

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE
FOR THE SIXTH JUDICIAL DISTRICT AT KNOXVILLE

STATE OF TENNESSEE, <i>ex rel.</i> ROBERT)	
E. COOPER, JR., Attorney General and)	
Reporter,)	
)	
Plaintiff,)	No. 174864-2
)	
v.)	12 Person Jury Demand
)	
WEIGEL STORES, INC., a Tennessee)	
corporation,)	
)	
Defendant.)	

AGREED FINAL ORDER

Plaintiff, the State of Tennessee, by and through Robert E. Cooper, Jr., the Attorney General and Reporter, at the request of Mary Clement, the Director of the Division of Consumer Affairs of the Department of Commerce and Insurance, and Defendant, Weigel Stores, Inc. and its officers, directors, owners, affiliates, and /or agents, including Rocket Oil, Inc., as evidenced by their signatures, do consent to the entry of this Agreed Final Order ("Order") and its provisions.

STATE'S POSITION: The State of Tennessee's position is fully set forth in its First Amended Complaint. A version of the State of Tennessee's First Amended Complaint is being filed concurrently with this Order with select redactions pursuant to a separate order.

DEFENDANT'S POSITION: Defendant has denied and continues to deny each and all of the claims alleged by Plaintiff. Defendant expressly has denied and continues to deny any charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Amended Complaint. This Order of

Settlement shall in no event be construed or deemed to be evidence of an admission or concession on the part of Defendant with respect to any claim or of any fault, liability, wrongdoing, or damage whatsoever, or any infirmity in the defenses that Defendant has asserted. Defendant's decision to settle the litigation was based on the conclusion that further conduct of the litigation would be protracted and expensive, that it is desirable that the litigation be fully and finally settled in the manner and upon the terms and conditions set forth in this Order, and the uncertainty and risks inherent in any litigation.

This Order only resolves matters set forth in the State's Amended Complaint commenced under the Tennessee Consumer Protection Act of 1977 and the Tennessee Price Gouging Act of 2002.

1. JURISDICTION

1.1 Jurisdiction of this Court over the subject matter and over the Defendant for the purpose of entering into and enforcing this Order is admitted. Jurisdiction is retained by this Court for the purpose of enabling the parties to apply to this Court for such further orders and directions as may be necessary or appropriate for the construction, modification or execution of this Order, including the enforcement of compliance herewith and penalties for violation hereof. Defendant agrees to pay all court costs and attorneys' fees associated with any successful petitions to enforce any provision of this Order against Defendant.

2. VENUE

2.1 Pursuant to Tenn. Code Ann. § 47-18-108(a)(3), venue as to all matters between the parties relating hereto or arising out of this Order is solely in the Chancery Court of Knox County, Tennessee.

3. PARTIES

3.1 Plaintiff, State of Tennessee *ex rel.* Robert E. Cooper, Jr., Attorney General and Reporter, is charged with enforcing the TCPA, including Tenn. Code Ann. § 47-18-104(b)(34). Pursuant to Tenn. Code Ann. § 47-18-108, actions for violations of the TCPA may be brought by the Attorney General at the request of the Division of Consumer Affairs in courts of competent

jurisdiction to restrain violations, to secure equitable and other relief and to otherwise enforce the provisions of the TCPA.

3.2 Plaintiff and Defendant expressly agree that the released parties pursuant to this settlement order shall include Weigel Stores, Inc., and Rocket Oil, Inc., and their current and former officers, directors, owners, affiliates, agents, future purchasers, merged parties, inheritors, or other successors in interest to Defendant. The released parties are collectively referred to herein as "Defendant."

4. APPLICATION OF ORDER TO DEFENDANT AND ITS SUCCESSORS

4.1 Defendant agrees that the duties, responsibilities, burdens and obligations undertaken in connection with this Order shall apply to Defendant, to each of its officers, directors, owners, partners, subsidiaries, affiliates, managers, parents, related entities, agents, assigns, representatives, employees, successors, sales staff and any and all other persons or entities acting directly or indirectly on its behalf.

5. BUSINESS CONDUCT

5.1 The Defendant expressly denies any wrongdoing and enters into this Order to avoid the time and expense of litigation. The Defendant agrees to abide by all then-current laws related to gasoline pricing. As of the date of the filing of this Order, Tenn. Code Ann. § 47-18-104(b)(34) prohibits the act of unreasonably raising prices or unreasonably restricting supplies of essential goods, commodities, or services in direct response to a natural disaster, regardless of whether such crime, act of terrorism, war, or natural disaster occurred in the State of Tennessee.

5.2 Defendant is prohibited from stating, implying or causing to be stated or implied that the Attorney General, the Division of Consumer Affairs, the Department of Commerce and Insurance or any other governmental unit of the State of Tennessee approved, sanctioned or authorized any practice, act, or conduct of the Defendant.

5.3 In any subsequent action brought against the Defendant whether under this Order or not, the Defendant reserves all available defenses it possesses.

6. PAYMENT TO THE STATE

6.1 Following the execution of this Order, the Defendant shall pay \$57,000 to the State of Tennessee to be distributed as set forth below:

- (1) \$27,000 to the Tennessee's Attorney General's office for reasonable attorneys' fees and costs of investigation, prosecution, and monitoring for compliance of this matter, which may be used for consumer protection purposes or other lawful purposes at the sole discretion of the Tennessee Attorney General;
- (2) \$20,000 to the State of Tennessee to fund consumer education project(s), to investigative or prosecution costs and expenses for investigation(s) and prosecution(s) under the Tennessee Consumer Protection Act of 1977, or to effectuate the remedies set forth at Tenn. Code Ann. § 47-18-108(b)(1), at the sole discretion of the Director of the Division of Consumer Affairs; and
- (3) \$10,000 to the State of Tennessee as a payment to the General Fund of the State of Tennessee.

7. RELEASE

7.1 Upon entry of this Order, the Defendant is released from any civil claims that were or could have been asserted under the Tennessee Consumer Protection Act for violation of Tenn. Code Ann. § 47-18-104(b)(34) or the Tennessee Price-Gouging Act of 2002, Tenn. Code Ann. § 47-18-5101, *et seq.* based upon raising gasoline prices during August, September, October, or November 2008.

8. GENERAL PROVISIONS

8.1 This Order may only be enforced by the parties hereto. This Order creates no third party beneficiaries.

8.2 The titles and headers to each section of this Order are for convenience purposes only and are not intended by the parties to lend meaning to the actual provisions of the Order.

8.3 As used herein, the plural shall refer to the singular and the singular shall refer to the plural and the masculine and the feminine and the neuter shall refer to the other, as the context requires.

8.4 Nothing in this Order shall limit the Attorney General's right to obtain information, documents or testimony from Defendant pursuant to any law, regulation or rule.

8.5 Nothing in this Order shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State of Tennessee. In addition, this Order shall not bar the State, or any other governmental entity from enforcing laws, regulations or rules against the Defendant.

8.6 Nothing in this Order constitutes an agreement by the State of Tennessee concerning the characterization of the amounts paid hereunder for purposes of any proceeding under the Internal Revenue Code or any state tax laws.

8.7 No waiver, modification, or amendment of the terms of this Order shall be valid or binding unless made in writing, signed by the party to be charged, approved by this Honorable Court and then only to the extent set forth in such written waiver, modification or amendment.

8.8 Any failure by any party to this Order to insist upon the strict performance by any other party of any of the provisions of this Order shall not be deemed a waiver of any of the provisions of this Order, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Order and the imposition of any applicable penalties, including but not limited to contempt, civil penalties and/or the payment of attorneys fees to the State.

8.9 If any clause, provision or section of this Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Order and this Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

8.10 This Order sets forth the entire agreement between the parties, and there are no representations, agreements, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Order which are not fully expressed herein or attached hereto.

8.11 Nothing in this Order shall be construed to waive any claims of Sovereign Immunity the State may have in any action or proceeding.

8.12 This Order constitutes the complete agreement of the parties.

8.13 Defendant will not participate, directly or indirectly, in any activity to form a separate entity or corporation for the purpose of engaging in acts prohibited in this Order or for any other purpose which would otherwise circumvent any part of this Order or the spirit or purposes of this Order.

8.14 The Defendant acknowledges and agrees that any information provided to the State(s) in no way constitutes the State's pre-approval, review for compliance with state or federal law, or with this Order, or a release of any issues relating to such documents.

8.15 This shall in no way affect a consumer's private right of action, however, any monies received pursuant to this Order shall offset any further recovery.

9. REPRESENTATIONS AND WARRANTIES

9.1 Defendant represents and warrants that the execution and delivery of this Order is its free and voluntary act, that this Order is the result of good faith negotiations, and that Defendant agrees that the Order and terms hereof are fair and reasonable.

9.2 Defendant represents and warrants that signatories to this Order have authority to act for and bind the Defendant.

9.3 Defendant Weigel Stores, Inc. warrants and represents that it is the proper party to this Order.

9.4 Defendant Weigel Stores, Inc. warrants and represents that it is the true legal name of the entity entering into this Order.

9.5. The Defendant understands that the State expressly relies upon these representations and warranties and if said representations or warranties are false, inaccurate, deceptive, unfair, incomplete, or misleading in any way, the State has the right to move to vacate or set aside in whole or in part this Order or request that the Defendant be held in contempt and/or seek statutory sanctions pursuant to the Consumer Act or other law, if the State so elects.

10. COMPLIANCE WITH ALL LAWS

10.1 Nothing in this Order shall be construed as relieving the Defendant of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Order be deemed to be permission to engage in any acts or practices prohibited by such law, regulation, or rule.

11. MODIFICATION

11.1 Either party may petition the Court for a modification of this Order upon good cause shown.

12. PAYMENT OF COURT COSTS

12.1 All court costs associated with this action and any other incidental costs or expenses incurred thereby shall be borne by Defendant. No costs shall be taxed to the State as provided by Tenn. Code Ann. § 47-18-116. Except as set forth in this Order, each party shall bear its own discretionary costs.

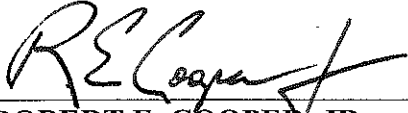
It is ORDERED.

ENTERED THIS ____ DAY OF _____, 2010.

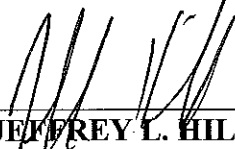
**CHANCELLOR DARYL FANSLER
SIXTH JUDICIAL DISTRICT**

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR THE STATE OF TENNESSEE



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B.P.R. No. 10934



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APPROVED BY:

A handwritten signature in cursive script, reading "Mary Clement". The signature is written in black ink and is positioned above a horizontal line.

MARY CLEMENT, DIRECTOR

Division of Consumer Affairs

500 James Robertson Parkway

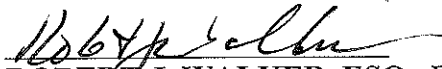
Nashville, Tennessee 37243-6000

(615) 741-1276

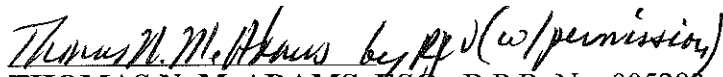
FOR THE DEFENDANT:



BILL WEIGEL, on behalf of Defendant Weigel Stores, Inc. and Rocket Oil, Inc.



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