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SUPERIOR COURT OF WASHINGTON
FOR KING COUNTY

COSTCO WHOLESALE CORPORATION, a Washington corporation,

Plaintiff,

v.

STATE OF WASHINGTON DEPARTMENT OF REVENUE and SUZAN DELBENE, in her official capacity as Director of the Washington State Department of Revenue,

Defendants.

NO. 11-2-08830-8 SEA

DEFENDANTS' ANSWER TO PETITION FOR REVIEW AND COMPLAINT, AND COUNTERCLAIM TO ENFORCE THE UNCLAIMED PROPERTY ACT

Defendants State of Washington, Department of Revenue, and Suzan DelBene, in her official capacity as director of the Washington State Department of Revenue (Department), answer and respond to the Petition for Review and Complaint (Complaint) filed by plaintiff Costco Wholesale Corporation (Costco) as follows:

I. ANSWER TO ALLEGATIONS IN COMPLAINT

The introductory remarks on pages 1-2 of the Complaint consist primarily of legal argument and Plaintiff's summary of why it is bringing this lawsuit. It fails to comply with CR(10)(b) and appears to require no answer. To the extent an answer is required, Defendants admit that the Department of Revenue sent a letter to Costco dated February 4, 2011, demanding that Costco report and remit payment to the Department of \$3,261,757.33, which

1 the Department had determined was the amount of unclaimed property, plus applicable
2 interest, held by Costco. Defendants also admit that the February 4, 2011 letter was
3 accompanied by nearly 4,000 pages of supporting documentation, and that Costco remitted the
4 requested amount within the period of time allowed by the Department. Defendants deny any
5 remaining allegations in the unnumbered paragraphs on pages 1 and 2 of the Complaint.

6 1. Defendants admit the allegations in paragraph 1 of the Complaint.

7 2. Defendants admit the allegations in paragraph 2 of the Complaint.

8 3. Defendants admit the allegations in paragraph 3 of the Complaint except that
9 Defendant's deny that the demand letter issued by the Department to Costco, dated February 4,
10 2011, is properly characterized as a "final order." Defendants admit only that the demand
11 letter constitutes a final "agency action" reviewable under RCW 34.05 (the Administrative
12 Procedure Act).

13 4. Defendants admit that Suzan DelBene is the Director of the Department of
14 Revenue. Except as so admitted, Defendants deny the allegations in paragraph 4 of the
15 Complaint.

16 5. Defendants admit that this court has subject matter jurisdiction over this matter
17 under RCW 34.05 (the Administrative Procedure Act), RCW 7.24 (the Uniform Declaratory
18 Judgment Act), or RCW 63.29 (the Uniform Unclaimed Property Act). Except as so admitted,
19 Defendants deny the allegations in paragraph 5 of the Complaint.

20 6. Defendants admit the allegations in paragraph 6 of the Complaint.

21 7. Defendants admit the allegations in paragraph 7 of the Complaint.

22 8. Defendants admit that in a letter dated February 4, 2010, the Department of
23 Revenue demanded that Plaintiff pay \$3,261,757.33 to the Department on or before March 4,
24 2011. Defendants also admit that on March 2, 2011, it accepted payment from Plaintiff of the
25 amount demanded. Defendants admit that the documents attached to the Complaint as Exhibits
26 1 and 2 are true and correct copies of the Department's February 4, 2011 demand letter and

1 Costco's March 2, 2011 letter sent in response, respectively. Defendants deny the "continued
2 retention" of the amount Costco paid in response to the demand letter. On March 30, 2011,
3 Defendant Department of Revenue refunded Costco's payment of \$3,292,855.73, plus
4 \$31,098.40 of interest accrued at the rate of 12%.

5 9. Defendants deny that any adjudicative proceeding preceded this action.
6 Defendants admit that Costco and the Department are the proper parties to this dispute.

7 10. Defendants admit that Plaintiff has standing under the APA to pursue this
8 action. Except as so admitted, Defendants deny the allegations in paragraph 10 of the
9 Complaint.

10 11. Defendants deny the allegation in paragraph 11 of the Complaint.

11 12. Defendant Department of Revenue admits that on February 4, 2010, its
12 representatives met with Costco's representatives to discuss Costco's statutory obligation to
13 report and remit to the Department as unclaimed property the amounts represented by uncashed
14 customer rebate checks. Defendant also admits that Costco denied that it held any unclaimed
15 property. Except as so admitted, Defendants deny the allegations in paragraph 12 of the
16 Complaint.

17 13. Defendants admit the allegations in paragraph 13 of the Complaint.

18 14. Defendants admit that Costco responded to the Department's records request
19 with a letter asserting that it was not the holder of any unclaimed property. Defendants also
20 admit that Costco produced some of the records requested by the Department. Except as so
21 admitted, Defendants deny the allegations in paragraph 14 of the Complaint.

22 15. Defendants deny the allegations in paragraph 15 of the Complaint.

23 16. Defendants deny the allegations in paragraph 16 of the Complaint.

24 17. Defendants deny the allegations in paragraph 17 of the Complaint.

25 18. Defendants deny the allegations in paragraph 18 of the Complaint.

26 19. Defendants admit the allegations in paragraph 19 of the Complaint.

1 20. Defendants admit the allegations in paragraph 20 of the Complaint.
2 21. Defendants admit the allegations in paragraph 21 of the Complaint.
3 22. Defendants admit the allegations in paragraph 22 of the Complaint.
4 23. Defendants deny the allegations in paragraph 23 of the Complaint.
5 24. Defendants admit the allegations in paragraph 24 of the Complaint.
6 25. Defendants admit the allegations in paragraph 25 of the Complaint.
7 26. Defendants admit the allegations in paragraph 26 of the Complaint.
8 27. Defendants deny the allegations in paragraph 27 of the Complaint. On March
9 30, 2011, Defendant refunded Costco's payment of \$3,292,855.73, plus \$31,098.40 of interest
10 accrued at the rate of 12%.
11 28. Defendants deny the allegations in paragraph 28 of the Complaint.
12 29. Defendants admit the allegation in paragraph 29 of the Complaint.
13 30. Defendants admit that judicial review is available either under Chapter 34.05
14 RCW or under the Uniform Declaratory Judgments Act, Chapter 7.24 RCW, as alleged in
15 paragraph 30 of the Complaint.
16 31. Defendants are without knowledge or information sufficient to form a belief as
17 to the truth of the allegations in paragraph 31 of the Complaint, and therefore deny the same.
18 32. Defendants admit the allegations in paragraph 32 of the Complaint.
19 33. Defendants are without knowledge or information sufficient to form a belief as
20 to the truth of the allegations in paragraph 33 of the Complaint, and therefore deny the same.
21 34. Defendants are without knowledge or information sufficient to form a belief as
22 to the truth of the allegations in paragraph 34 of the Complaint, and therefore deny the same.
23 35. Defendants deny the allegations in paragraph 35 of the Complaint.
24 36. Defendants admit that they demanded payment from Costco of the amount of
25 uncashed rebate checks issued on Costco's behalf by a third party. Defendants also admit that
26 they concluded the amounts represented by the uncashed rebate checks are "unclaimed

1 property,” and that Costco is the “holder” of such property. Except as so admitted, Defendants
2 deny the allegations in paragraph 36 of the Complaint.

3 37. Defendants deny the allegations in paragraph 37 of the Complaint.

4 38. Defendants deny the allegations in paragraph 38 of the Complaint.

5 39. Defendants deny the allegations in paragraph 39 of the Complaint.

6 40. Defendants admit the allegations in paragraph 40 of the Complaint.

7 41. Defendants admit that Costco’s claim made the allegations described in
8 paragraph 41 of the Complaint. Except as so admitted, Defendants deny the allegations in
9 paragraph 41 of the Complaint.

10 42. Defendants admit that Costco asserted a claim as the purported “owner” of the
11 amount it paid to the Department in response to the Department’s February 4, 2011 demand
12 letter. Except as so admitted, Defendants deny the allegations in paragraph 42 of the
13 Complaint.

14 43. Defendants admit that the two checks attached to the Complaint as Exhibit 3
15 were attached to Costco’s claim. Defendants are without knowledge or information sufficient
16 to form a belief as to the truth of the remaining allegations in paragraph 43 of the Complaint,
17 and therefore deny the same.

18 44. Defendants admit the allegations in paragraph 44 of the Complaint.

19 45. Defendants deny the allegations in paragraph 45 of the Complaint.

20 46. Paragraph 46 of the Complaint does not require an answer, other than the
21 answers to paragraphs 1-45 above.

22 47. Defendants deny the allegations in paragraph 47 of the Complaint.

23 48. Defendants deny the allegations in paragraph 48 of the Complaint.

24 49. Paragraph 49 of the Complaint does not require an answer, other than the
25 answers to paragraphs 1-45 above.

26 50. Defendants deny the allegations in paragraph 50 of the Complaint.

- 1 51. Defendants deny the allegations in paragraph 51 of the Complaint.
- 2 52. Paragraph 52 of the Complaint does not require an answer, other than the
3 answers to paragraphs 1-45 above.
- 4 53. Defendants deny the allegations in paragraph 53 of the Complaint.
- 5 54. Defendants deny the allegations in paragraph 54 of the Complaint.
- 6 55. Paragraph 55 of the Complaint does not require an answer, other than the
7 answers to paragraphs 1-45 above.
- 8 56. Defendants deny the allegations in paragraph 56 of the Complaint.
- 9 57. Defendants deny the allegations in paragraph 57 of the Complaint.
- 10 58. Paragraph 58 of the Complaint does not require an answer, other than the
11 answers to paragraphs 1-45 above.
- 12 59. Defendants deny the allegations in paragraph 59 of the Complaint.
- 13 60. Defendants deny the allegations in paragraph 60 of the Complaint.
- 14 61. Paragraph 61 of the Complaint does not require an answer, other than the
15 answers to paragraphs 1-45 above.
- 16 62. Defendants deny the allegations in paragraph 62 of the Complaint.
- 17 63. Defendants deny the allegations in paragraph 63 of the Complaint.
- 18 64. Paragraph 64 of the Complaint does not require an answer, other than the
19 answers to paragraphs 1-45 above.
- 20 65. Defendants deny the allegations in paragraph 65 of the Complaint.
- 21 66. Defendants deny the allegations in paragraph 66 of the Complaint.
- 22 67. Paragraph 67 of the Complaint does not require an answer, other than the
23 answers to paragraphs 1-45 above.
- 24 68. Defendants deny the allegations in paragraph 68 of the Complaint.
- 25 69. Defendants deny the allegations in paragraph 69 of the Complaint.
- 26

1 70. Paragraph 70 of the Complaint does not require an answer, other than the
2 answers to paragraphs 1-45 above.

3 71. Defendants deny the allegations in paragraph 71 of the Complaint.

4 72. Defendants deny the allegations in paragraph 72 of the Complaint.

5 73. Paragraph 73 of the Complaint does not require an answer, other than the
6 answers to paragraphs 1-45 above.

7 74. Defendants deny the allegations in paragraph 74 of the Complaint.

8 75. Defendants deny the allegations in paragraph 75 of the Complaint.

9 **II. AFFIRMATIVE DEFENSES**

10 76. Plaintiff's allegations fail in whole or in part to state a claim for which relief
11 may be granted.

12 **III. DEPARTMENT'S COUNTER-CLAIMS**

13 1. The State of Washington, acting by and through the Attorney General of the
14 State of Washington, counterclaims against Costco pursuant to RCW 63.29.320 for a Judgment
15 and Order directing it to deliver into the State's protective custody the proceeds of uncashed
16 rebate checks issued to its customers on Costco's behalf by CPG, along with interest and
17 penalties for Costco's failure to make a report and deliver the unclaimed property within the
18 time specified in the Uniform Unclaimed Property act, Chapter 63.29 RCW, and as imposed by
19 RCW 63.29.340.

20 **IV. PARTIES**

21 2. **Counter-Claimant.** The State of Washington, Department of Revenue
22 (Department), is the administrative department of the State charged with administration of the
23 State's Uniform Unclaimed Property Act, Chapter 63.29 RCW.

24 3. **Counter-Defendant.** Costco is a Washington corporation with its principal
25 place of business in Issaquah, Washington. Costco sells consumer goods to members at
26 warehouses located throughout the United States, including 27 warehouses in Washington.

1 **V. JURISDICTION AND VENUE**

2 4. **Jurisdiction.** This Court has jurisdiction over the parties to and the subject
3 matter of this action under RCW 63.29.320 and other governing law.

4 5. **Venue.** Venue is proper in this Court under RCW 63.29.320.

5 **VI. FACTS**

6 6. For a number of years, Costco has offered rebates to customers who purchased
7 certain products at its warehouses. Costco is one of the largest issuers of customer rebates in
8 the United States.

9 7. Costco had uniform policies and procedures applicable to rebate promotions for
10 multiple products sold at its warehouses during the period 2004 through 2010. Costco
11 maintained a “rebate department,” which managed and administered Costco’s customer rebate
12 program.

13 8. Costco required its suppliers to enter into a written contract that specified the
14 terms and conditions of customer rebate promotions for products sold at Costco’s warehouses
15 during the period 2004 through 2010. Among other conditions, Costco required that the rebate
16 equal at least 20% of the purchase price, that the supplier allow Costco to process customer
17 rebate claims and pay the rebate amount from funds provided by Costco to a third-party rebate
18 processor, and that the supplier allow Costco to take a credit against the supplier’s account
19 payable for the rebate amount at the time the customer was issued a rebate check.

20 9. Costco’s suppliers were contractually obligated to pay Costco, not Costco’s
21 customers, the rebate amount applicable to products purchased at Costco’s warehouses.

22 10. Costco, not Costco’s suppliers, was contractually obligated to pay the rebate
23 amount to the customer who purchased a product at Costco’s warehouse.

24 11. Costco contracted with Continental Promotions Group, Inc. (CPG), a third party
25 rebate processor, to provide services in connection with the administration of Costco’s rebate
26 program. CPG’s rebate services to its client companies are commonly known as fulfillment

1 services, whereby CPG receives and processes rebate forms and issues the rebate payments in
2 accordance with the rules of the program established by the client companies.

3 12. Costco's rebate program was devised so that its customers could claim and cash
4 in rebates on various products by submitting a completed "rebate receipt" issued at the point-
5 of-sale to a single location, either by mail or online. The typical terms of the rebate were as
6 follows:

7 A. The customer had to purchase a product with a rebate during a stated
8 period.

9 B. The customer had to provide his or her name and contact information on
10 a register rebate receipt issued at the point-of-sale that identified the product, rebate
11 amount, and expiration date.

12 C. The completed rebate receipt had to be mailed or submitted online by a
13 certain date.

14 D. The rebate receipt was to be addressed to "Costco Rebate Program C/O
15 CPG, Dept #27699" and mailed to a post office box specified on the receipt.

16 E. As an alternative to mailing the rebate receipt to CPG, the customer
17 could submit a rebate request online at an internet website with the domain name
18 "costco onlinerebates.com."

19 13. Costco did not inform its suppliers of the identity of the customers who
20 redeemed rebates offered at Costco's warehouses.

21 14. Costco maintained a centralized database accessible online at
22 www.costcorebatestatus.com that detailed the customer's rebate activity and provided updates
23 on the status of a customer's rebate request.

24 15. After receiving a rebate claim from Costco's customer, CPG verified the
25 customer's eligibility for a rebate by matching the information provided by the customer
26 against Costco's point-of-sale records.

1 16. CPG had no independent contractual obligation to pay Costco's customers.

2 17. Under the terms of its contract with Costco, CPG was required to provide a
3 weekly "Rebate Report" to Costco that stated the total value of the rebates for each period, the
4 number of rebate redemptions, and, upon request, a list of names and addresses of each
5 customer who redeemed a rebate, among other information.

6 18. CPG was also required to provide Costco with a weekly invoice for the total
7 rebate amount of all valid rebates, administrative setup fees and vendor transaction charges.

8 19. After receiving the weekly invoice, Costco transmitted an amount sufficient to
9 cover the rebate amount and related fees to a dedicated bank account maintained by CPG.

10 20. CPG was contractually obliged to issue a rebate check to Costco's customer
11 within three days after receipt of the funds transmitted by Costco.

12 21. Under the written contracts it entered into with its suppliers, Costco was entitled
13 to deduct the amount represented by the rebate checks issued to customers from Costco's
14 accounts payable for the supplier of the products subject to the rebate.

15 22. Certain rebate checks that were drawn to pay rebates to Costco's customers
16 were not cashed by the payee, a situation commonly known as "slippage."

17 23. CPG was contractually obligated to notify Costco in writing in the event that the
18 average percentage of rebate checks that remained uncashed over 180 days exceeded five
19 percent (5%) of all checks issued.

20 24. Costco had no obligation to notify its suppliers in the event some portion of the
21 rebate checks issued to Costco's customers remained uncashed for any length of time.

22 25. Costco had no obligation to repay its suppliers for the amount taken as a credit
23 against its suppliers' accounts payable in the event Costco's customers did not cash a rebate
24 check issued by CPG on Costco's behalf.

25 26. A Costco customer could cash a rebate check issued by CPG either at a
26 financial institution or at any Costco warehouse.

1 27. Costco honored expired checks at any Costco warehouse.

2 28. The disposition of the property represented by the uncashed rebate checks—the
3 slippage—is governed by the Uniform Unclaimed Property Act, Chapter 63.29 RCW. Under
4 that law, the proceeds of the unpaid rebate checks are intangible personal property that must be
5 delivered into the protective custody of the Department when the period of abandonment
6 specified in the law has expired.

7 29. The period of abandonment for certain uncashed checks to pay rebates that
8 Costco offered to its customers has expired. Costco has not filed with the Department an
9 unclaimed property report disclosing information about payees and the unpaid amount due on
10 its unclaimed rebates. Nor has it delivered to the Department the proceeds of those uncashed
11 rebate checks owed to persons entitled to the rebate payment whose last known address was in
12 Washington.

13 30. RCW 63.29.300 provides that the Department may examine the records of any
14 person to determine whether the person has complied with the provisions of Chapter 63.29
15 RCW, the Uniformed Unclaimed Property Act. The Department may conduct the examination
16 even if the person believes it is not in possession of any property reportable or deliverable
17 under the Uniform Unclaimed Property Act.

18 31. RCW 63.29.310(1) requires every holder of unclaimed property to maintain a
19 record of the name and last known address of the owner for six years after the property
20 becomes reportable. If a holder fails to maintain such records, the Department may require the
21 holder to pay such amounts as may reasonably be estimated from any available records. RCW
22 63.29.300(5).

23 32. A person holding property that is subject to custody as unclaimed property must
24 report and remit the property to the Department. RCW 63.29.170, .190.

25 33. The statutory definition of “holder” includes a person who is “[i]ndebted to
26 another on an obligation.” RCW 63.29.010(10).

1 34. A check is deemed intangible property under the Uniform Unclaimed Property
2 Act. RCW 63.29.010(12)(a).

3 35. An uncashed check that has been outstanding for more than three years must be
4 reported and remitted to the Department as unclaimed property. RCW 63.29.020(1), .050.

5 36. Uncashed rebate checks issued to Costco's customers are subject to the custody
6 of the Department when (a) the last known address of the apparent owner is in Washington, or
7 (b) the last known address of the apparent owner is in a state that does not provide by law for
8 the escheat or custodial taking of the property, or (c) the records of the holder do not reflect the
9 last known address of the person entitled to the property and the holder is a domiciliary of
10 Washington and has not previously paid or delivered the property to the state of the last known
11 address of the apparent owner or other person entitled to the property. RCW 63.29.030.

12 37. RCW 63.29.320 provides that if a person refuses to deliver property to the State,
13 the Department may bring action in a court of competent jurisdiction to enforce such delivery.

14 38. The Department conducted a routine unclaimed property audit of Costco in
15 2008 for the reporting period 2002 through 2007. The audit resulted in the finding that Costco
16 held a total of \$1,029,103 in unclaimed property reportable to Washington in the form of
17 unrepresented checks (other than rebate checks), unclaimed credits, and unredeemed gift
18 certificates.

19 39. When the Department issued an unclaimed property assessment in 2008, it
20 reserved the issue of uncashed rebate checks for subsequent determination because Costco
21 claimed that it did not possess any records of the uncashed rebate checks. Costco asserted that
22 CPG was the "holder" of amounts represented by the uncashed rebate checks issued by CPG to
23 Costco's customers.

24 40. The Department unsuccessfully attempted to obtain records of uncashed rebate
25 checks issued to Costco's customers from CPG, which filed for bankruptcy in the United States
26 Bankruptcy Court of the Middle District of Florida in November 2008.

1 41. The Department has contracted with ACS Unclaimed Property Clearinghouse
2 (ACS), an independent contractor that provides unclaimed property auditing services to
3 Washington and other states. In October 2009, ACS shared with the Department some of its
4 findings from an unclaimed property audit it performed on behalf of other states with respect to
5 Costco's customer rebate program. ACS informed the Department that Costco had declined to
6 produce records of the uncashed rebate checks issued to its customers on Costco's behalf by
7 CPG. However, ACS obtained such records directly from CPG's computer hard drives and
8 from a backup copy provided by a former employee of CPG.

9 42. ACS contracted with a digital forensics firm, which created a complete backup
10 copy of CPG's available computer hard drives, including CPG's records of the rebate claims it
11 had processed on behalf of Costco.

12 43. The computer records recovered from CPG's hard drives detail the uncashed
13 rebate checks CPG issued to Costco's customers by customer, customer's address, rebate
14 amount, and date payment of the rebate was issued. ACS provided the Department with
15 electronic copies of CPG's records pertaining to uncashed rebate checks CPG issued on behalf
16 of Costco.

17 44. The Department reopened its unclaimed property audit for the period 2004
18 through 2010. On February 4, 2010, Department representatives attended a meeting at
19 Costco's Issaquah headquarters to discuss the Department's unclaimed property audit of
20 Costco's customer rebate program.

21 45. On February 8, 2010, the Department served Costco with a records request
22 relating to its customer rebate program.

23 46. On March 23, 2010, Costco responded to the Department's records request with
24 a letter that asserted the Department's inquiry was "inappropriate" for two reasons. First,
25 Costco insisted that it "had no obligation to its members to pay any rebates;" second, Costco
26

1 asserted that it “did not receive the funds associated with those uncashed checks; thus it did not
2 hold and does not hold any unclaimed property associated with those uncashed rebate checks.”

3 47. Costco declined to produce any records in response to the Department’s request
4 for records of payments made by Costco to CPG for the period 1996 through 2008.

5 48. In response to the Department’s request for a list of uncashed customer rebate
6 checks issued between July 1, 1996 and June 30, 2006, Costco asserted that it “has no such
7 listing.”

8 49. In response to the Department’s request for copies of the weekly invoices for
9 validated customer rebates that CPG was contractually obligated to provide to Costco, Costco
10 asserted that it was “not in possession of any such reports.”

11 50. Costco has, to date, refused to comply with the UUPA. Costco has willfully
12 failed and deliberately refused to permit the examination of its records, or to report to the
13 Department the amount that it owes as unclaimed property, claiming that it was not the holder
14 of any property claimed by the Department.

15 51. Costco asserted that CPG, not Costco, was the “holder” of the uncashed rebate
16 checks, and that the Department should look to CPG, not Costco, to report and remit the
17 proceeds from uncashed rebate checks.

18 52. Costco is the holder of the uncashed rebate checks issued to its customers by
19 CPG because Costco, not CPG or the manufacturer, is the person that contracted with the
20 customer to pay the rebate amount.

21 53. Based on the computer records recovered from CPG’s hard drives, together with
22 other available evidence of the contractual relationships between and among Costco, its
23 suppliers, CPG, and Costco’s customers, the Department believes that Costco is statutorily
24 obligated to report and remit to the Department a total of \$3,261,757.33 for the period 2004
25 through 2010, as follows:
26

- 1 • \$1,626,476.43, the aggregate amount of uncashed rebate checks issued to customers
2 whose last known address was in Washington;
- 3 • \$783,312,62, the aggregate amount of uncashed rebate checks issued to customers
4 whose address was unknown;
- 5 • \$277,081.76, the aggregate amount of uncashed rebate checks issued to customers
6 whose last known address was in Maryland, which does not provide for the escheat or
7 custodial taking of uncashed rebate checks; and,
- 8 • \$24,316.22, the aggregate amount of uncashed rebate checks issued to customers whose
9 last known address was in a foreign country.
- 10 • \$550,570.30 in statutory interest as required by RCW 63.29.340.

11 VII. REQUEST FOR JUDGMENT

12 The Department asks that the Court:

- 13 1. Dismiss Costco's petition for judicial review and complaint with prejudice and
14 without award of costs;
- 15 2. Enter an Order directing Costco to produce for examination all pertinent records
16 concerning the handling and disposition of uncashed rebate payments issued to Costco's
17 customers that are now presumed abandoned under RCW 63.29.050(1);
- 18 3. Enter a judgment (a) declaring and fixing in a sum certain the unclaimed
19 property reporting obligation of Costco for unpaid rebates that Costco offered, which rebates
20 are now presumed abandoned and (b) directing Costco to deliver the proceeds of those
21 unclaimed rebate payments to the Department in accordance with RCW 63.29.190(1);
- 22 4. Enter an Order assessing interest and imposing civil penalties upon Costco for
23 the failure to deliver the proceeds of the unclaimed rebates within the time prescribed in RCW
24 63.29.190(1);
- 25 5. Award the Department its statutory attorney fees and costs; and
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6. Grant the Department any further relief which the court finds appropriate, equitable, or just.

DATED this _____ day of April, 2011.

ROBERT M. MCKENNA
Attorney General

s/ Rosann Fitzpatrick
ROSANN FITZPATRICK, WSBA NO. 37092
Assistant Attorney General
DONALD F. COFER, WSBA NO. 10896
Senior Counsel
Attorneys for Defendants

1 **PROOF OF SERVICE**

2 I certify that I served a copy of this document, via Electronic Mail, per agreement of the
3 parties, on the following:

4 Kathleen O'Sullivan
5 Lisa Marshall Manheim
6 Perkins Coie LLP
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8 لمانheim@perkinscoie.com
9 lnelson@perkinscoie.com

10 I certify under penalty of perjury under the laws of the State of Washington that the
11 foregoing is true and correct.

12 DATED this 4th day of April, 2011, at Tumwater, WA.

13 s/ Kristin D. Jensen
14 KRISTIN D. JENSEN, Legal Assistant