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Attorneys for Defendants

AMERICAN STORES COMPANY, LLC, NEW

ALBERTSONS, INC., and ALBERTSON'S LLC

and Counterclaimants AMERICAN STORES

COMPANY, LLC and NEW ALBERTSONS, INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

(SAN FRANCISCO DIVISION)

GROCERY OUTLET INC.,

Plaintiff,

vs.

AMERICAN STORES COMPANY, LLC,

NEW ALBERTSONS, INC.,

ALBERTSONS, LLC, and SAVE MART

SUPERMARKETS,

Defendants.

AMERICAN STORES COMPANY, LLC,

NEW ALBERTSONS, INC., and

ALBERTSONS, LLC

Counterclaimants.

vs.

GROCERY OUTLET INC.,

Counterdefendant.

Case No.: C06-02173 JSW

**STIPULATION FOR ENTRY OF
PERMANENT INJUNCTION AND
~~PROPOSED~~ ORDER THEREON**

1 IT IS HEREBY STIPULATED AND AGREED, by and between plaintiff and
2 counterdefendant Grocery Outlet, Inc. ("Grocery Outlet") and defendants American Stores
3 Company, LLC ("American Stores"), New Albertson's, Inc. ("New Albertsons"), Albertson's
4 LLC ("Albertson's LLC), and Save Mart Supermarkets ("Save Mart") (collectively "Defendants"),
5 and counterclaimants American Stores and New Albertson (collectively counterclaimants), as
6 follows:

- 7 1. On December 16, 2008, the Court entered its Order Granting Albertsons' Motion
8 for Summary Judgment (Docket No. 380);
- 9 2. On December 17, 2008, the Court entered its Amended Order Granting Albertsons'
10 Motion for Summary Judgment (Docket No. 382);
- 11 3. On December 30, 2008, American Stores, New Albertsons, and Albertson's LLC
12 filed a Motion for Entry of Permanent Injunction (Docket No. 386);
- 13 4. The parties identified above agree to the entry of a permanent injunction against
14 Grocery Outlet in the form set forth below, and that this order satisfies the
15 requirements of Rule 65 of the Federal Rules of Civil Procedure;
- 16 5. American Stores, New Albertsons, and Albertson's LLC agree to withdraw their
17 Motion for Entry of Permanent Injunction, currently set for hearing on February 13,
18 2009; and
- 19 6. The parties identified above agree that nothing in this Order shall preclude or
20 otherwise limit Grocery Outlet's ability to exercise whatever appellate rights it may
21 have, if any, with respect to the Court's December 16, 2008 Order Granting
22 Albertsons' Motion for Summary Judgment, December 16, 2008 Judgment,
23 December 17, 2008 Amended Order Granting Albertsons' Motion for Summary
24 Judgment, the December 17, 2008 Amended Judgment, or any subsequent
25 Amended Judgment in the case; except that Grocery Outlet agrees that it will not
26 contend in connection with any appeal that the permanent injunction entered by the
27 Court is invalid on some procedural basis or does not satisfy the requirements of
28 Rule 65 of the Federal Rules of Civil Procedure.

1 Accordingly, it is hereby ordered:

- 2 1. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, the Court hereby finds
3 it appropriate to enter a permanent injunction against Grocery Outlet;
- 4 2. The bond obtained by Albertson's Inc, American Stores, and Lucky Stores, Inc. in
5 connection with this Court's July 7, 2006 Order granting Defendants' Motion for
6 Preliminary Injunction is hereby released and dissolved;
- 7 3. Grocery Outlet is permanently enjoined from making any use whatsoever of the
8 LUCKY trade name, trademark and service mark, or any confusingly similar name
9 or mark, and in particular is barred from using the LUCKY trade name, trademark
10 and service mark in association with retail grocery services and grocery products,
11 including but not limited to (a) using the LUCKY trade name, trademark and
12 service mark, or any confusingly similar name or mark, in or on any of Grocery
13 Outlet's grocery stores; (b) using the LUCKY trade name, trademark and service
14 mark, or any confusingly similar name or mark, on any goods or products; (c) using
15 the LUCKY trade name, trademark and service mark, or any confusingly similar
16 name or mark, in any print or broadcast advertising; (d) using the LUCKY trade
17 name, trademark and service mark, or any confusingly similar name or mark, on
18 any Internet web site controlled by Grocery Outlet or its agents; and (e) using the
19 LUCKY trade name, trademark and service mark, or any confusingly similar name
20 or mark, in any other fashion likely to cause confusion, or to cause mistake, or to
21 deceive as to the affiliation, connection, or association of Grocery Outlet with
22 Defendants or their successors in interest, or as to the as to the origin, sponsorship,
23 or approval of Grocery Outlet's goods, services or commercial activities by
24 Defendants or their successors in interest;
- 25 4. This Order is binding on Grocery Outlet, its officers, agents, servants, employees,
26 affiliates, attorneys, successors and assigns as well as those persons in active
27 concert or participation with it and who receive actual notice of this Order;
28

1 5. This Order shall inure to the benefit of, and shall be enforceable by, each of the
2 following parties, American Stores, New Albertsons, Albertson's LLC, and Save
3 Mart, and their affiliates, successors and assigns, as their respective interests may
4 appear; and

5 6. Any violation of this Order is punishable by contempt of this Court.

6 Respectfully submitted,

7 Dated: January 14, 2009

CRAIGIE, McCARTHY & CLOW

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 /S/

PETER W. CRAIGIE

11 Attorneys for Plaintiff and Counter-Defendant
12 GROCERY OUTLET, INC.

13 Dated: January 14, 2009

NIXON PEABODY LLP

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15 _____
 /S/

JOHN A. CHATOWSKI

16 Attorneys for Defendants AMERICAN STORES
17 COMPANY, LLC, NEW ALBERTSONS, INC.,
18 and ALBERTSON'S LLC and Counterclaimants
19 AMERICAN STORES COMPANY, LLC and
 NEW ALBERTSONS, INC.

20 Dated: January 14, 2009

LAW OFFICES OF PERRY IRVINE

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22 _____
 /S/

PERRY IRVINE

23 Attorneys for Defendant SAVE MART
24 SUPERMARKETS
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GENERAL ORDER 45 CERTIFICATION

I, John A. Chatowski, hereby attest pursuant to N.D. Cal. General Order No. 45 that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: January 14, 2009

NIXON PEABODY LLP


/s/ John A. Chatowski

John A. Chatowski

Attorneys for Defendants AMERICAN STORES
COMPANY, LLC, NEW ALBERTSONS, INC.,
and ALBERTSON'S LLC and Counterclaimants
AMERICAN STORES COMPANY, LLC and
NEW ALBERTSONS, INC.

IT IS SO ORDERED.

Dated: January 15,, 2009


The Honorable Jeffrey S. White
United States District Court Judge