FILED
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KIM TURNER, Court Executive Officer
MARIN COUNTY SUPERIOR COURT
By: C. Lucchesi, Deputy

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(For list of additional plaintiff's counsel,
see attached Exhibit 1)

Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, vs. SAFEWAY, INC., a Delaware Corporation, Defendant.	Case No. CIV 1400839 COMPLAINT FOR INJUNCTION, RESTITUTION, CIVIL PENALTIES, AND OTHER EQUITABLE RELIEF

Plaintiff, The People of the State of California, appearing through its attorneys, Edward S. Berberian, Jr., District Attorney for the County of Marin, by Andres H. Perez, Deputy District Attorney; Nancy E. O'Malley, District Attorney for the County of Alameda, by Matthew Beltramo, Deputy District Attorney; Elizabeth A. Egan, District Attorney for the County of Fresno, by Michael Brummel, Deputy District Attorney; Gary Lieberstein, District Attorney for the County of Napa, by Catherine Borsetto, Deputy District Attorney; Jan Scully, District Attorney for the County of Sacramento, by Ruth Young, Deputy District Attorney; Bob Lee, District Attorney for the County of Santa Cruz, by William Atkinson, Assistant District Attorney; Donald A. du Bain, District Attorney for the County of Solano, by Criselda Gonzalez, Deputy District Attorney; Jill Ravitch, District Attorney for the County of Sonoma, by Matthew T. Cheever, Deputy District Attorney; and Gregory D. Totten, District Attorney for the County of

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Ventura, by Mitchell F. Disney, Deputy District Attorney, (hereinafter "Plaintiff") allege on information and belief the following:

JURISDICTION AND VENUE

1. Defendant, Safeway, Inc., is and at all times mentioned herein, has been engaged in the retail business of selling food and drug products and has transacted business in the Counties of Alameda, Fresno, Marin, Napa, Sacramento, Santa Cruz, Solano, Sonoma, and Ventura and elsewhere throughout the State of California. The violations of law alleged herein have been carried out within the Counties of Alameda, Fresno, Marin, Napa, Sacramento, Santa Cruz, Solano, Sonoma and Ventura and elsewhere throughout the State of California.

2. Safeway, Inc. owns and operates approximately 500 grocery stores throughout the State of California under the names Safeway, Vons, or Pavilions.

3. Safeway, Inc. is and was at all times mentioned in this Complaint, a Delaware Corporation, with its corporate office at 5918 Stoneridge Mall Road, Pleasanton, California.

4. Whenever a reference is made in this Complaint to any representation, act or transaction of Safeway, Inc., such allegation shall be deemed to mean that Safeway Inc., and its principals, officers, directors, employees, agents, and/or representatives (hereinafter collectively "Defendant"), while actively engaged within the actual or ostensible scope of their employment, did or authorized such representation, acts or transactions on behalf of Safeway, Inc.

5. The authority of the Plaintiff to bring this action on behalf of the People of the State of California is derived from statutory law of the state of California, *inter alia* Business and Professions Code Section 17200, 17204, 17206, 17207, 17500, 17535, 17535.5 and 17536.

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NATURE OF BUSINESS INVOLVED

6. Beginning at an exact date unknown to Plaintiff, but commencing no later than March 4, 2010, Defendant was doing business and at all times herein mentioned has continued to do business at various locations within the State of California as a retail business selling food and drug products from its Safeway, Vons and Pavilions stores.

7. Defendant sells its own private-label merchandise, in addition to popular branded merchandise. Defendant's private-label merchandise includes, but is not limited to, the following brands: O Organics, Eating Right, Open Nature, Bright Green, Safeway SELECT, Signature Cafe, Rancher's Reserve, Primo Taglio, Waterfront BISTRO, Debi Lilly, Lucerne, Safeway, Refreshe, the Snack Artist, and Pantry Essentials (collectively "Defendant-branded products").

8. Defendant in the course of conducting its retail business failed to comply with various state laws, including but not limited to those regulating the advertising, packaging, and labeling of food, as more specifically alleged below.

FIRST CAUSE OF ACTION
(Misleading Statements in Violation of California Business and Professions Code §17500)

9. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 8, inclusive, of this complaint as though fully set forth herein.

10. Beginning at an exact date unknown to Plaintiff, but commencing no later than March 4, 2011, Defendant, with the intent to induce members of the public to purchase goods at its California stores, made or caused to be made statements about those goods that were untrue or misleading or had the capacity, likelihood, or tendency to deceive or confuse the public, and that were known or by the exercise of reasonable care should have been known to be untrue or misleading or having the capacity, likelihood, or tendency to deceive or confuse the public, in

violation of Business and Professions Code §17500, including but not limited to:

A. Advertising, posting, marking or quoting a price for a commodity and charging at the point of sale a greater price;

B. Advertising items as "free", e.g. "buy one, get one free", but then charging for the "free" item at the point of sale;

C. Advertising produce items on or in the immediate proximity of signs stating "Locally Grown" when the produce items were grown outside California or the United States. For example, a Marin County store advertised avocadoes on a sign stating "Locally Grown" when the avocadoes had stickers on them indicating they were products of Chile; and

D. Misrepresenting the weight of Defendant-branded products by way of inaccurate statements on display panels or labels.

11. The unlawful conduct, acts, and omissions of Defendant in violation of §17500 of the Business and Professions Code as set forth herein demonstrate the necessity and legal basis for granting injunctive relief, disgorgement and restitution to victims and imposing civil penalties pursuant to §§17535 and 17536 of the Business and Professions Code.

SECOND CAUSE OF ACTION
(Unfair Competition in Violation of California Business and Professions Code §17200)

12. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 11, inclusive, of this Complaint as though fully set forth herein.

13. Beginning at an exact date unknown to Plaintiff, but commencing no later than March 4, 2010, Defendant engaged in acts of unfair competition within the meaning of California Business and Professions Code §17200, including but not limited to the following:

A. Making untrue or misleading statements in connection with the sale or

offering for sale of goods to the public in California, which statements constituted false advertising within the meaning of Business and Professions Code §17500, and in violation of that provision, as alleged in the First Cause of Action, above;

B. Selling commodities including, but not limited to, deli products by gross weight, in violation of Business and Professions Code §12023;

C. Selling commodities including, but not limited to, Lucerne dairy products in less quantity than represented, in violation of Business and Professions Code §12024;

D. At the time of sale of a commodity, charging an amount greater than the price, or computing an amount greater than a true extension of the price per unit, that is then advertised, posted, marked, displayed or quoted for that commodity, in violation of Business and Professions Code §12024.2(a)(1); and

E. At the time of sale of a commodity, charging an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect, in violation of Business and Professions Code §12024.2(a)(2).

14. The unlawful conduct, acts, and omissions of Defendant in violation of §17200 of the Business and Professions Code as set forth herein demonstrate the necessity and legal basis for granting injunctive relief, disgorgement and restitution to victims and imposing civil penalties pursuant to §§17203 and 17206 of the Business and Professions Code.

THIRD CAUSE OF ACTION
(Violation of 2008 Injunction In Violation of California Business and Professions Code §§17207 and 17535.5)

15. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 14, inclusive, of this complaint as though fully set forth herein.

16. On June 10, 2008, the Napa County Superior Court issued, pursuant to Business

and Professions Code §§17203 and 17535, a permanent injunction against Defendant in case number 26-42803 (hereinafter "2008 Injunction" and attached as Exhibit 2). The 2008 Injunction is and has at all times relevant hereto been valid and enforceable. The 2008 Injunction permanently enjoined and restrained Defendant from directly or indirectly engaging in any of the following acts or practices in all California stores:

A. "Making or causing to be made any false or misleading statement to the public with respect to the price of items offered for sale, as prohibited by Business and Professions Code §17500." (2008 Injunction, paragraph 6.A.);

B. "Representing a price on an item, store shelf or sign near the item and charging a greater price at the time the product is purchased." (2008 Injunction, paragraph 6.B.);

C. "Charging a greater amount than the lowest advertised, posted, marked or quoted price for that commodity, as prohibited by Business and Professions Code § 12024.2." (2008 Injunction, paragraph 6.C.);

D. "Computing at the time of sale an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity, in violation of Business and Professions Code §12024.2." (2008 Injunction, paragraph 6.D.);

E. "Selling any commodity, according to gross weight or measure, as prohibited by Business and Professions Code §12023." (2008 Injunction, paragraph 6.E.); and

F. "Selling any commodity in less quantity than represented, as prohibited by Business and Professions Code §12024." (2008 Injunction, paragraph 6.F.).

17. The 2008 Injunction also requires Defendant to "initiate and maintain a program to minimize pricing discrepancies" including, but not limited to, the following:

A. "By no later than 90 days after entry of this Final Judgment, Safeway shall post at a conspicuous location in all checkout lanes in all California stores, a clear and legible sign, no smaller than 7"x4", which states, in substance, that if an item scans at the register at a higher price than the lowest advertised price, Safeway shall give the customer the item free, subject to a limit of one (other items at the lower price) and excluding dairy products, alcoholic beverages, tobacco products, pharmacy products and fuel, provided, however, that if the lowest advertised price of the item exceeds $5.00, then Safeway shall sell the item to the customer at the lowest advertised price and give the customer a $5.00 gift card" (hereinafter 'Price Guarantee'). (2008 Injunction, paragraph 7.E.)

18. Beginning at an exact date unknown to Plaintiff, but commencing no later than March 4, 2010, Defendant violated the 2008 Injunction by intentionally committing acts and/or practices in violation thereof including, but not limited to, the following:

A. Defendant failed to post a Price Guarantee sign at all checkout lanes in all California stores. For example, during periods covered by this Complaint, in a Sacramento County Safeway store five (5) checkout lanes had never had Price Guarantee signs posted in them since the 2008 Injunction despite Weights and Measures officials putting the store on notice of this violation numerous times;

B. Defendant failed to post a Price Guarantee sign at a conspicuous location in all checkout lanes in all California stores. For example, in a Santa Cruz County Safeway store Price Guarantee signs were positioned near the register at knee-level or were repeatedly blocked by stacks of hand baskets;

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C. Defendant failed to post clear and legible Price Guarantee signs in all checkout lanes in all California stores. For example, in a Los Angeles County Vons store some posted Price Guarantee signs were torn in half making them illegible; and

D. Defendant failed to honor the Price Guarantee when items were charged a higher price at the register than the lowest advertised price. For example, in 2011 a Santa Cruz County consumer was overcharged for an item and was advised by two customer service agents they had no knowledge of Safeway having a Price Guarantee program. In 2013, an Alameda County Safeway customer was told by a Safeway manager that she should not expect Safeway to honor the Price Guarantee because the customer was already "getting a good deal".

PRAYER

WHEREFORE, PLAINTIFF PRAYS for judgment as follows:

1. That pursuant to Business and Professions Code §§17203 and 17535, Defendant and its officers, directors, employees, agents, representatives, successors and assigns, and all persons, corporations or other entities acting in concert or participation with or for them, be preliminarily, and thereafter permanently, restrained and enjoined from engaging in any acts constituting unfair competition and false advertising as defined in §17200 and §17500, respectively, of the Business and Professions Code, including but not limited to the acts set forth in paragraphs 11 and 13, above.

2. That pursuant to Business and Professions Code §17536, Defendant be assessed a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500.00) for each and every violation of Business and Professions Code §17500 as alleged in the First Cause of Action.

3. That pursuant to California Business and Professions Code §17206, Defendant be assessed a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS ($2,500.00) for each and every violation of Business and Professions Code §17200 as alleged in the Second Cause of Action.

4. That pursuant to California Business and Professions Code §§17207 and 17535.5, Defendant be assessed a civil penalty in the amount of SIX THOUSAND DOLLARS ($6,000.00) for each and every violation of an injunction issued pursuant to Business and Professions Code §§17203 and 17536, respectively, as alleged in the Third Cause of Action.

5. That pursuant to California Business and Professions Code §12015.5, Defendant pay the incurred costs of the investigation in this action.

6. That Plaintiff recover reasonable restitution on behalf of consumers who suffered loss by Defendant's acts of deceptive advertising and/or unfair competition.

7. That Plaintiff recover its cost of suit.

8. That Plaintiff be given such other further relief as the nature of this case may require and this Court deems proper to fully and successfully dissipate the effects of the unlawful and unfair acts complained of in this complaint.

Date: March 4, 2014

EDWARD S. BERBERIAN
DISTRICT ATTORNEY

By: Andres H. Perez
Andres H. Perez
Deputy District Attorney

EXHIBIT 1

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ENDORSED

JUN 10 2008

Clerk of the Napa Superior Court
By: F. HUSS
Deputy

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Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA

COUNTY OF NAPA

PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. SAFEWAY INC., a Delaware Corporation, Defendant.	Case No. 26-42803 FINAL JUDGMENT and PERMANENT INJUNCTION

Plaintiff, the People of the State of California ("the People"), appearing through its attorneys, Gary Lieberstein, District Attorney for the County of Napa, by Daryl Roberts, Deputy District Attorney; Elizabeth Egan, District Attorney for the County of Fresno, by Roger Wilson, Deputy District Attorney; Edward S. Berberian, Jr., District Attorney for the County of Marin, by Robert E. Nichols, Deputy District Attorney; Jan Scully, District Attorney of the County of Sacramento, by Ruth Young, Deputy District Attorney; Bob Lee, District Attorney for the County of Santa Cruz, by William Atkinson, Deputy District Attorney; David W. Paulson, District Attorney for the County of Solano, by Dani Jo Handell, Deputy District Attorney; and Defendant Safeway Inc., a

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Napa Superior Court

Delaware Corporation, appearing through its attorneys, Latham & Watkins, LLP, by Stephen Stublarec, Esquire.

Plaintiff and Defendant, having stipulated to the entry of this Final Judgment and Permanent Injunction Pursuant to Stipulation ("Final Judgment") prior to the taking of any proof, and without trial or adjudication of any issue of fact or law;

NOW, THEREFORE, THE COURT ORDERS THAT:

JURISDICTION

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

APPLICABILITY

2. To the extent permitted by law, this Final Judgment is applicable to Safeway Inc., a Delaware corporation, its officers, directors, representatives, successors, assignees, and all persons, partnerships, corporations, and other entities acting under, by, through, on behalf of, or in concert with Safeway Inc., with actual or constructive notice knowledge of this Judgment. This Final Judgment is also applicable to any and all subsidiaries of Safeway Inc., including but not limited to The Vons Companies, Inc., and their respective officers, directors, representatives, successors, assignees and all persons, partnerships, corporations, and other entities acting under, by through, on behalf of, or in concert with any such subsidiary with actual or constructive knowledge of this Final Judgment. All of these defendants, persons and entities shall hereinafter be referred to as "Safeway".

INJUNCTION

STORE CONSTRUCTION, REMODELING, REPAIR and ALTERATION

3. Pursuant to Business and Professions Code §17203, Safeway

is permanently enjoined and restrained, with respect to any and all California Safeway and Vons stores ("all California stores"), from doing, directly or indirectly, any of the following:

A. Building, remodeling or altering any aspect of an individual store's structure or infrastructure, internal and/or external (hereinafter, "store construction project"), without first submitting all appropriate plans and obtaining all required approvals and/or permits in compliance with all city, county, state, and federal laws.

B. Failing to abide by each and every provision of Health & Safety Code §113984, relating to the protection of food from contamination.

C. Failing to abide by each and every provision of Health & Safety Code §§113953 and 113953.2, relating to the obligation to provide and maintain adequate hand washing facilities and supplies.

D. Failing to abide by each and every provision of Health & Safety Code §113996, relating to maintaining temperatures of potentially hazardous foods.

E. Failing to abide by each and every provision of Health & Safety Code §§114097, 114113 and 114115, relating to cleaning food and equipment contact surfaces.

F. Failing to abide by each and every provision of Health & Safety Code §114257, relating to the obligation to maintain facilities clean and in good repair.

G. Failing to abide by each and every provision of Health & Safety Code §114266, relating to maintaining all floors, walls and overhead structures of a food facility in compliance

with all applicable standards.

H. Failing to abide by each and every provision of Health & Safety Code §114268, relating to properly maintaining floors.

I. Failing to abide by each and every provision of Health & Safety Code §114271, relating to properly maintaining walls and ceilings.

J. Failing to abide by each and every provision of Health & Safety Code §114380, relating to obtaining and submitting approved plans before remodeling a food facility.

K. Failing to abide by each and every provision of Health & Safety Code §114381, prohibiting a food facility without a valid permit from being open for business.

L. Failing to abide by each and every provision of Health & Safety Code §114130, prohibiting the use of food-related or utensil-related equipment that is not certified by the American National Standards Institute.

4. Pursuant to Business and Professions Code §17203, Safeway is ordered and mandated forthwith to maintain, electronically or at the then current location of either the Corporate Construction Department or Division Office, documentation for each store construction project establishing that all required permits, authorizations and approvals were obtained. Upon reasonable notice, Safeway shall deliver or make available such documentation for inspection or copying by the appropriate governmental officials. The Corporate Construction Department is currently located at 4410 Rosewood Drive, Pleasanton, CA 94588. The Division office for stores in the Northern California Division is currently located at

6000 Stoneridge Mall Road, Pleasanton, CA 94588, and the Division office for stores in the Vons Division is currently located at 618 Michillinda Avenue, Arcadia, CA 91007. In the event any of these addresses change, Safeway shall promptly notify representatives of the People of the new address.

5. Pursuant to Business and Professions Code §17203, Safeway shall:

A. Prior to any store construction project taking place, appoint a Site Construction Director ("SCD") and an Alternate Site Construction Director ("Alternate SCD") for every location where a store construction project is proposed to take place. The SCD and Alternate SCD may be the store manager and/or other designated individuals.

B. Safeway shall develop a SCD manual describing the various approvals, authorizations and permits necessary to comply with all applicable laws required for a store construction project. The manual shall also inform the SCD and Alternate SCD that he/she will be responsible for assuring compliance with all plans and permit conditions, authorizations and approvals. This manual shall be updated on an annual basis.

C. Safeway shall develop a "checklist" of all permits, approvals and authorizations necessary to comply with all applicable laws required for a store construction project, which shall be placed in the SCD manual. This checklist shall be updated on an annual basis.

D. Prior to commencement by Safeway or any affiliate of any store construction project, the SCD or Alternate SCD shall review the checklist and assure that all required permits,

authorizations, and approvals have been obtained. The SCD or alternate SCD shall note on the checklist next to each item on the list, either: "Permit, Authorization or Approval Obtained" or "Not Applicable." When all items on the checklist have been addressed, the SCD or alternate SCD shall sign and date the checklist, and shall preserve the checklist as part of the documentation required by Paragraph 4, above.

E. The SCD or the Alternate SCD shall review all permits, authorizations and approvals and create a document entitled, "Construction Permit Conditions," which document shall list all conditions and requirements imposed for any store construction project, and shall include but not be limited to:

(1) A description of the construction to be performed;

(2) Times when construction may be performed;

(3) Locations where construction will be performed;

(4) Protective measures required such as temporary walls, closure of areas, closure of departments, protection of food or products from contamination or adulteration; and,

(5) Rodent and vermin control.

F. No store construction project shall commence or continue unless a signed and dated checklist has been completed and a Construction Permit Conditions document has been created.

G. The SCD or Alternative SCD shall monitor all construction activity at the store construction project and assure that the construction activity is at all times in compliance with

all conditions set forth on the Construction Permit Conditions document.

H. In the event the SCD or Alternate SCD learns that construction at a store construction project is proceeding in violation of any construction permit condition, the SCD or Alternate SCD shall stop all construction activity that is in violation of any construction permit condition, and promptly take steps to remedy the violation.

PRICING AND WEIGHING ACCURACY

6. Pursuant to Business and Professions Code §§17203 and 17535, Safeway is permanently enjoined and restrained from directly and indirectly engaging in any of the following acts or practices in all California stores:

A. Making or causing to be made any false or misleading statement to the public with respect to the price of items offered for sale, as prohibited by Business and Professions Code §17500.

B. Representing a price on an item, store shelf or sign near the item and charging a greater price at the time the product is purchased;

C. Charging a greater amount than the lowest advertised, posted, marked or quoted price for that commodity, as prohibited by Business and Professions Code §12024.2;

D. Computing at the time of sale an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity, in violation of Business and Professions Code §12024.2;

E. Selling any commodity, according to gross weight or measure, as prohibited by Business and Professions Code §12023;

F. Selling any commodity in less quantity than represented, as prohibited by Business and Professions Code §12024; and,

G. Violating any of the provisions of Business & Professions Code §12024.5.

7. Pursuant to Business and Professions Code §§17203 and 17535, Safeway shall initiate and maintain a program to minimize pricing discrepancies, which shall include at least all of the following:

A. Safeway shall employ a Price Accuracy Coordinator ("PAC") at each store, who shall conduct the pricing accuracy inspections and audits required by subparagraph 7(B) of this Final Judgment. Safeway shall employ at least one employee in each store who is specially trained to perform the PAC's job. Each store shall have a minimum of 40 hours per week allocated to the duties of the PAC.

B. Starting no later than 60 days after the entry of this Final Judgment, and continuing thereafter, the PAC shall conduct price accuracy inspections/audits of the store to monitor the accuracy of pricing and the removal of all expired sale and price tags. The PAC shall conduct price accuracy inspections/ audits of no less than 500 items per week. Safeway shall maintain records of such inspections/audits at its corporate headquarters for a period of two years from the date of creation, and shall make said records available for inspection and copying to any Peace Officer, District Attorney, City Attorney, any authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director

of a County Agricultural Commissioner at a reasonable time and place upon reasonable notice.

C. If there is a discrepancy between an advertised price (an advertisement, display sign, shelf price tag, label or any other expression of price) on the one hand and the scan price on the other hand, which discrepancy can be corrected at the store, Safeway shall be responsible for instituting corrective action no later than four (4) hours after discovery of such discrepancy. If there is a discrepancy requiring action by Safeway corporate headquarters, Safeway shall institute corrective action within eighteen (18) hours after a determination that the discrepancy has resulted from a system problem. Safeway corporate headquarters shall create a log of errors and corrective actions, which shall be maintained for a period of two years after their creation. Safeway shall make these records available for inspection and copying to any Peace Officer, District Attorney, City Attorney, any authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director of a County Agricultural Commissioner at a reasonable time and place upon reasonable notice.

D. Safeway shall cause to be conducted at least one price accuracy inspection in all California stores in every six month calendar period following the entry of this Final Judgment. Such inspections shall include 200 scan checks per store, and shall be conducted in an average of 75 stores every month. In the event inspections reveal a discrepancy, corrective action shall be taken as described in Paragraph 7.C of this Final Judgment. Safeway shall maintain records of the performance of such inspections at

its corporate headquarters for a period of two years from the date of their creation. Safeway shall make the records available for inspection and copying to any Peace Officer, District Attorney, City Attorney, any authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director of a County Agricultural Commissioner at a reasonable time and place upon reasonable notice.

E. By no later than 90 days after entry of this Final Judgment, Safeway shall post at a conspicuous location in all checkout lanes in all California stores, a clear and legible sign, no smaller than 7" x 4", which states, in substance, that if an item scans at the register at a higher price than the lowest advertised price, Safeway shall give the customer the item free, subject to a limit of one (other items at the lower price) and excluding dairy products, alcoholic beverages, tobacco products, pharmacy products and fuel, provided, however, that if the lowest advertised price of the item exceeds $5.00, then Safeway shall sell the item to the customer at the lowest advertised price and give the customer a $5.00 gift card. As used in this Paragraph 7.E "lowest advertised price" means the current, non-retracted advertised price for the item for the store at which the item is scanned.

8. Safeway shall institute the following procedures and practices with respect to weighing accuracy in all California stores:

A. Once per day, personnel in each store shall randomly select five items in each of the meat, deli and bakery departments whose weights and tares shall be verified and noted in a tare log.

Each store shall maintain its tare log for a calendar year from the date of creation. Tare logs shall be inspected quarterly by a field merchandiser and audited semi-annually by Safeway. Safeway shall make these tare logs available to any Peace Officer, District Attorney, City Attorney, any authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director of a County Agricultural Commissioner at a reasonable time and place upon reasonable notice.

B. Safeway shall cause to be conducted inspections of package net weights in all California stores in every six month calendar period following the entry of this injunction. The inspections shall include 50 net weight checks, and shall be conducted in an average of 75 stores every month. In the event inspections reveal a discrepancy, corrective action shall be taken as described in Paragraph 7.C of this Final Judgment. Safeway shall maintain records of the performance of such inspections at its corporate headquarters for a period of two years from the date of their creation. Safeway shall make the records available for inspection and copying to any Peace Officer, District Attorney, City Attorney, any authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director of a County Agricultural Commissioner at a reasonable time and place upon reasonable notice.

9. Notwithstanding any provision of this Final Judgment to the contrary, any records that Safeway is required by Paragraph 7 or 8 to create, maintain and make available for inspection and copying by any Peace Officer, District Attorney, City Attorney, any

authorized representative of the State of California Division of Measurement Standards, or any representative of the County Sealer or Director of a County Agricultural Commissioner, shall not be offered or received in evidence to show any alleged violation of any law or regulation; provided, however, that such records may be offered only as evidence of Safeway's performance or non-performance of the inspections or audits required by Paragraphs 7 and 8 of this Final Judgment. The disclosure of such records by Safeway shall not constitute, or be asserted or considered to be, a waiver of any privilege, including the attorney-client privilege and the attorney work product rule that might otherwise apply.

10. Nothing in this Final Judgment shall in any way prevent Safeway from developing, testing or implementing new or different systems or measures regarding the subjects covered by this Final Judgment. At Safeway's request, upon implementation or proposed implementation of any such new or different system or measure, the parties agree to meet and confer regarding the viability or continued application of any particular affected provision of this Final Judgment.

11. If there have been no material violations of the injunctive provision of this Final Judgment within five years from the date of its entry, Safeway may make, and the People shall not oppose, a motion to modify this Final Judgment by vacating Paragraphs 5,7, and 8. Nothing in this Paragraph shall in any way limit Safeway's right to seek modification or dissolution of the injunction pursuant to Code of Civil Procedure §533. Except as otherwise stated in the first sentence of this Paragraph nothing shall in any way limit the People's right to oppose such an

application.

MONETARY RELIEF

12. Safeway shall pay the People as and for investigative costs the sum of $389,551.57 by one certified check made payment to the "Marin County District Attorney." Said costs shall be distributed to the agencies listed below in the following amounts:

Agency	Amount
California Division of Measurement Standards	$ 22,310.98
Amador County Department of W&M	$ 132.06
Contra Costa County Department of W&M	$ 5,180.00
Del Norte County Department of W&M	$ 167.06
El Dorado County Department of W&M	$ 856.07
Fresno County Department of W&M	$ 867.91
Imperial County Department of W&M	$ 2,557.31
Lake County Department of W&M	$ 522.80
Los Angeles County District Attorney	$ 100,000.00
Los Angeles County Department of W&M	$ 23,240.50
Marin County Department of W&M	$ 9,438.95
Marin County Environmental Health Dept.	$ 13,668.00
Monterey County Department of W&M	$ 580.34
Napa County Department of W&M	$ 5,742.00
Napa County Environmental Health Dept.	$ 9,000.00
Orange County Department of W&M	$ 1,764.00
Placer County Department of W&M	$ 350.00
Riverside County Department of W&M	$ 3,437.50
Sacramento Building Department	$ 1,600.00
Sacramento County Department of W&M	$ 4,635.00
Sacramento Environmental Management Dept.	$ 6,258.00
San Benito County Department of W&M	$ 1,232.48
San Bernardino County Department of W&M	$ 3,835.89
San Diego County Department of W&M	$ 6,002.14
San Francisco County Department of W&M	$ 560.00
Santa Barbara County Department of W&M	$ 3,750.00
Santa Clara County Department of W&M	$ 24,910.75
Santa Cruz County Department of W&M	$ 6,240.00
Shasta County Department of W&M	$ 2,788.17
Solano County Department of W&M	$ 5,398.60
Solano County District Attorney	$ 100,000.00
Solano County Environmental Health Dept	$ 3,200.00
Sonoma County Department of W&M	$ 2,210.00
Stanislaus County Department of W&M	$ 683.75
Tulare County Department of W&M	$ 359.31
Tulare County District Attorney	$ 10,000.00
Ventura County Department of W&M	$ 6,072.00
Total Costs	**$ 389,551.57**

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RESTITUTION

13. Recognizing the infeasibility of identifying injured consumers who suffered actual loss, the impracticality of providing direct restitution to said consumers, and the disproportionate costs of making restitution to individual consumers, which would far exceed the benefit consumers would gain, the parties agree that Safeway shall pay, pursuant to Business and Professions Code §§17203 and 17535, *cy pres* restitution in the sum of $200,000.00. Said *cy pres* restitution shall be divided equally between the California Agriculture Commissioner and Sealer's Association Quality Control Trust Fund established pursuant to the Judgment in the case of *People of the State of California v. Safeway Inc., et al*, Sonoma County Superior Court case number 233008, filed July 7, 2003 and the Napa County Environmental Health Department Enforcement Trust fund to assist in the effective local investigation and prosecution of Health and Safety cases. The Court further orders that the monies paid to Napa County Environmental Health Department Enforcement Fund shall only be used for the purchase and ongoing operation of a new database tracking system for the Napa County Department of Environmental Management, which shall include an enforcement module and tracking systems for other Department regulatory compliance programs. The payment required under this paragraph shall be made by one certified check payable to the "Marin District Attorney's Trust Account" for distribution to the representative Trust Funds.

Civil Penalties

14. Safeway is hereby ordered, pursuant to Business & Professions Code §§17206 and 17536, to pay at the time of the filing of this

judgment, a civil penalty of Two Million, Two Hundred Thousand Dollars $2,200,000.00 by one certified check made payable to the "Marin County District Attorney" Pursuant to Government Code Section 26506 said civil penalty shall be divided and paid to the prosecuting agencies bringing this action as follows:

Agency	Amount
Fresno County District Attorney	$400,000.00
Marin County District Attorney	$400,000.00
Napa County District Attorney	$300,000.00
Sacramento County District Attorney	$400,000.00
Santa Cruz County District Attorney	$400.000.00
Solano County District Attorney	$300,000.00

Payment Method

15. All checks required under the terms of this Final Judgment shall be delivered to Robert E. Nichols, Marin County District Attorney's Office, 3501 Civic Center Drive, Room 130, San Rafael, California 94903, within five business days of the entry of this Final Judgment.

RETENTION OF JURISDICTION

16. Jurisdiction is retained for the purpose of enabling any party to this Final 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 Final Judgment, for the modification or termination of any of its injunctive provisions, and for the enforcement of, compliance with, and punishment of violations of this Final Judgment.

17. Where notice to Plaintiff is required under any provision of this Final Judgment, Defendant will have satisfied its

obligation hereunder by mailing notice to Robert Nichols, Deputy District Attorney, County of Marin.

18. The clerk is ordered to immediately enter this Judgment.

Dated: JUN - 9 2008

FRANCISCA P. TISHER

Judge of the Superior Court