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EXEMPT PURSUANT TO
GOV. CODE § 6103

ENDORSED FILED
SAN MATEO COUNTY

APR 04 2022

Clerk of the Superior Court
By Maria Coronel
DEPUTY CLERK

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO
11

12
13 THE PEOPLE OF THE STATE OF
14 CALIFORNIA,

Plaintiff

15
16 v.

17 SMART & FINAL STORES, LLC

18 Defendant
19
20

Case No. 22CIV01378

~~STIPULATION FOR ENTRY OF FINAL
JUDGMENT AND PERMANENT
INJUNCTION~~

EXHIBIT A: [PROPOSED] FINAL
JUDGMENT AND PERMANENT
INJUNCTION

21 The People of the State of California, appearing through their attorney, Rob Bonta,
22 Attorney General of the State of California ("Attorney General"), by Senior Assistant Attorney
23 General Nicklas Akers and Deputy Attorney General Adelina Acuña, and Smart & Final Stores,
24 LLC ("Defendant", or "Smart & Final"), appearing through their attorneys Sheppard Mullin
25 Richter & Hampton, LLP, by Leo Caseria, stipulate as follows:

26 1. The Final Judgment and Permanent Injunction ("Judgment"), a copy of which is
27 attached hereto as Exhibit A, may be entered in this matter. The Parties hereby stipulate and agree
28 that the Judgment includes an injunction under Business & Professions Code section 17203.

1 2. Concurrently with the filing of this stipulation, the People have filed their complaint in
2 this matter alleging that Defendants committed violations of Business & Professions Code section
3 17200 et seq., Penal Code section 396, and Executive Order N-44-20.

4 3. The Court has jurisdiction over the subject matter of this action, jurisdiction over the
5 People and Defendant (collectively, "Parties") to this action, and venue is proper in this Court.

6 4. The Parties waive their right to move to set aside the Judgment through any collateral
7 attack, and further waive their right to appeal from the judgment. Nothing herein shall waive any
8 right to appeal from any decision in connection with a future effort to enforce the Judgment.

9 5. The Parties agree that the Judgment does not constitute an approval by the Attorney
10 General of any of Defendants' business practices, and Defendant shall make no claim to the
11 contrary.

12 6. Defendant willingly enters into this Judgment in order to resolve Plaintiff's claims
13 under California Business & Professions Code section 17200, Penal Code section 396, and
14 Executive Order N-44-20 as to the matters addressed in the Judgment and thereby avoid
15 significant expense, inconvenience, and uncertainty.

16 7. Defendant enters into this Judgment solely for the purposes of settlement, and nothing
17 contained therein may be taken as or construed to be an admission or concession of any violation
18 of law, rule, regulation, order, or Executive Order, or of any other matter of fact or law, or of any
19 liability or wrongdoing, all of which Defendant expressly denies. No part of the Judgment,
20 including its statements and commitments, shall constitute evidence of any liability, fault, or
21 wrongdoing by Defendant. This Stipulation and its contents are intended to be used in resolving
22 this litigation and not by any other party or for any other purpose.

23 8. Defendant will accept service of any Notice of Entry of Judgment entered in this
24 action by delivery of such notice to its counsel of record and agrees that service of the Notice of
25 Entry of Judgment will be deemed personal service upon Defendant for all purposes.

26 9. Undersigned counsel for the People represents and warrants that he or she is fully
27 authorized to execute this Judgment of behalf of the People.
28

1 10. Undersigned counsel for Defendant represents and warrants that he or she is fully
2 authorized to execute this Judgment on behalf of Smart & Final.

3 11. This Stipulation may be executed in counterparts, and the Parties agree that a facsimile
4 or scanned signature shall have the same force and effect as an original signature.

5 SO STIPULATED.

6 EXHIBIT A APPROVED AS TO FORM AND SUBMITTED FOR ENTRY OF JUDGMENT.

7 **COUNSEL FOR PLAINTIFF, THE PEOPLE**
8 **OF THE STATE OF CALIFORNIA**

9 Dated: March 30, 2022

ROB BONTA
Attorney General of California
NICKLAS AKERS
Senior Assistant Attorney General

11 

12
13 ADELINA ACUÑA
14 Deputy Attorney General
Attorneys for the People of the State of
15 *California*

16 **COUNSEL FOR DEFENDANT, SMART &**
17 **FINAL STORES, LLC**

18 Dated:

SHEPPARD MULLIN RICHTER HAMPTON LLP

19
20
21 **SVP, GENERAL COUNSEL FOR**
22 **DEFENDANT, SMART & FINAL STORES,**
23 **LLC**

24 Dated:

25 LEO CASERIA
26 *Attorneys for Smart & Final Stores, LLC*

27 LELAND SMITH
28 SVP, General Counsel
Smart & Final Stores, LLC

1 10. Undersigned counsel for Defendant represents and warrants that he or she is fully
2 authorized to execute this Judgment on behalf of Smart & Final.

3 11. This Stipulation may be executed in counterparts, and the Parties agree that a facsimile
4 or scanned signature shall have the same force and effect as an original signature.

5 SO STIPULATED.

6 EXHIBIT A APPROVED AS TO FORM AND SUBMITTED FOR ENTRY OF JUDGMENT.

7 COUNSEL FOR PLAINTIFF, THE PEOPLE
8 OF THE STATE OF CALIFORNIA

9 Dated:

ROB BONTA
Attorney General of California
NICKLAS AKERS
Senior Assistant Attorney General

ADELINA ACUÑA
Deputy Attorney General
*Attorneys for the People of the State of
California*

15 COUNSEL FOR DEFENDANT, SMART &
16 FINAL STORES, LLC

17 Dated:


SHEPPARD MULLIN RICHTER HAMPTON LLP

18 2/22/22


LEO CASERIA
Attorneys for Smart & Final Stores, LLC

21 SVP, GENERAL COUNSEL FOR
22 DEFENDANT, SMART & FINAL STORES,
LLC

23 Dated: 2/14/22


LELAND SMITH
SVP, General Counsel
Smart & Final Stores, LLC

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EXHIBIT A

[PROPOSED] FINAL JUDGMENT AND PERMANENT INJUNCTION

1 ROB BONTA
Attorney General of California
2 NICKLAS AKERS (SBN 211222)
Senior Assistant Attorney General
3 ADELINA ACUÑA (SBN 284576)
Deputy Attorney General
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Attorneys for the People of the State of California

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN MATEO
11

12
13 THE PEOPLE OF THE STATE OF
14 CALIFORNIA,

Plaintiff

Case No. 207

~~[PROPOSED]~~ FINAL JUDGMENT AND
PERMANENT INJUNCTION

15
16 v.

17 SMART & FINAL STORES LLC

18 Defendant
19
20
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22 Plaintiff, the People of the State of California, has filed a Complaint for permanent
23 injunction and other relief in this matter, alleging that Defendant Smart & Final Stores LLC
24 ("Defendant") violated California Business & Professions Code section 17200 et seq., Penal Code
25 section 396, and Executive Order N-44-20. Plaintiff, by its counsel, and Smart & Final Stores
26 LLC, by its counsel, have agreed to the entry of this Final Judgment ("Judgment") by the Court
27 without trial or adjudication of any issue of fact or law, and without finding or admission of
28 wrongdoing or liability of any kind.

1 This Judgment may be signed by any judge of the San Mateo County Superior Court.

2 The Court having considered the pleadings and the Stipulation for Entry of final judgment
3 (“Stipulation”) executed by the Plaintiff and Defendant filed herewith, and good cause appearing,
4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

5 **PARTIES AND JURISDICTION**

6 1. Plaintiff is the People of the State of California.

7 2. Defendant Smart & Final Stores LLC is a California Limited Liability Corporation
8 with its principal place of business at 600 Citadel Dr., Commerce, California.

9 3. At all relevant times, Smart & Final Stores LLC transacted business in the County of
10 San Mateo and elsewhere in the State of California.

11 4. This Court has jurisdiction over the subject matter of this lawsuit and over all parties
12 to this action, and venue is proper in this Court.

13 5. This Judgment is entered into pursuant to and subject to California Business &
14 Professions Code sections 17200 et seq. and Penal Code section 396.

15 **DEFINITIONS**

16 6. “Covered Conduct” shall mean Defendant’s alleged practice of charging Excessive
17 Prices on certain premium shell egg products — specifically, (1) Sun Harvest cage free 12 count
18 eggs, (2) Sun Harvest cage free 18 count eggs, (3) Sun Harvest organic 12 count eggs, and (4)
19 Eggland’s Best large 12 count eggs — during a declared state of emergency between March 4,
20 2020 and June 22, 2020.

21 7. “Effective Date” shall mean the date on which this Judgment is approved by and
22 becomes a Judgment of the Court.

23 8. “Excessive Prices” shall mean any price charged for a consumer good or service that
24 exceeds the price constraints imposed by Penal Code section 396, Executive Order N-44-20, or
25 any other Executive Order relating to price gouging.

26 **COMPLIANCE PROVISIONS**

27 9. It is Ordered, Adjudged, and Decreed that Smart & Final Stores LLC and its officers,
28 directors, members, employees, affiliates, subsidiaries, predecessors, assigns and successors who

1 have actual or constructive notice of the court's injunction, are permanently restrained and
2 enjoined from:

- 3 a. Charging Excessive Prices on any consumer good or service during a
4 declared state of emergency or local emergency;
- 5 b. Engaging in any other acts or practices that violate Penal Code section 396
6 or any price gouging provisions in applicable Executive Orders during a
7 declared state of emergency or local emergency; and
- 8 c. Engaging in any other acts or practices related to charging Excessive Prices
9 or price gouging that violate California Business & Professions Code section
10 17200.

11 **PAYMENT**

12 10. No later than 14 days after the Effective Date of this Judgment, Smart & Final Stores
13 LLC shall pay Plaintiff \$175,000, pursuant to section 17206 of the Business & Professions Code.

14 **RELEASE**

15 11. Effective upon full payment of the amount specified in Paragraph 10, and subject to
16 the reservations set forth in Paragraph 12 below, Plaintiff releases Defendant and all of its past
17 and present officers, directors, shareholders, members, employees, affiliates, subsidiaries,
18 predecessors, assigns and successors (hereinafter referred to as the "Released Parties"), from the
19 following: all civil claims, causes of action, damages, restitution, fines, attorney's fees, costs, and
20 penalties that the California Attorney General has asserted or could have asserted against the
21 Released Parties concerning the Covered Conduct up to and including the Effective Date,
22 including all matters set forth in the Complaint filed in the above-captioned action.

23 12. Notwithstanding any term of this Judgment, specifically reserved and excluded from
24 the release in Paragraph 11 as to any entity or person, including Released Parties, are any and all
25 of the following:

- 26 a. Any criminal liability for any person or entity, including Released Parties;

- 1 b. Any liability which any person or entity, including Released Parties, has or
2 may have to individual consumers.

3 13. Except as expressly provided in this Judgment, nothing in this Judgment shall be
4 construed as:

- 5 a. Relieving Defendant of its obligation to comply with all applicable laws,
6 regulations, rules, or orders, or granting permission to engage in any acts or
7 practices prohibited by such law, regulation, rule, or order;
8 b. Limiting or expanding in any way any right the State may otherwise have to
9 enforce applicable state law or obtain information, documents, or testimony
10 from Defendant pursuant to any applicable state law, regulation, rule, or
11 order, or any right Defendant may otherwise have to oppose any subpoena,
12 civil investigative demand, motion, or other procedure issued, served, filed,
13 or otherwise employed by the State pursuant to any such state law,
14 regulation, or rule.
15 c. An admission of liability by Smart & Final Stores LLC for any of the
16 unlawful conduct alleged in the People's Complaint.

17
18 **GENERAL PROVISIONS**

19 14. Any failure by any party to this Judgment to insist upon the strict performance by any
20 other party of any of the provisions of this Judgment shall not be deemed a waiver of any of the
21 provisions of this Judgment, and such party, notwithstanding such failure, shall have the right
22 thereafter to insist upon the specific performance of any and all of the provisions of this
23 Judgment.

24 15. The Court retains jurisdiction of this Judgment and the parties hereto for the purpose
25 of enforcing and modifying this Judgment and for the purpose of granting such additional relief as
26 may be necessary and appropriate.

1 16. This Judgment may be modified by a stipulation of the Parties, once it is approved by,
2 and becomes a judgment of the Court, or by court proceedings resulting in modifying judgment of
3 the court.

4 17. No part of this Judgment shall create a private cause of action or confer any right to
5 any third party for a violation of any federal or state law, regulation, or order.

6 18. The exclusive right to enforce any violation or breach of this Judgment shall be with
7 the parties to this Judgment and the Court.

8 19. The Clerk is ordered to enter this judgment forthwith.

9
10 Dated: _____

4/4/2022


JUDGE OF THE SUPERIOR COURT