions; and/or (c) allowing
18 employees to transport perishable food and other food products in personal (non-commercial)
19 vehicles to customers without proper refrigeration and/or under insanitary conditions.

20 4. Plaintiff further alleges that the food storage, transportation and sales practices
21 identified in the Complaint, violated, among other laws, the Sherman Food, Drug and Cosmetic
22 Law, Health and Safety Code §§ 109875 *et seq.*, and was an unlawful and unfair business practice
23 within the meaning of the Unfair Practices Act, Business and Professions Code §§ 17000 *et seq.*

24 5. Plaintiff further alleges in the Complaint that, as a consequence of the alleged law
25 violations committed by the Sysco OpCo Defendants, Sysco made untrue and misleading
26 statements in violation of Business and Professions Code § 17500.

27 6. Following a thorough investigation of the facts by the District Attorneys and the
28 Department, on behalf of the People, with which Defendants cooperated, the Parties agreed that it

1 is in their respective interests and the interest of the general public to resolve the claims set forth in
2 the Complaint through the entry of this Final Judgment.

3 7. The Parties have further agreed, that nothing in this Final Judgment shall be
4 construed as an admission by Defendants of any fact or violation of the law alleged generally or
5 specifically in the Complaint.

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

7 **JURISDICTION AND VENUE**

8 8. The Court has jurisdiction over and authority to resolve the claims alleged in the
9 Complaint.

10 9. The Parties, and each of them, are properly before the Court.

11 **EFFECTIVE DATE OF FINAL JUDGMENT**

12 10. This Final Judgment shall take effect immediately upon its entry and without the
13 filing of a Notice of Entry of Final Judgment (the "Effective Date").

14 **INJUNCTION**

15 **General Provisions**

16 11. The Court enters the injunctive provisions in this Final Judgment pursuant to its
17 authority under Health and Safety Code § 111900 and Business and Professions Code § 17203 and
18 17535.

19 12. Failure to comply with the injunctive provisions in this Final Judgment applicable
20 to Sysco and the Sysco OpCo Defendants, respectively, may subject the non-complying Defendant
21 to sanctions, including, but not limited to, contempt and/or additional penalties.

22 **Transporting, Storing, Offering for Sale or Selling Food Products**

23 13. Upon entry of this Final Judgment, unless otherwise specified below, each Sysco
24 OpCo Defendant and Sysco, insofar as it may act through any Sysco OpCo Defendant, is hereby
25 enjoined and restrained from engaging in, directly or indirectly, any of the following acts or
26 practices:

27 A. Transporting or delivering in personal (non-commercial) vehicles: (i)
28 potentially hazardous refrigerated food at any temperature above 45 degrees Fahrenheit in

1 Judgment for five (5) years. Such records, which may be retained in paper documents and/or
2 electronically, shall be made available to the Food and Drug Branch of the Department and/or
3 counsel for the People for inspection within fourteen (14) days of any such request.

4 **RESTITUTION**

5 18. The Parties having stipulated, the Court hereby finds that it is impractical to
6 provide direct restitution to consumers who may have been affected by Defendants' alleged
7 unlawful business practices and that the costs of administering any such direct restitution program
8 would far exceed any benefit to individual consumers derived therefrom. For these reasons,
9 pursuant to Business and Professions Code §§ 17203 and 17535, the Parties have agreed and the
10 Court approves restitution payments under the doctrine of *cy pres* as set forth below.

11 19. Within 15 days of the Effective Date, Defendants shall pay restitution under the
12 doctrine of *cy pres* in the amount of THREE MILLION THREE HUNDRED THOUSAND
13 DOLLARS (\$3,300,000.00). This amount shall be paid to the Department for the express purpose
14 of funding a food transportation enforcement program, applicable throughout the State of
15 California, for a minimum of five years, or until said funds are exhausted, commencing on or
16 before July 1, 2015. This food safety transportation program shall involve no fewer than four (4)
17 investigators employed by the Department whose primary duties shall be to ensure that: (i) food
18 distribution and transportation within California is conducted in a safe manner; (ii) potentially
19 hazardous foods requiring refrigeration are maintained at temperatures below 45 degrees
20 Fahrenheit during distribution and delivery; and (iii) persons and businesses engaged in
21 transportation and distribution of such food products for resale comply with all applicable
22 statutory and regulatory requirements. This restitution payment shall be made payable to the
23 "State of California Department of Public Health Food and Drug Branch" and be delivered to
24 Francisca B. Allen, Deputy District Attorney, at the Santa Clara County District Attorney's Office,
25 70 West Hedding Street, San Jose, California 95110.

26 20. Within 120 days of the Effective Date, Defendants shall make restitution under the
27 doctrine of *cy pres* by distributing to food banks in the State of California fresh and wholesome
28

1 County District Attorney's Office, 70 West Hedding Street, San Jose, California 95110. The
2 Treasurer shall immediately distribute this payment to the Santa Clara County's District
3 Attorney's Office and, pursuant to Business and Professions Code Sections 17206, 17536 and
4 Government Code Section 26506, the moneys shall be distributed by the Santa Clara County
5 District Attorney's Office to the District Attorney's Offices appearing in this action pursuant to the
6 written agreement of those offices.

7 22. Pursuant to Business and Professions Code §§ 17203, 17206, 17535 and 17536,
8 and Health and Safety Code §111905, Defendants shall pay, within 15 days of the Effective Date,
9 the investigative costs incurred by the Department in the amount of ONE HUNDRED TWENTY
10 SEVEN THOUSAND FOUR HUNDRED NINETY DOLLARS (\$127,490), by check payable to
11 the "State of California Department of Public Health," and delivered to Francisca B. Allen, Deputy
12 District Attorney, at the Santa Clara County District Attorney's Office, 70 West Hedding Street,
13 San Jose, California, 95110.

14 23. Defendants shall, upon execution and the filing of the Stipulation for Entry of the
15 Final Judgment, shall pay the Court fees for Defendants' first paper filing in this action in the
16 amount of THREE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$3,480.00), by check
17 payable to the "Clerk of the Superior Court for Santa Clara County," and delivered to Francisca B.
18 Allen, Deputy District Attorney, at the Santa Clara County District Attorney's Office, 70 West
19 Hedding Street, San Jose, California, 95110.

20 **FAIR, JUST AND EQUITABLE SETTLEMENT AND FINALITY**

21 24. The Court, having reviewed the Complaint, the Stipulation, and this Final
22 Judgment, and understanding that the violations of law alleged in the Complaint against the
23 Defendants occurred throughout the State of California, finds that the penalties, injunctive
24 provisions, and costs, set forth in this Final Judgment are, fair, reasonable and appropriate final
25 resolution between the Parties of all violations, alleged, or which could have been alleged within
26 the scope of the factual allegations in the Complaint.

27 25. The Court further finds the *cy pres* restitution to be paid by Defendants under this
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1 Final Judgment, which is for the benefit of consumers and citizens throughout the State of
2 California, is fair, reasonable and appropriate.

3 26. The Court further finds that this Final Judgment is a fair, full, and final resolution
4 and disposition of all claims, or which could have been alleged within the scope of the factual
5 allegations in the Complaint, by the People, against the Defendants and their subsidiaries,
6 affiliates, corporate parents, successors and assigns, and their respective officers, directors and
7 employees.

8 27. The Parties waive the right to appeal this Stipulated Final Judgment.

9 **RETENTION OF JURISDICTION**

10 28. The Court retains jurisdiction for the purpose of enabling any Party to apply to the
11 Court at any time for such further orders and directions as may be necessary and appropriate for
12 (a) the construction or carrying out of this Final Judgment (b) the modification of any of its
13 injunctive provisions; and/or (c) the enforcement of, compliance with, and punishment of
14 violations of its requirements.

15 **TERMINATION OF THE INJUNCTIVE AND RECORD RETENTION PROVISIONS**

16 29. The injunctive provisions set forth in Paragraphs 13 and 15, above, shall terminate
17 on the fifth anniversary of the Effective Date, unless the People file a motion with this Court to
18 extend the termination date because Defendants have violated one or more of the terms of this
19 Final Judgment and the Court grants the motion and resets the termination date of the injunctive
20 and record retention obligations.

21 30. Termination of the injunctive provisions and record retention obligations does not
22 in any way relieve Defendants of their continuing obligation to comply with all applicable food
23 safety and unfair business practice laws of the State of California.

24 **DIRECTION TO THE CLERK OF THE COURT**

25 The Clerk is directed to immediately enter this Final Judgment.

26 DATED: 1 JUL 17 2014

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Mary Arand
JUDGE OF THE SUPERIOR COURT

APPENDIX A

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Exhibit A

Food Bank and Service Area	Food Contribution (in dollars)
Alameda County Community Food Bank (serving the County of Alameda)	\$28,158
Food Bank of El Dorado (serving the Counties of Alpine and El Dorado)	\$16,396
Interfaith Council of Amador (serving the County of Amador)	\$15,359
Community Action Agency of Butte County (serving the Counties of Butte, Colusa, Glenn, Plumas, Sierra and Tehama)	\$19,665
The Resource Connection Food Bank (serving the County of Calaveras)	\$15,439
Food Bank of Contra Costa & Solano (serving the Counties of Contra Costa and Solano)	\$27,320
Community Food Bank of Fresno (serving the County of Fresno)	\$29,593
Food for People (serving the County of Humboldt)	\$16,675
Imperial Valley Food Bank (serving the County of Imperial)	\$18,628
CAP of Kern County (serving the County of Kern)	\$27,759
Kings County Community Action (serving the County of Kings)	\$17,113
Westside Food Bank (serving the County of Los Angeles)	\$15,239
Los Angeles Regional Food Bank (serving the County of Los Angeles)	\$127,637
Ukiah Community Center (serving the Counties of Mendocino and Lake)	\$16,236
Mendocino Food & Nutrition Program (serving the County of Mendocino)	\$15,279
Food Bank for Monterey County (serving the County of Monterey)	\$20,343
Napa Valley Food Bank (serving the County of Napa)	\$16,037
Food Bank of Nevada County (serving the County of Nevada)	\$15,837
Community Action Partnership of Orange County (serving the County of Orange)	\$26,124
Second Harvest Food Bank (serving the County of Orange)	\$28,556
Placer Food Bank (serving the County of Placer)	\$17,512
FINN Food Bank (serving the County of Riverside)	\$38,285
Second Harvest Food Bank of Riverside and San Bernardino Counties (serving the Counties of Riverside and San Bernardino)	\$33,740
California Emergency Foodlink (serving the County of Sacramento)	\$30,749
Community Food Bank of San Benito (serving the County of San Benito)	\$15,638
Community Action Partnership of San Bernardino County Food Bank (serving the County of San Bernardino)	\$20,383
San Diego Food Bank (serving the County of San Diego)	\$29,035
Feeding America San Diego (serving the County of San Diego)	\$30,231
San Francisco - Marin Food Bank (serving the Counties of San Francisco and Marin)	\$23,692
Emergency Food Bank of Greater Stockton (serving the County of San Joaquin)	\$17,911
SHFB San Joaquin & Stanislaus (serving the Counties of San Joaquin and Stanislaus)	\$27,639
Food Bank Coalition of San Luis Obispo (serving the County of San Luis Obispo)	\$17,552
Foodbank of Santa Barbara (serving the County of Santa Barbara)	\$19,386
Second Harvest Food Bank of Santa Clara & San Mateo (serving the Counties of Santa Clara and San Mateo)	\$33,301
Second Harvest Food Bank of Santa Cruz (serving the County of Santa Cruz)	\$18,030
Shasta Senior Nutrition Programs (serving the County of Shasta)	\$17,153
Redwood Empire Food Bank (serving the County of Sonoma)	\$18,907
FoodLink for Tulare County (serving the County of Tulare)	\$22,296
Amador Tuolumne Community Action Agency (serving the County of Tuolumne)	\$15,598
Food Share of Ventura County (serving the County of Ventura)	\$22,217
Food Bank of Yolo County (serving the County of Yolo)	\$17,352
	\$1,000,000