



TONY RACKAUCKAS
DISTRICT ATTORNEY

FAX TRANSMISSION

OFFICE OF THE DISTRICT ATTORNEY
Economic Crimes/Environmental Protection Units
401 Civic Center Dr.
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(714) 347-8706
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BYRON NELSON

FROM: DEPUTY DISTRICT ATTORNEY

ENVIRONMENTAL AND CONSUMER PROTECTION

Phone No.: **714-347-8747**

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(714) 796-0476

**Chris Burchell-Pepsi
Bill Kroese-Rockview
Ian Brat-WSJ**

TO: John Dunlap-Lobbyist

949 643 5780

562 231 1703

312 750 4153

Phone No.:

Fax No.:

916 341 0849

DATE: 5/17/2006

NUMBER OF PAGES: 16

SUBJECT: People v. Marketing Assoc. , Inc; Miller—Complaints and Judgments

MESSAGE:

Sincerely,
Byron Nelson

COPY

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, NORTH JUSTICE CENTER

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4 THE PEOPLE OF THE STATE OF CALIFORNIA,) FELONY COMPLAINT
5) AMENDMENT 2
6 Plaintiff,)
7)
8 vs.) No. 05NF1504
9) APD 05-15626
10 DONALD DWIGHT MILLER 02/10/53)
11 A0537867)
12 MARKETING ASSOCIATES INC. A CALIFORNIA)
13 CORPORATION)
14 MILLER MARKETING ASSOCIATES INC.)
15)
16 Defendant(s)

14 The Orange County District Attorney charges that in Orange
15 County, California, the law was violated as follows:

16 COUNT 1: On or about April 18, 2005, in violation of Section 496
17 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
18 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
19 CORPORATION did unlawfully buy, receive, conceal, sell,
20 withhold, and aid in concealing, selling, and withholding
21 PLASTIC PALLETS , property which had been stolen and obtained by
theft and extortion, knowing that the property had been stolen
and obtained by theft and extortion.

22 COUNT 2: On or about April 18, 2005, in violation of Section 496
23 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
24 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
25 CORPORATION did unlawfully buy, receive, conceal, sell,
26 withhold, and aid in concealing, selling, and withholding
27 PLASTIC PALLETS , property which had been stolen and obtained by
theft and extortion, knowing that the property had been stolen
and obtained by theft and extortion.

28 /
/
/

DONALD DWIGHT MILLER APD 05-15626 PAGE 2

1 COUNT 3: On or about April 18, 2005, in violation of Section 496
2 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
3 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
4 CORPORATION did unlawfully buy, receive, conceal, sell,
5 withhold, and aid in concealing, selling, and withholding
6 PLASTIC PALLETS , property which had been stolen and obtained by
7 theft and extortion, knowing that the property had been stolen
8 and obtained by theft and extortion.

7 COUNT 4: On or about April 18, 2005, in violation of Section 496
8 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
9 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
10 CORPORATION did unlawfully buy, receive, conceal, sell,
11 withhold, and aid in concealing, selling, and withholding
12 PLASTIC PALLETS , property which had been stolen and obtained by
13 theft and extortion, knowing that the property had been stolen
14 and obtained by theft and extortion.

13 COUNT 5: On or about April 01, 2005, in violation of Section 496
14 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
15 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
16 CORPORATION did unlawfully buy, receive, conceal, sell,
17 withhold, and aid in concealing, selling, and withholding
18 Plastic Pallets, property which had been stolen and obtained by
19 theft and extortion, knowing that the property had been stolen
20 and obtained by theft and extortion.

19 COUNT 6: On or about April 01, 2005, in violation of Section 496
20 (a) of the Penal Code (RECEIVING STOLEN PROPERTY), a FELONY,
21 DONALD DWIGHT MILLER and MARKETING ASSOCIATES INC. A CALIFORNIA
22 CORPORATION did unlawfully buy, receive, conceal, sell,
23 withhold, and aid in concealing, selling, and withholding
24 Plastic Pallets, property which had been stolen and obtained by
25 theft and extortion, knowing that the property had been stolen
26 and obtained by theft and extortion.

25 COUNT 7: On or about April 18, 2005, in violation of Section 565
26 of the Penal Code (DAIRY EQUIPMENT OFFENSE), a MISDEMEANOR,
27 MILLER MARKETING ASSOCIATES INC., who was an unauthorized
28 person, did unlawfully possess, use, obliterate, and destroy the
brand registration upon a container, cabinet, and other dairy
equipment marked with a brand registered pursuant to Chapter 10
of Part 7 of Division 15 of the Food and Agricultural Code, and
which had a value of four hundred dollars (\$400) and less.

DONALD DWIGHT MILLER APD 05-15626 PAGE 3

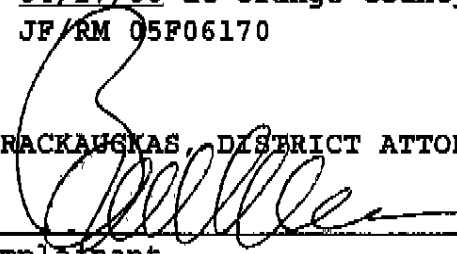
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I declare under penalty of perjury, on information and belief,
that the foregoing is true and correct.

Dated 04/27/06 at Orange County, California.

JF/RM 05F06170

TONY RACKAUSKAS, DISTRICT ATTORNEY

by  Deputy
Complainant

RESTITUTION CLAIMED

- None
- \$ _____
- To be determined

NOTICES:

The People request that defendant and counsel disclose, within 15 days, all of the materials and information described in Penal Code section 1054.3, and continue to provide any later-acquired materials and information subject to disclosure, and without further request or order.

1 Tony Rackauckas, DISTRICT ATTORNEY
 2 ORANGE COUNTY DISTRICT ATTORNEY
 3 William J. Feccia, Senior Assistant District Attorney
 4 Joseph D'Agostino, Assistant District Attorney
 5 By: **BYRON NELSON (Bar No. 45680)**
 6 Deputy District Attorney
 7 Consumer and Environmental Protection Unit
 8 401 Civic Center Drive West
 9 Santa Ana, CA 92701-4575
 10 Telephone: (714) 347-8747
 11 FAX: (714) 796-0476

12 Attorneys for Plaintiff

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

15 THE PEOPLE OF THE STATE OF CALIFORNIA,)	CASE NO.
)	
16 Plaintiff,)	
)	
17 vs.)	COMPLAINT FOR CIVIL
18 MARKETING ASSOCIATES, INC.;)	PENALTIES, INJUNCTION, AND
DONALD DWIGHT MILLER,)	OTHER EQUITABLE RELIEF
)	
19 Defendants)	

20 Plaintiff, the People of the State of California, by and through Tony Rackauckas, District
 21 Attorney of Orange County, allege the following:

22 **PLAINTIFF'S AUTHORITY**

- 23 1. The allegations set forth in paragraph 9, and 9A through 9C, inclusive, of this
 24 complaint are alleged on information and belief and are believed to be true.
- 25 2. The Orange County District Attorney's authority to bring this action is derived
 26 from Business and Professions Code sections 17204, 17206, and 17206.1.

27 **THE PARTIES AND THEIR RELATIONSHIPS**

- 28 3. Marketing Associates, Inc., was and is a corporation organized and existing under

1 and pursuant to the rules and laws of the State of California and is qualified to do business in this
2 State.

3 4. Plaintiff is informed and believes, and on such belief alleges, that at all times
4 herein mentioned and relevant, defendant Marketing Associates, Inc., has its principal place of
5 business located at 1818 N. Orangethorpe Park, Anaheim, California, 92801-1140.

6 5. Plaintiff is informed and believes, and on such belief alleges, that at all times
7 herein mentioned and relevant, defendant Donald Dwight Miller, was and is the Chief Executive
8 Officer and a primary shareholder of defendant business Marketing Associates, Inc. and he
9 exercised control over its business operations.

10 6. Defendants are engaged in the business of buying, recycling and grinding of
11 returnable plastic crates and plastic pallets for handling and transporting food and beverage
12 products.

13 7. All of the defendants are and were residents of the County of Orange, State of
14 California, and/or performed the acts of which the Plaintiff complains within said County.

15 **FIRST CAUSE OF ACTION**
16 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE**
17 **SECTION 17200 (Unlawful Business Practices)**

18 8. Plaintiff realleges and incorporates paragraphs 1 through 7 of this complaint as
19 though they were set forth in full herein.

20 9. Within four years prior to filing this complaint, defendant committed unfair
21 competition as defined in Business and Professions Code section 17200 by engaging in acts or
22 practices which include, but are not necessarily limited to the following:

23 A. Defendants, and each of them, did possess and withhold plastic pallets,
24 crates and other plastic handling and transporting equipment, property knowing or should
25 have known that the property had been stolen and obtained by theft and extortion by
26 others without the permission of the owner or its lawful representative, which equipment
27 had been stolen and obtained by theft and extortion, in violation of Penal Code Section
28 496.

B. Defendants, and each of them, unlawfully possessed or used, or obliterated

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or destroyed the brand registration upon containers (including milk cases), cabinets, or other dairy equipment, which had a value of four hundred dollars (\$400) or less, when the containers, cabinets, or other dairy equipment are marked with a brand that is registered, in violation of Penal Code Section 565.

C. Defendants, and each of them, unlawfully possessed or used, or obliterated or destroyed the brand registration upon containers (including milk cases), cabinets, or other dairy equipment, which have a value in excess of four hundred dollars (\$400), when the containers, cabinets, or other dairy equipment are marked with a brand that is registered, in violation of Penal Code Section 566.

PRAYER for JUDGMENT

WHEREFORE, plaintiff prays that:

1. Defendants, and all of its successors, assigns, agents, representatives, employees and all persons who act in concert with them, be permanently enjoined from engaging in unfair competition as defined in Business and Professions Code section 17200 including, but not limited to, the acts or practices alleged in the First Cause of Action.

2. Pursuant to Business and Professions Code Section 17206, the court assess a civil penalty of two thousand five hundred dollars (\$2,500) against each defendant for each violation of Business and Professions Code section 17200 alleged in the First Cause of Action

3. For such other and further relief as the nature of the case may require, and that this court deem it fitting and proper to fully and successfully punish, dissipate, terminate, eliminate, rehabilitate and remediate the effects of the unlawful business practices of the defendants, and each of them, and all of their successors, assigns, agents, managers, owners, operators, representatives, employees, partners, purchasers, and all persons acting in concert with them, jointly and individually.

TONY RACKAUCKAS, DISTRICT ATTORNEY
COUNTY OF ORANGE, STATE OF CALIFORNIA

DATED: May 15, 2006

BY: 
BYRON NELSON
DEPUTY DISTRICT ATTORNEY

SUPERIOR COURT, COUNTY OF ORANGE (DRAFT #10, 11-10-99)

GENERAL MISDEMEANOR GUILTY PLEA FORM

CASE NO. 05 NF1504 PEOPLE vs. MARKETING ASSOCIATES INC.

- 1. My true full name is Marketing Associates, Inc, a California Corporation
- 2. I understand that I am pleading guilty or no contest and admitting the following offenses, prior convictions, and special punishment allegations, with the maximum punishment indicated below.

CT.	CHARGE	PRIORS/ALLEGATIONS (Date)	MAX SENTENCE JAIL/FINES
1	P.C. 565		6 months, \$1000. + fee
upon entry of this plea, the balance of the charges of the Felony Complaint, Amendment 2, are dismissed			

3. I understand I am also charged with a violation of probation in Case No. _____

RIGHTS AND WAIVERS

- 4. I understand I have the following constitutional rights, which I am waiving and giving up by entering this plea of guilty, or no contest, and if applicable, by my admission of a probation violation.
- 4a. I understand I have the right to be represented by an attorney at all stages of the proceedings until the case is terminated. If I cannot afford an attorney, one will be appointed to represent me free of charge (For defendants who do not have an attorney; I give up my right to an attorney and choose to represent myself). 4a DM
- 4b. I understand I have the right to a speedy and public trial by a jury or a judge. I waive and give up this right. 4b DM
- 4c. I understand I have the right to confront the witnesses against me and to cross examine them. I waive and give up this right. 4c DM
- 4d. I understand I have the right to testify on my own behalf but that I cannot be compelled to be a witness against myself, and may remain silent if I choose. I waive and give up this right. 4d DM
- 4e. I understand I have the right to present and produce evidence by having the Court issue subpoenas to bring into Court all witnesses and evidence favorable to me, at no cost to me. I waive and give up this right. 4e DM
- 4f. I understand that under the Fourth and Fourteenth Amendments to the United States Constitution, I have a right to be free from unreasonable searches. I waive and give up this right. If I am granted probation, I agree to submit my person and property, including any residence, premises, container or vehicle under my control to search and seizure at any time of the day or night by any law enforcement or probation officer with or without a warrant, and with or without reasonable cause or reasonable suspicion. 4f DM
- 5. I understand I have a right to appeal an adverse ruling on a Penal Code 1538.5 Motion (Suppression motion). I give up this right. 5 DM
- 6. I understand that I have a right to have a delay in pronouncement of my sentence of not less than six hours and not more than five days after my plea. I give up this right and agree to be sentenced at this time. 6 DM

7. I understand I have the right to reject probation and I hereby waive and give up that right and accept probation on the terms and conditions as imposed by the court, OR as contained in the attached Sentence Recommendation form.

DM

7a. I also understand if the judge does not wish to follow the District Attorney's sentence recommendation, I may withdraw my plea of guilty or no contest.

7a DM

7b. I also understand that if I violate any of the terms of probation, I may be returned to court and sentenced up to the maximum punishment as indicated in number 2 above.

7b DM

CONSEQUENCES

8. I understand the possible consequences of my guilty plea or plea of no contest, and admissions are as follows:

8a. I understand there will be state penalty assessments (tax) added to any fines imposed by the court.

8a DM

8b. I understand I will be ordered to pay a minimum of \$100 and a maximum of \$1,000 to the State Restitution Fund unless the court makes a finding of "compelling and extraordinary reasons" for waiving this fine.

8b DM

8c. I understand that if I am not a citizen of the United States the conviction for the offense charged may have the consequence of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

8c DM

8d. I understand that if I am charged and convicted of a similar offense in the future, my plea of guilty or no contest today may be used to increase my punishment for the new offense.

8d DM

8e. I understand that if I am presently on probation or parole for any previous conviction, my plea of guilty or no contest today may cause me to be in violation of that probation or parole and result in additional penalties and/or punishment.

8e DM

8f. I understand there may be additional consequences to my plea of guilty or no contest, as follows:
(delete those not applicable)

For specified sex offenses: Register as a sex offender as required by section 290 Penal Code

DM

For specified drug offenses: Register per 11590 Health and Safety Code.

DM

8g. I understand that DMV may take action and suspend my license for specified drug, alcohol offenses, and vandalism as follows:

EVERYONE convicted of PC 594, 594.3, 594.4 (Vandalism) 1 year suspension.

8g DM

UNDER 21 Years of age - Suspended for 1 year for violation of Penal Code 647f, 192.5; Health and Safety Code violations involving dangerous drugs, controlled substances, and alcohol; Business and Professions Code 25658, 25658.5, 25661, 25662; Vehicle Code sections 23222, 23224.

8g DM

9. I understand I have the right to enter my plea before, and be sentenced by, a judge. I give up this right and agree to enter my plea before, and be sentenced by, a commissioner or temporary judge.

9 DM

(Enter name of commissioner or pro tem judge).

SENTENCE RECOMMENDATION FORM - MISDEMEANOR

PEOPLE VS Marketing Associates, Inc CASE NO. 05NF1504
CHARGE(S) PLEADING GUILTY TO: Penal Code 565

TERMS:

- Defendant placed on 3 years INFORMAL ~~FORMAL~~ PROBATION.
- Violate no laws Obey orders of Court
- Obey all rules of Prob. Dept, Court & Jail
- Submit to SEARCH AND SEIZURE at business exterior address.
- Submit to CHEMICAL TESTING
- COOPERATE with Prob. Dept. in any program of counseling or treatment.
- SEEK training, schooling or employment and maintain residence as approved by Prob. Dept.
- ASSOCIATES subject to approval of Prob. Officer.
- Not use or possess any drugs or narcotics.
- Consume no alcohol
- Submit to AIDS TESTING.
- Attend AIDS EDUCATION.
- Register pursuant to 11590 H&S / 290 PC
- Not possess any dangerous weapons.
- Police Agency to dispose of weapon.
- Use TRUE NAME and D.O.B. at all times.
- Carry VALID I.D. at all times.
- Use NO CHECKS / CREDIT CARDS.
- Reveal probation terms upon request of Peace officer.
- Obey all rules of program and do not leave program without court approval.
- Stay away from _____ during probationary period.
- Sentence(s) to run consecutively/concurrently to each other / any other / _____
- May be served in State Prison concurrently.
- Submit to Book and Release
- No work release No County Parole
- No Electronic Confinement No CWP
- JAIL STAYED to _____ at _____ m. OCJ
- Jail stayed pending _____

COMMUNITY SERVICE / CAL TRANS

- Complete _____ hours / days of Comm. Service / Cal Trans.
- In lieu of fine In lieu of Jail
- In lieu of Cal Trans, defendant to perform physical labor.
- Make restitution in the amount of \$ _____ or as determined through:
 - Victim Witness Probation
- Probation to terminate / be modified to Informal status upon _____

FINES AND FEES

- Pay a fine of \$ 1000. (one thousand) + P.A. or serve _____ days in OCJ.
- Commit on fine.
- Pay \$100.00 STATE REST. FINE
- Pay \$25.00 O.R. Screening Fee
- Pay \$10.00 Citation Processing Fee
- Pay \$ _____ DRUG PROGRAM fee.
- Pay \$50.00 LAB fee.
- Pay COSTS of FORMAL PROBATION as directed by Probation Officer.

ADDITIONAL TERMS & CONDITIONS

This plea is entered in conjunction with a Civil Case stipulated Judgment Order and Restraining Orders. The defendant is ordered to perform fully all of the terms of that Civil Judgment. This business shall not possess at any time any plastic crates, pallets, hand truck equipment, and plastic packaging and transport material without the full written authorization of the named entity located on that material.

JAIL

- Serve _____ days OCJ on court
- Serve _____ days OCJ on court
- Credit for _____ days served including good time work time.

as further stipulated in the Civil Case Judgment

Defendant's Signature: _____
D.A. Signature: _____ 5/19/06

10. I offer my plea of GUILTY or NO CONTEST, and admit the listed priors and enhancements, freely and voluntarily. No one has made any threats, used any force against me or my family or loved ones, and no one has made any promises to me other than as set out as on the Sentence Recommendation form.

11. My plea of GUILTY or NO CONTEST is made with a full understanding of all the matters set forth in the Complaint and in this form, which I declare under penalty of perjury that I have read, understood, and that I have personally initialed each item herein. I further declare that everything on this form is true and correct and understand that signing and filing of this form is Conclusive Evidence that I have pleaded guilty or no contest to the charges set forth.

12. Factual basis: On April 18, 2005, this Corporate defendant was in unauthorized possession of plastic dairy crates that had the name and contact information of the dairy projects were
EXECUTED at Fullerton California, located on such crates

DATED: 5/17/06 SIGNED Donald D. Miller

as a Corporate officer of the Marketing Associates Inc, I have the
author of the
Copy to enter the
plea.

DEFENDANT'S ATTORNEY: I am the attorney of record for the defendant. I have explained each of the above rights to the defendant and answered all of the defendant's questions with regard to the plea. I have discussed the facts of the defendant's case with the defendant and explained the consequences of this plea, the elements of the offense(s), the possible defenses, and the sentence to be imposed. I concur in this plea and in the defendant's decision to waive his/her constitutional rights.

DATED: 5/17/06 SIGNED [Signature]
(ATTORNEY OF RECORD)

INTERPRETER'S STATEMENT: Having been sworn or having a written oath on file, I certify that I translated this form to the defendant in the _____ language. The defendant stated that (s)he understood the contents of this form and then (s)he initialed and signed the form.

DATED: _____ SIGNED _____
(COURT INTERPRETER)

FOR THE PEOPLE:
DATED: May 17, 2006 SIGNED [Signature]



Right Thumb Print

(BAILIFF'S SIGNATURE)

1 TONY RACKAUCKAS, District Attorney
 Orange County District Attorney
 2 WILLIAM J. FECCIA, Senior Assistant District Attorney
 3 JOSEPH D'AGOSTINO, Assistant District Attorney
 By: **BYRON NELSON (Bar No. 45680)**
 4 Deputy District Attorney
 Consumer and Environmental Protection Unit
 5 401 Civic Center Drive West
 6 Santa Ana, CA 92701-4575
 Telephone: (714) 347-8747
 7 FAX: (714) 796-0476

8 Attorneys for Plaintiff
 9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 11 FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

12 THE PEOPLE OF THE STATE OF CALIFORNIA,
 13 Plaintiff,

14 vs.

15 MARKETING ASSOCIATES, INC.;
 16 DONALD DWIGHT MILLER,
 17 Defendants

CASE NO.
Assigned for All Purposes to:

(PROPOSED)
INJUNCTION AND FINAL
JUDGMENT PURSUANT TO
STIPULATION and ORDER

18
 19 **IT IS HEREBY STIPULATED** between the Plaintiff, the People of the State of
 20 California, by and through its attorneys Tony Rackauckas, District Attorney of the County of
 21 Orange, by Byron Nelson, Deputy District Attorney, and Defendants Marketing Associates, Inc.
 22 and Donald Dwight Miller, through their attorney Vincent LaBarbera, and it appearing to the
 23 Court that the parties have stipulated and consented to the entry of Judgment without the taking
 24 of proof and without this Final Judgment constituting any admission by Defendants as to any
 25 issue of law or fact alleged in the Complaint. The defendants and both of them, corporate and
 26 individual, acknowledge hereby that they have been advised that a conflict of interest may exist
 27 between them and they are entitled to and should have independent legal counsel advise them;
 28 being fully aware of this conflict and being fully advised, each freely, voluntarily and knowingly

1 waive each of their separate right to independent, unassociated counsel and knowingly and freely
2 independently elect and chose to proceed in the execution and entry of this Judgment with the
3 same legal counsel.

4 The Court having considered the matter and the pleadings, and good cause appearing,
5 therefore,

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

7
8 **JURISDICTION**

- 9 1. This Court has jurisdiction of the subject matter and the parties thereto.

10 **APPLICABILITY**

11 2. The injunctive provisions of this Judgment are applicable to Defendants
12 Marketing Associates, Inc. and Donald Dwight Miller, and to all officers, employees,
13 representatives, persons, corporations, successor corporations, acquiring corporations and/or
14 shareholders or business entities, or other entities acting by, through, under or on behalf of said
15 Defendants, and to all officers, employees, representatives, purchasing agents, managers,
16 persons, corporations, successor corporations or business entities, or other entities acting in
17 concert with or participating with said Defendants with actual or constructive knowledge of this
18 Injunction and Final Judgment.

19 **INJUNCTION**

20 3. Effective upon entry of this Judgment, Defendants Marketing Associates, Inc. and
21 Donald Dwight Miller, and all officers, employees, representatives, persons, corporations,
22 successor corporations or business entities, or other entities acting by, through, under or on
23 behalf of said Defendants or within the course and scope of their employment by the Defendants,
24 are hereby permanently enjoined and restrained under Business and Professions Code
25 section 17203, in the county of Orange and elsewhere in the state of California from violating
26 Business and Professions Code sections 17200, by any of, but not limited to, the following acts
27 or practices:

- 28 A. Defendants, and each of them, shall **not** knowingly buy, receive, conceal,

1 sell, withhold, possess, and aid in concealing, selling, possessing and withholding plastic
2 pallets, plastic crates and other plastic handling and transporting material, equipment and
3 property that has been stolen and obtained by theft and extortion, pursuant to Penal Code
4 Section 496.

5 B. Defendants, and each of them, shall not possess or use or obliterate or
6 destroy or recycle or shred plastic crates, pallets, transporting and handling equipment,
7 material, and containers, cabinets, or other plastic equipment containing the identifying
8 name and California contact information and brand registration requirements described in
9 Business and Professions Code section 22750 upon that equipment from the dairy, soft
10 drink, alcohol, bakery, USPS, grocery, and trash management industries without written
11 authorization of the branded owner and/or a written bill of sale fully and clearly
12 identifying the seller of that equipment to the defendants alleging the authority to sell
13 from and supporting such sale by such branded owner of the plastic equipment;

14 COMPLIANCE

15 4. For the purpose of securing compliance with the terms of this judgment, upon
16 written request of representatives of the Orange County District Attorney or its designee served
17 on the defendant(s), Defendants shall within 4 hours submit all requested written, dated and
18 executed referenced bills of sale and authorizations for plastic materials purchased by
19 defendants.

20 PENALTIES AND COSTS

21 5. Within 90 days of the date of entry of this Final Judgment, Defendants Marketing
22 Associates, Inc. and Donald Dwight Miller, jointly and severally, shall pay in full as and for civil
23 penalties and costs of investigation in this case the total sum of Eighty-six Thousand Seven
24 Hundred Thirty Dollars (\$86,730), with disbursement by separate checks as follows:

25 A. Sixty-six Thousand Seven Hundred Thirty dollars (\$66,730.) as civil
26 penalties, pursuant to Business and Professions Code section 17206; payment shall be in
27 the form of a cashier's check or money order made payable to the **County of Orange,**
28 **and denominated as "Penalties".**

1 B. Twenty Thousand Dollars (\$20,000.) as reimbursement of costs of
 2 investigation; payment shall be in the form of a cashier's check or money order made
 3 payable to the County of Orange and denominated as "Costs"..

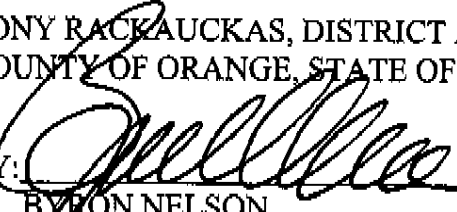
4 6. Payments pursuant to this Judgment shall be mailed or delivered to the following
 5 address:

6 Orange County District Attorney's Office
 7 Consumer Protection Unit, 4th Floor
 8 401 Civic Center Drive
 9 Santa Ana, California 92701
 Attention: Byron Nelson, Deputy District Attorney


10 **JURISDICTION RETAINED**

11 7. Jurisdiction is retained for the purpose of enabling any party to this Injunction and
 12 Final Judgment to apply to the Court at any time for such further order and directions as may be
 13 necessary and appropriate for the construction of or the carrying out of this Injunction and Final
 14 Judgment, for the enforcement of compliance therewith, and for punishment of violations
 15 thereof.

16 TONY RACKAUCKAS, DISTRICT ATTORNEY
 17 COUNTY OF ORANGE, STATE OF CALIFORNIA

18 DATED: May 17, 2006 BY: 
 19 BYRON NELSON
 20 DEPUTY DISTRICT ATTORNEY

21 MARKETING ASSOCIATES, INC.

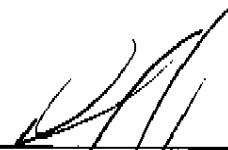
22 DATED: 5/18/06 BY: 
 23 DONALD DWIGHT MILLER, Chief Executive
 24 Officer and on behalf of Marketing Associates, Inc.

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People v. Marketing Associates, Inc.; Donald Dwight Miller
Injunction and Final Judgment Pursuant to Stipulation: OCSC Case Number:
(Continued from page 4)

DATED: 5/17/06 
DONALD DWIGHT MILLER, Individually

Approved as to form and content:
DATED: 5/17/06 BY: 
VINCENT LA BARBERA
ATTORNEYS FOR DEFENDANT

JUDGMENT AND ORDER

The terms of the above Stipulation and Agreement shall become and are the Order and Judgment of this Court and the Defendants Marketing Associates, Inc., and Donald Dwight Miller are hereby ordered to fully perform in accordance therewith.

EFFECT AND ENTRY

The Clerk is ordered to enter this Injunction and Final Judgment.

DATED: _____
JUDGE OF THE SUPERIOR COURT IN
AND FOR THE COUNTY OF ORANGE