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CENTRAL DIVISION
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CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

10 *Attorneys for Plaintiff*

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF SAN DIEGO
13

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15 **PEOPLE OF THE STATE OF CALIFORNIA,**
16 **Plaintiff**
17 v.
18 **CVS PHARMACY, INC., A RHODE ISLAND**
19 **CORPORATION,**
Defendant.

CASE NO: **37-2009-00001517-CU-MC-CTL**
STIPULATION FOR ENTRY
OF FINAL JUDGMENT

20 Plaintiff, the People of the State of California ("People" or "Plaintiff"), by and through its
21 attorneys, Edmund G. Brown Jr., Attorney General of the State of California, by Senior Assistant
22 Attorney General Frances T. Grunder, Special Assistant Attorney General Albert Norman
23 Shelden, and Supervising Deputy Attorney General Catherine Z. Ysrael, and defendant CVS
24 Pharmacy, Inc., a Rhode Island corporation (hereinafter, "CVS"), appearing through its attorneys
25 Reed Smith, LLP, by Abraham J. Colman, as well as Christine L. Egan, Vice President –
26 Healthcare Regulatory Law, CVS, and Thomas S. Moffatt, Vice President – Corporate Law,
27 CVS, hereby stipulate as follows:

28 1. This Court has jurisdiction of the subject matter hereof and the parties to this stipulation.

1 2. The Permanent Injunction and Final Judgment (“Judgment”), a true and correct copy of
2 which is attached hereto as Exhibit A, may be entered by a judge or commissioner of the San
3 Diego County Superior Court. Counsel for Plaintiff may submit the Judgment to any judge or
4 commissioner of the superior court for approval and signature, during the court’s ex parte
5 calendar or on any other ex parte basis.

6 3. Plaintiff and CVS (collectively, “the Parties”) hereby waive their right to move for a
7 new trial or otherwise seek to set aside the Judgment through any collateral attack, and further
8 waive their right to appeal from the Judgment, except that Plaintiff and CVS each agree that this
9 Court shall retain jurisdiction for the purposes specified in paragraph 12 of the Judgment, as well
10 as for the enforcement of compliance with or punishment of violations of the Judgment.

11 4. The Parties have stipulated and consented to the entry of the Judgment without the
12 taking of proof and without trial or adjudication of any fact or law herein, without the Judgment
13 constituting evidence of or an admission by CVS regarding any issue of law or fact alleged in the
14 Complaint on file herein, and without any defendant admitting any liability herein.

15 5. CVS will accept service of any Notice of Entry of Judgment entered in this action by
16 delivery of such notice to Christine L. Egan and Thomas S. Moffatt, and agrees that service of the
17 Notice of Entry of Judgment will be deemed personal service upon it for all purposes.

18 6. Christine L. Egan is Vice President - Healthcare Regulatory Law of CVS and, as
19 such, she has been authorized by CVS to sign this Stipulation for Entry of Final Judgment and
20 Permanent Injunction on behalf of CVS.

21 7. Thomas S. Moffatt is Vice President - Corporate Law of CVS and, as such, he has
22 been authorized by CVS to sign this Stipulation for Entry of Final Judgment and Permanent
23 Injunction on behalf of CVS.

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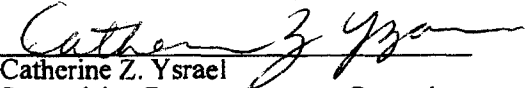
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8. This Stipulation may be executed in counterpart, and a facsimile signature shall be deemed to be, and shall have the same force and effect as, an original signature.

Dated: June 7, 2009

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
Frances T. Grunder
Senior Assistant Attorney General
Catherine Z. Ysrael
Supervising Deputy Attorney General
Albert Norman Shelden
Special Assistant Attorney General

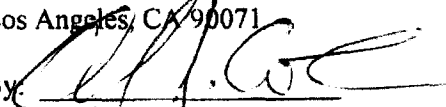

Catherine Z. Ysrael
Supervising Deputy Attorney General

Attorneys for Plaintiff

Dated: June 8, 2009

Respectfully submitted,


REED SMITH, LLP
355 South Grand Avenue
Suite 2900
Los Angeles, CA 90071

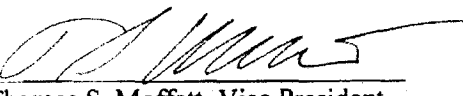
By: 
Abraham J. Colman

Attorneys for Defendant
CVS PHARMACY, INC.

Dated: June 8, 2009

CVS PHARMACY, INC.

By: 
Christine L. Egan, Vice President
Healthcare-Regulatory Law

By: 
Thomas S. Moffatt, Vice President
Corporate Law

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

People of the State of California, Plaintiff,
v.
CVS Pharmacy, Inc., a Rhode Island
corporation, Defendant.

Case No. _____

**FINAL JUDGMENT AND PERMANENT
INJUNCTION**

Plaintiff, the People of the State of California, appearing through its attorneys, Edmund G. Brown Jr., Attorney General of the State of California, by Supervising Deputy Attorney General Catherine Z. Ysrael, and defendant, CVS Pharmacy, Inc., a Rhode Island corporation, on behalf of its retail outlets operating in the State of California (including Garfield Beach CVS, L.L.C. and Longs Drugs Stores California, L.L.C., acquired by Defendant on October 30, 2008) (collectively "CVS Pharmacy, Inc." or "Defendant"), appearing through its attorneys Reed Smith, LLP, by Abraham J. Colman, as well as Christine L. Egan, Vice President – Healthcare Regulatory Law, CVS, and Thomas S. Moffatt, Vice President – Corporate Law, CVS, having stipulated to entry

1 of this Final Judgment and Permanent Injunction (“Judgment”) without the taking of evidence
2 and without trial or adjudication of any fact or law herein, without this Judgment constituting
3 evidence of or an admission by CVS Pharmacy, Inc., regarding any issue of law or fact alleged in
4 the Complaint on file, with all parties having waived their right to appeal, and the Court having
5 considered the matter and good cause appearing:
6

7 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

- 8 1. This Court has jurisdiction over the allegations and subject matter of the People’s
9 Complaint filed in this action and the parties thereto;
10 2. Venue is proper in this county;
11 3. This Court has jurisdiction to enter this Judgment; and
12 4. The injunctive provisions of this Judgment shall apply to defendant CVS Pharmacy, Inc.,
13 as defined below. With respect to any retail entity that CVS Pharmacy, Inc., acquires or of which
14 CVS Pharmacy, Inc., purchases all or substantially all of the assets after the date of entry of this
15 Judgment, such entity must be in compliance with the terms of this Judgment within one hundred
16 eighty (180) days of the closing date of the acquisition.
17

18 **DEFINITIONS**

- 19 5. For purposes of this Judgment, these words are defined as follows:
20
21 A. “CVS,” CVS Pharmacy, Inc.,” or “Defendant” means CVS Pharmacy, Inc., and
22 includes its successors, assigns, and later-acquired entities, including limited
23 liability corporations, that operate retail stores in the state of California, with
24 whom CVS Pharmacy, Inc. has agency agreements, or for whom CVS Pharmacy,
25 Inc., is a parent company, including but not limited to Garfield Beach CVS,
26 L.L.C., Longs Drug Stores California, L.L.C. and any retail entities CVS
27 Pharmacy, Inc., owns, operates, acquires or has control over, including entities of
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which CVS Pharmacy, Inc., has acquired all or substantially all of the assets.

- B. "CVS Store" or "CVS' California Store" means any CVS retail store located in California.
- C. "Confidential Waste Handling Employee(s) " means all store managers, assistant store managers, shift supervisors, and all pharmacy team members including customer service associates, technicians, pharmacists in CVS' California Stores and/or employees who are likely to, or do, come into contact with Personal Information.
- D. "Designated Front-Store Employee(s)" means all store managers, assistant store managers, shift supervisors, "beauty advisors," cashiers, and customer service associates handling front-store inventory and merchandise stocking in CVS' California Stores.
- E. "Expired Products" means infant formula, baby food, dairy products, eggs, and Over-the-Counter Drugs whose expiration or "best by" date has passed.
- F. "Expired Products Policies" means written policies regarding the practices and procedures to be followed to provide reasonable safeguards that Expired Products are not offered for sale at CVS' California Stores.
- G. "Field Management Team" means all field employees of CVS whose positions involve a retail store supervisory capacity, including, but not limited to, employees holding the present titles or similar titles of Regional Manager, District Manager, Store Manager, Shift Supervisor, Pharmacy Supervisor, and/or Pharmacy Team Leader.
- H. "Over-the-Counter Drugs" means non-prescription drugs regulated by the Federal Drug Administration, as well as vitamins and dietary supplements that contain

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“Best By” or expiration dates.

- I. “Person” means an individual, partnership, corporation, or entity of any kind.
- J. “Personal Information” means any information, in any form or media, whether electronic, paper, or oral, that identifies, relates to, describes, or is capable of being associated with, a particular individual, including, but not limited to, his or her name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver’s license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information. “Personal Information” also includes Medical Information and Health Insurance Information.

(1) “Personal Information” does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) “Personal Information” does not include an individual’s name alone, unless it is in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:
(a) social security number; (b) passport number; (c) driver’s license or state identification card number; (d) insurance policy number; or (e) bank account number, credit card number, or debit card number.

(3) “Medical Information” means any information regarding an individual’s medical history, mental or physical condition, medical treatment, diagnosis or prescription information.

(4) “Health Insurance Information” means an individual’s health insurance

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policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

INJUNCTIVE RELIEF

6. Pursuant to California Business and Professions Code section 17203, CVS shall be and hereby is permanently enjoined and restrained from directly or indirectly:

- A. Selling or offering to sell Expired Products to any Person at a CVS Store in California;
- B. Failing to implement or maintain Expired Products Policies sufficient to ensure that no Expired Products are sold or offered for sale at a CVS Store in California;
- C. Failing to take all reasonable steps to destroy, or arrange for the destruction of, customers' records containing Personal Information within its custody or control that is no longer to be retained by CVS by not shredding, erasing, or otherwise modifying the Personal Information in those records to make it unreadable or undecipherable through any means; and/or
- D. Failing to implement or maintain reasonable security procedures and practices to protect the Personal Information of customers from unauthorized access, destruction, use, modification, or disclosure.

7. Pursuant to California Business and Professions Code section 17203, CVS shall comply with the following terms and requirements:

A. **EXPIRED PRODUCTS**

(1) **Revisions to and Dissemination of Expired Products Policies**

- (a) Within sixty (60) days after entry of this Judgment, CVS shall implement, or if already existing, shall review and, if necessary,

1 revise, written policies regarding appropriate practices and
2 procedures to provide that infant formula, baby food, dairy
3 products, eggs, and/or Over-the-Counter Drugs are not sold or
4 offered for sale at CVS Stores in California past their “best by” or
5 expiration dates.
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7 (b) CVS shall review and, if necessary, revise its Expired Products
8 Policies and training materials regarding such policies, as well as its
9 policies and contracts regarding third-party providers referenced in
10 paragraph 7.A.(3)(b) below, at least annually to confirm that they
11 adequately prevent CVS from selling or offering to sell Expired
12 Products.
13

14 (c) CVS shall disseminate its Expired Products Policies to its
15 Designated Front-Store Employees in CVS’ California Stores
16 within sixty (60) days after entry of this Judgment and require them
17 to complete training regarding such policies within sixty (60) days
18 thereafter, provided, however, that Designated Front-Store
19 Employees of Longs Drug Stores California, L.L.C. shall complete
20 such training within one hundred and fifty (150) days after such
21 dissemination. Such dissemination may take place via electronic or
22 paper format, so long as each Designated Front-Store Employee
23 receives notice of the availability of the Expired Products Policies
24 and the need to complete the training.
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26 (d) CVS shall provide all Designated Front-Store Employees in its
27 California Stores with written training regarding its Expired
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Products Policies at least twice a year (spaced at least five months apart). New Designated Front-Store Employees shall receive their first training within thirty (30) days of the Designated Front-Store Employee's first date of employment, provided, however, that new Designated Front-Store Employees of any entity acquired after entry of this Judgment shall receive their first training within one hundred and eighty (180) days of the closing of the acquisition.

(e) All Designated Front-Store Employees who receive the Expired Products Policies and training referenced in paragraphs 7.A.(1)(c) and (d) above must complete a written certification (which may be electronic) confirming the receipt of such policies and completion of the training, within thirty (30) days of such receipt.

(f) CVS shall require all CVS Stores in California to check various categories of infant formula, baby food, eggs, dairy products, and Over-the-Counter Drugs to ensure their expiration or "best by" dates have not passed, at least twice a month. CVS shall determine which items in these specific categories to check during each check. It is understood and agreed that CVS will rotate what specific SKUs within each category are checked during each check. These checks may be managed through an electronic communications system between the corporate headquarters and the CVS Stores in California whereby headquarters personnel will direct the CVS Stores in California regarding which categories to check, and the CVS Stores in California will report back to corporate headquarters

1 regarding execution of the checks, as well as the results of these
2 checks.

- 3 (g) CVS shall maintain its Expired Products Policies in CVS'
4 California Stores in electronic format, with the ability to print them
5 upon request at each CVS California store.
6

7 (2) Expired Products Program

- 8 (a) Within ninety (90) days after entry of this Judgment (or within one
9 hundred and fifty (150) days, for stores acquired from Longs Drug
10 Stores California, L.L.C.), CVS shall implement a program
11 whereby consumers shall be entitled to receive a coupon in the
12 amount of \$2.00 off of any future purchase of any item at any CVS
13 Store in California, if they: (i) find an Expired Product offered for
14 sale while shopping at a CVS Store in California; (ii) notify a CVS
15 employee, or the cashier when checking out, that they have found
16 such an Expired Product; and, (iii) give the Expired Product to the
17 employee or the cashier. If the Expired Product is given to an
18 employee other than the cashier, the employee shall notify the
19 consumer regarding the availability of the coupon, and shall notify
20 the cashier of the Expired Product and identify the consumer to the
21 cashier. This program is limited to one coupon per visit, regardless
22 of the number of Expired Products found by the consumer in that
23 visit.
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- 25
26 (b) CVS shall prominently post notices in the aisles where baby food,
27 infant formula, dairy products, and eggs are offered for sale,
28

1 reminding customers to check the expiration and “best by” dates of
2 these products and asking them to notify a CVS employee
3 immediately if they find Expired Products. The same sign shall be
4 posted in at least one of the aisles in which Over-the-Counter Drugs
5 are offered for sale.

6
7 (c) The notices referenced in paragraph 7.A.(2)(b) shall also be
8 prominently displayed above or near clearance bins or shelves
9 containing infant formula, baby food and Over-the-Counter Drugs
10 that have been placed in the clearance bins or shelves.

11 (3) Practices and Policies Regarding Third-Party Vendors

12 (a) Within thirty (30) days after entry of this Judgment, CVS shall
13 implement or, if already existing, shall review and, if necessary,
14 revise written policies regarding the practices of third-party vendors
15 who supply dairy products and eggs to CVS’ California Stores.

16
17 (i) Such policies, which must be written, must contain adequate
18 safeguards to provide that third-party vendors remove from
19 CVS Stores’ shelves dairy products and eggs with
20 expiration or “best by” dates before such dates occur, and
21 must provide that CVS cannot sell dairy products and eggs
22 with expiration or “best by” dates that have passed.

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24 (ii) At a minimum, the policies must provide that a CVS
25 Designated Front-Store Employee or a third-party vendor
26 employee must check the shelves where dairy products and
27 eggs are offered for sale upon each delivery of products
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from third-party vendors to the CVS store, and must remove any product that will expire prior to the next delivery date.

(iii) The policies must further prohibit third-party vendors from delivering any products that will expire prior to the next delivery date.

(b) Within sixty (60) days after entry of this Judgment, CVS shall review and, if necessary, revise its existing contracts with third-party vendors who provide dairy products to CVS' California Stores to confirm that these contracts contain adequate guidance and safeguards regarding dairy products and eggs so that CVS does not offer expired dairy products and eggs for sale.

(c) If CVS does not currently have written contracts with third-party vendors who provide dairy products to CVS' California Stores, CVS shall require that contracts be implemented within sixty (60) days after entry of this Judgment, and shall require that such contracts contain the safeguards set forth in paragraph 7.A.(3)(b) of this Judgment.

(4) Distribution Center Policies

(a) Within sixty (60) days after entry of this Judgment, CVS shall implement or, if already existing, shall review and, if necessary, revise written policies regarding CVS' distribution center practices and procedures for any CVS distribution centers that supply CVS' California Stores and the training program implementing these policies, to ensure that CVS does not accept products with

1 imminent expiration dates from manufacturers.

2 (5) Documentation and Reporting of Instances Where Expired Products Are
3 Found on Shelves

4 (a) CVS shall designate a toll-free number (which may be a general
5 customer service and/or employee complaint number) and address
6 for an employee or group of employees at the corporate level of
7 CVS' business operations who shall be designated as the ultimate
8 recipient(s) for reports and/or complaints, whether from employees
9 or customers, regarding violations of CVS' Expired Products
10 Policies or this Judgment as it pertains to Expired Products. CVS
11 shall require all CVS Store employees to report any instances where
12 Expired Products are found for sale in any CVS Store to the CVS
13 Store's Store Manager or person with a similar title. All reports
14 and/or complaints submitted at the store level, whether by
15 customers or employees, must be submitted within twenty-four (24)
16 hours of receipt to the CVS Store's Store Manager or person with a
17 similar title. The store's Store Manager or person with a similar
18 title must submit any such reports and/or complaints to the
19 designated corporate-level employee or employees, at least every
20 other week.
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24 B. CONFIDENTIAL WASTE DISPOSAL PROGRAM

25 (1) Disposal Practices

26 (a) Pursuant to California Civil Code section 1798.81, CVS shall take
27 all reasonable steps to destroy, or arrange for the destruction of,
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customers' records containing Personal Information, within its custody or control, that is no longer to be retained by CVS by (i) shredding, (ii) erasing, or (iii) otherwise modifying the Personal Information in those records to make it unreadable or undecipherable through any means.

(b) CVS shall use reasonable safeguards so that any third party it hires to dispose of records containing Personal Information disposes of such records by (i) shredding, (ii) erasing, or (iii) otherwise modifying the Personal Information in those records to make it unreadable or undecipherable through any means. At a minimum, if CVS hires a third party for its disposal of records containing Personal Information, this third party must provide written certification to CVS that all records containing Personal Information it removes from CVS' premises have been or will be shredded, erased, or otherwise modified in such a way as to render the records unreadable or undecipherable through any means.

(c) CVS shall maintain records identifying any specific third-party provider that services each of CVS' California Stores. CVS shall either require the third party to maintain in its records the required certifications for a minimum of six (6) months or shall maintain the required certifications in its own files for a minimum of six (6) months.

(2) Retention and Safeguarding Practices

(a) CVS shall comply with California Civil Code section 56.101 and

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shall implement and maintain reasonable security procedures and practices to protect the Personal Information of customers from unauthorized access, destruction, use, modification, or disclosure. Records containing Personal Information that are stored or awaiting disposal must be placed in secured containers, maintained in a secured area, or otherwise be stored securely to prevent the unlawful use, dissemination, or disposal of such records.

(b) CVS shall prohibit disclosure of its customers' Personal Information to persons other than the customer or the customer's personal representative, unless otherwise permitted by State or Federal law.

(3) Revisions to and Dissemination of Confidential Waste Disposal Policies

- (a) If not already in place, CVS shall implement the following measures within 60 (sixty) days after entry of this Judgment:
 - (i) A written policy that specifically and adequately addresses the disposal of Personal Information; and
 - (ii) A written policy that specifically and adequately addresses reasonable security procedures and practices to protect Personal Information from unauthorized access, destruction, use, modification, or disclosure.

- (b) If CVS already has in place written policies addressing the disposal, retention and safeguarding of records containing Personal Information (hereafter "Confidential Waste Disposal Policies"), CVS must review and, if necessary, revise its existing Confidential

1 Waste Disposal Policies to ensure that CVS employees understand
2 and comply with California Civil Code section 1798.81 et seq. and
3 California Civil Code section 56.101 in safeguarding and disposing
4 of Personal Information.

5
6 (c) At a minimum, CVS' Confidential Waste Disposal Policies must
7 comply with the following, within sixty (60) days after entry of this
8 Judgment:

9 (i) All such policies must be dated, and outdated policies must
10 be removed from CVS' California Stores;

11 (ii) All Confidential Waste Handling Employees must be
12 personally notified of any revisions to CVS' Confidential
13 Waste Disposal Policies and must receive a copy of any
14 revised policies; and

15
16 (iii) CVS' Confidential Waste Disposal Policies must be readily
17 accessible to all CVS Confidential Waste Handling
18 Employee(s) in electronic format, with the ability to print
19 upon request at each CVS Store.

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21 (d) Appropriate signage regarding CVS' Confidential Waste Disposal
22 Policies must be prominently posted in CVS Stores where records
23 containing Personal Information are disposed of or stored.

24 (e) CVS' Confidential Waste Disposal Policies must require that these
25 policies will be disseminated to Confidential Waste Handling
26 Employees as part of a formal training program at least twice a year
27 (spaced at least five months apart).
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(f) Within sixty (60) days after entry of this Judgment, CVS shall provide notice to all Field Management Team members with responsibility for any of CVS' California Stores of this Judgment and any revisions to CVS' Confidential Waste Disposal Policies and further inform each Field Management Team member in writing of the following:

- (i) that compliance with the Confidential Waste Disposal Policies may be taken into account in connection with compensation, promotion and retention decisions;
- (ii) that CVS will monitor store compliance with CVS' Confidential Waste Disposal Policies;
- (iii) that failure to comply with this Judgment or CVS' Confidential Waste Disposal Policies may constitute grounds for termination;
- (iv) that training regarding the Confidential Waste Disposal Policies must be provided to all Confidential Waste Handling Employees at least twice annually (spaced at least five months apart); and
- (v) that the Field Management Team is required immediately to report any violations of CVS' Confidential Waste Disposal Policies, this Judgment, or applicable laws to CVS' Compliance Officer referenced in paragraph 7.B.(5)(a) below.

(4) Training Program Regarding Confidential Waste Disposal Policies

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(a) If not already in place, CVS shall develop and implement a training program regarding the handling, retention and disposal of records containing Personal Information, within 60 days after entry of this Judgment. Such training program must provide that all Confidential Waste Handling Employees who may or do come into contact with Personal Information, are adequately trained regarding the practices and procedures with respect to the unauthorized access, destruction, use, disclosure, retention, disposal and protection of Personal Information.

(b) If CVS already has in place a training program regarding its Confidential Waste Disposal Policies, CVS' Compliance Officer, referenced in paragraph 7.B.(5)(a) below, must review and, if necessary, revise this training program within sixty (60) days after entry of this Judgment to provide that it complies with the terms of this Judgment.

(c) CVS' training program regarding its Confidential Waste Disposal Policies shall include:

- (i) a review of CVS' policies and practices relating to the protection and disposal of records containing Personal Information along with the disclosure that compliance with these policies and any related policies and practices will be taken into account in connection with performance reviews and disciplinary decisions up to and including termination;
- (ii) an explanation of identity theft, its impact on individual

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consumers and businesses and thus, the importance of abiding by CVS' Confidential Waste Disposal Policies;

- (iii) a review of California laws applicable to the proper safeguarding and disposal of Personal Information, including California Civil Code sections 56.101 and 1798.81;
- (iv) the name and telephone number and/or e-mail address of the corporate-level employee or third-party vendor to whom employees can anonymously report any failures to comply with CVS' Confidential Waste Disposal Policies; this person may be the Compliance Officer referenced in paragraph 7.B.(5)(a) below; and
- (v) written or electronic acknowledgment that each Confidential Waste Handling Employee(s) has completed the training and understands how to comply with CVS' Confidential Waste Disposal Policies.

(d) CVS shall disseminate its Confidential Waste Disposal Policies to its Confidential Waste Handling Employees in CVS Stores in California within sixty (60) days after entry of this Judgment and require them to complete training regarding such policies within sixty (60) days thereafter, provided, however, that Confidential Waste Handling Employees of Longs Drug Stores California, L.L.C. shall complete such training within one hundred and fifty (150) days after such dissemination. Such dissemination may take

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place via electronic or paper format, so long as each Confidential Waste Handling Employee receives notice of the availability of the Confidential Waste Disposal Policies and the need to complete the training.

(e) CVS shall provide all current Confidential Waste Handling Employees in CVS' stores in California with the training described in the preceding paragraph at least twice annually.

(f) CVS shall provide this same training to new Confidential Waste Handling Employees within thirty (30) days of the employee's first date of employment. This training may be incorporated into new hire training or orientation.

(g) The requirements of paragraphs 7.B.(4)(c),(e) and (f) shall remain in effect for a period of five (5) years after entry of this Judgment. Thereafter, CVS may elect to modify the training elements required by this paragraph. If CVS modifies any such training elements, CVS shall maintain and make available to the Attorney General, upon request, documents which (i) describe in detail CVS' training program; (ii) explain how that program serves to assure compliance with applicable laws; and (iii) demonstrate that CVS' California Store Confidential Waste Handling Employees have completed such training and understand how to comply with CVS' Confidential Waste Disposal Policies.

(5) Compliance Officer

(a) CVS shall designate a qualified employee, at the corporate level of

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CVS' business operations, to serve as CVS' Compliance Officer.

CVS' Compliance Officer's responsibilities shall include developing, implementing and overseeing CVS' disposal and storage policies, as well as its training program regarding these policies. CVS' Compliance Officer shall be responsible for:

- (i) ensuring that the Confidential Waste Disposal Policies are adequately implemented and enforced;
- (ii) overseeing the development, implementation and enforcement of these policies and, as necessary, the adoption of modifications to them in order to keep them current and effective. Such oversight shall include adopting reasonable safeguards to ensure that there are adequate approval and oversight policies with respect to implementation of these policies at the store level;
- (iii) designating an employee, who may be CVS' Compliance Officer, at the corporate level of CVS' business operations, or a third party, to whom CVS' employees may anonymously report any failures to comply with CVS' Confidential Waste Disposal Policies, this Judgment and/or applicable State and Federal laws, and who shall be responsible for responding to questions or complaints from CVS' employees or the public regarding compliance with CVS' Confidential Waste Disposal Policies, this Judgment, and/or applicable State or Federal laws.

1 (iv) reviewing CVS' Confidential Waste Disposal Polices and
2 related procedures and practices at least annually to confirm
3 that they are effective to appropriately address the disposal
4 and protection of Personal Information and, as needed,
5 adjusting CVS' policies and procedures in response to this
6 review.
7

8 C. **CORPORATE DOCUMENTATION OF TRAINING**

- 9 (1) For a period of five (5) years after entry of this Judgment, CVS shall, on
10 the anniversary date of its entry, forward to the California Attorney
11 General's Office a sworn statement signed by the Compliance Officer
12 certifying that all Confidential Waste Handling Employees in CVS'
13 California Stores have completed the training program pertaining to the
14 Confidential Waste Disposal Policies described in paragraph 7.B.(4)(c).
15
16 (2) For a period of five (5) years after entry of this Judgment, CVS shall, on
17 the anniversary date of its entry, forward to the Office of the Attorney
18 General a sworn statement signed by a corporate-level employee
19 designated by CVS certifying that the Designated Front Store Employees
20 in CVS' California Stores have completed the training program pertaining
21 to its Expired Products Policies described in paragraphs 7.A.(1)(c) and (d).
22
23 (3) CVS shall make available for inspection and review a copy of its
24 Confidential Waste Disposal Policies, Expired Products Policies, and any
25 training materials or related policies to the Attorney General, and will,
26 upon request of the Attorney General, allow inspection and review of any
27 revisions to such policies or materials within thirty (30) days of its receipt
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1 of such request.

2 **D. RANDOM AUDITS TO CONFIRM COMPLIANCE WITH JUDGMENT**

3 (1) CVS shall, at least once every six (6) months after entry of this Judgment,
4 randomly select and visit a minimum of four percent (4%) of CVS'
5 California Stores, or thirty-four (34) stores, whichever figure is greater, to
6 evaluate CVS' compliance with this Judgment, CVS' Expired Products,
7 and applicable laws. CVS shall also, at least once every six (6) months
8 after entry of this Judgment, randomly select and visit a minimum of four
9 percent (4%) of CVS' California Stores, to evaluate CVS' compliance with
10 this Judgment, CVS' Confidential Waste Disposal Policies, and applicable
11 laws. CVS will not inform the Field Management Team or employees of
12 the store to be visited in advance, directly or indirectly, of the date when a
13 particular store will be the subject of a random audit.

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16 (2) CVS shall conduct audits for compliance with its Expired Products Policies
17 separately from audits for compliance with its Confidential Waste Disposal
18 Policies. The same CVS Store may be audited for compliance with both
19 sets of policies, but the number of required audits shall be calculated
20 separately for both types of audits.

21
22 (3) Expired Products Audits. At a minimum, the audit to ensure compliance
23 with CVS' Expired Products Policies shall consist of the inspection of all
24 infant formula, baby food, dairy products, and eggs, as well as the stock-
25 keeping units (SKUs) of no fewer than 100 SKUs of Over-the-Counter
26 Drugs.

27 (a) If an initial random audit finds that items in more than five different
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1 SKUs of Over-the-Counter Drugs on the shelves of a store are past
2 their expiration dates, and that items in more than five different
3 SKUs of infant formula, baby food, dairy products, or eggs on the
4 shelves of the store are past their expiration dates, in addition to
5 complying with paragraphs 7.D.(4)-(6), that store must undergo
6 another random audit within one hundred and eighty (180) days.
7 This audit shall not be counted as part of the four percent (4%)
8 audit requirement set forth in paragraph 7.D.(1).
9

10 (b) If a store undergoes the second audit referenced in paragraph
11 7.D.(3)(a) above, and that audit reveals that items from more than
12 five different SKUs of Over-the-Counter Drugs or more than five
13 different SKUs of infant formula, baby food, dairy products, or
14 eggs, on the shelves of that store are past their expiration date, a
15 third audit of that store shall take place within the following ninety
16 (90) days. This audit shall not be counted as part of the four
17 percent (4%) audit requirement set forth in paragraph 7.D.(1).
18

19 (c) Between the second and third audits, CVS shall give Designated
20 Front-Store Employees and the Field Management Team in that
21 store in-person training regarding CVS' Expired Products Policies.
22

23 (d) The requirement to conduct random audits at least once every six
24 (6) months, as set forth in paragraph 7.D.(1) and (2), will be
25 reduced to annual audits if, three (3) years after entry of this
26 Judgment, CVS provides the Attorney General's Office a sworn
27 statement signed by the corporate-level employee designated to
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1 review and evaluate these audits certifying that CVS has completed
2 each of the random audits in compliance with paragraphs 7.D.(1)
3 and (2) and no more than nine percent (9%) of the stores selected
4 for the bi-annual audits, rounded to the closest full number,
5 required a second audit and one-half or less of these stores, rounded
6 to the closest full number, required a third audit pursuant to this
7 paragraph 7.D.(3).
8

9 (e) If CVS has not been able to reduce the requirement to conduct bi-annual
10 audits pursuant to paragraph 7.D.(3)(d), CVS can reduce the bi-annual
11 audits to annual audits as soon as it has, for three consecutive years after
12 entry of this Judgment, complied with the requirements of paragraph
13 7.D.(3)(d).
14

15 (f) CVS' audit requirements with respect to its Expired Products Policies
16 shall be eliminated if, after CVS has conducted annual audits for two
17 consecutive years pursuant to paragraphs 7.D.(3)(d) or 7.D.(3)(e) above,
18 CVS provides the Attorney General's Office with a sworn statement signed
19 by the corporate-level employee designated to review and evaluate these
20 Expired Products Policies audits certifying that the random audits
21 conducted in the two previous years demonstrate that no more than six
22 percent (6%) of the stores selected for the random audits, rounded to the
23 closest full number, required a second or third audit pursuant to this
24 paragraph 7.D.(3).
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26 (g) If CVS' Expired Products Policies audit requirement is eliminated
27 in accordance with paragraph 7.D.(3)(f) above or otherwise by agreement
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of CVS and the Attorney General, the requirements set forth in paragraphs 7.A(1)(b), (d) and (e) shall expire five (5) years from the date the audit obligation ceases, and the requirements set forth in paragraphs 7.A.(2)(a), (b), and (c) shall expire on the date the audit obligation ceases.

(4) Confidential Waste Disposal Audits.

- (a) If an initial random audit regarding compliance with CVS' Confidential Waste Disposal Policies reveals that a CVS Store is not complying with CVS' Confidential Waste Disposal Policies, CVS will document the violations, take any necessary corrective action as soon as is practically possible, and document any such corrective action taken.
- (b) CVS shall take such additional steps as it may deem appropriate to ensure future compliance at the CVS Store at issue, including additional unannounced random audits.
- (c) The requirement to conduct random audits at least once every six months as set forth in paragraph 7.D.(1) will be reduced to requiring such audits annually if, four years after entry of this Judgment, CVS provides the Attorney General's Office with a sworn statement signed by the Compliance Officer certifying that:
 - (i) CVS has fulfilled its obligations to conduct random audits as required by this paragraph;
 - (ii) CVS' random audits conducted in years 3 and 4 demonstrate that CVS employees in California are in compliance with the terms of this Judgment; and

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(iii) CVS has received no confirmed reports or information reflecting that its employees have failed to safeguard Personal Information, including disposing of documents with Personal Information without first modifying the records by shredding, erasing or by some other means making the Personal Information unreadable or undecipherable.

(d) CVS's audit requirements with respect to its Confidential Waste Disposal Policies shall be eliminated if, after CVS has conducted annual audits for three consecutive years pursuant to paragraph (7)D.(4)(c) above, CVS provides the CVS provides the Attorney General's Office with a sworn statement signed by the Compliance Officer certifying that:

- (i) CVS has fulfilled its obligations to conduct random audits as required by this paragraph;
- (ii) CVS' random audits conducted in years 5, 6, and 7 demonstrate that CVS employees in California are in compliance with the terms of this Judgment; and
- (iii) CVS has received no confirmed reports or information reflecting that its employees have failed to safeguard Personal Information, including disposing of documents with Personal Information without first modifying the records by shredding, erasing or by some other means making the Personal Information unreadable or undecipherable.

(5) CVS shall provide the results of its Expired Products Policies and

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Confidential Waste Disposal Policies audits to the store manager of the CVS Store that was the subject of the audit, as soon as is practicable following completion of the audit.

(6) CVS shall also promptly provide the results of its Expired Products Policies and Confidential Waste Disposal Policies audits to an employee at the corporate level of CVS' business operations, who shall be designated as the recipient of these audits. With respect to audits undertaken to check compliance with CVS' Confidential Waste Disposal Policies, CVS' Compliance Officer may be designated as the recipient of the audits. The designated employee shall review the results of these random audits and take corrective action and, if necessary, require additional training and/or dissemination or revisions of CVS' policies are completed.

(7) If an audit reflects that a CVS Store is not complying with this Judgment, CVS' Expired Products Policies and/or CVS' Confidential Waste Disposal Policies, CVS shall document the violations, take any necessary corrective action as soon as is practically possible, and document any such corrective action. CVS shall take such additional steps as it may deem appropriate to ensure future compliance by the particular store at issue, including additional unannounced random audits.

GENERAL PROVISIONS

8. Promptly upon execution of this Judgment, pursuant to Business and Professions Code section 17206, CVS will pay to the Plaintiff the sum of \$487,500.00, to be placed in the Unfair Competition Law Fund.

9. CVS will also pay to the Plaintiff the sum of \$487,500.00, as attorney's fees and costs for

1 the investigation and prosecution of this matter.

2 10. Payments made pursuant to this Judgment shall be made by check made payable to the
3 "California Attorney General's Office" and shall be delivered to the California Attorney
4 General's Office, 110 West A Street, 11th Floor, San Diego, California 92101, attention
5 Supervising Deputy Attorney General Catherine Z. Ysrael.
6

7 11. This Judgment resolves the above-captioned action, and is meant to resolve those matters
8 specifically set forth in the allegations of the Complaint filed in this action for conduct which
9 occurred prior to the entry of this Judgment. This Judgment is a complete settlement of all
10 claims described in the Complaint filed in this matter that the Attorney General brought or could
11 have brought against CVS pursuant to Business and Professions Code Section 17200, alleging
12 violations of California Civil Code sections 1798.81 and 56.101, which arises out of or relates to:
13 (1) the sale of, or offer to sell, Expired Products and (2) the failure to take reasonable steps to
14 safeguard, destroy or arrange for the destruction of customer's records containing Personal
15 Information.
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17 12. Jurisdiction is retained by the Court for the purpose of enabling any party to the Judgment
18 to apply to the Court at any time for such further orders and directions as may be necessary or
19 appropriate for the construction or the carrying out of this Judgment, for the modification of any
20 of the injunctive provisions hereof, for enforcement of compliance herewith, and for the
21 punishment of violations hereof, if any.
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23 13. In the event that CVS concludes, based on changed circumstances, that the terms of this
24 Judgment unfairly restrict its business practices, then CVS may submit a written request to the
25 Attorney General seeking to modify the injunctive terms of this Judgment including requesting
26 that any or all of CVS' obligations under the injunctive terms cease. The Attorney General shall
27 make a good faith evaluation of CVS' request and shall respond to the request within ninety (90)
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1 days of receipt of such request. If the Attorney General denies CVS' requested modifications,
2 CVS may in accordance with the California Rules of Civil Procedure and paragraph 12 of this
3 Judgment, petition the Court for modification of the terms and conditions of this Judgment.

4 14. If the Attorney General has reason to believe that CVS has failed to comply with any of
5 the terms of this Judgment, the Attorney General will notify CVS in writing of such failure to
6 comply, providing specific facts and circumstances of the alleged failure, and CVS shall then
7 have fifteen (15) business days from the receipt of such written notice to provide a good faith
8 written response to the Attorney General's notification. The response shall include a sworn
9 statement signed by a corporate-level employee (who, for violations of the Confidential Waste
10 Disposal Program portion of the Judgment set forth at paragraphs 7.B.(1)–(5) may be the
11 Compliance Officer referenced in paragraph 7.B.(5)(a) above) containing at a minimum:
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13 A. A statement explaining why CVS believe it is in full compliance with the
14 Judgment; or
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16 B. A detailed explanation of how the alleged violation(s) occurred; and a statement that
17 the alleged breach has been cured and a description of the action taken by CVS to cure the
18 breach; or

19 C. A statement that the alleged breach cannot be reasonably cured within fifteen (15)
20 business days from the receipt of the notice, but (i) CVS has begun to take corrective action to
21 cure the alleged breach; (ii) CVS is pursuing such corrective action with reasonable and due
22 diligence; and (iii) CVS has provided the Attorney General with a detailed and reasonable time
23 table for curing the alleged breach.
24

25 Nothing herein shall prevent the Attorney General from agreeing to provide CVS with
26 additional time beyond the fifteen (15) business day period to respond to the notice. Nothing in
27 this paragraph shall be construed to limit the authority or the discretion of the Attorney General to
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1 act in the public interest to enforce applicable state laws and this Judgment, including, in
2 deciding, if the Attorney General believes that the public safety or health are in danger, filing an
3 enforcement action, or a new action, without giving CVS the 15-day notice pursuant to this
4 paragraph 14 of the Judgment.

5
6 15. The Attorney General agrees to treat any documents or information it receives from CVS
7 pursuant to CVS' reporting obligations as exempt from disclosure under the California Public
8 Records Act pursuant to Government Code sections 6254(b), 6254(f), and 6254.15.

9 16. This Judgment shall take effect immediately upon entry thereof, without further notice to
10 CVS.

11 17. The clerk is ordered to enter this Judgment forthwith.

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JUDGE OF THE SUPERIOR COURT