

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHAEL A. COX, Attorney General of
the State of Michigan, *ex rel* STATE OF
MICHIGAN,

No.

Plaintiff,

HON.

v.

ARCTIC GLACIER INTERNATIONAL
INC.,

Defendant.

M. Elizabeth Lippitt (P70373)
Attorney for Plaintiff
Assistant Attorney General
Michigan Department of Attorney General
Corporate Oversight Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-1160

COMPLAINT FOR CONSENT JUDGMENT

The State of Michigan, by its Attorney General Michael A. Cox, alleges as follows:

INTRODUCTION

1. Between January 1, 2001, and continuing until July 17, 2007, Defendant Arctic Glacier International Inc. ("Arctic Glacier") through certain of its employees of a subsidiary corporation and its predecessor corporation acquired in December 2004, participated in a conspiracy to

allocate customers of packaged ice sold in southeastern Michigan.

PARTIES

2. Plaintiff is Michael A. Cox, Attorney General of the State of Michigan, in his official capacity on behalf of the State of Michigan and its State Agencies, pursuant to authority granted in Section 7 of the Michigan Antitrust Reform Act (“MARA”), MCL 445.777.
3. Defendant Arctic Glacier is a wholly-owned subsidiary of Arctic Glacier Inc. and is a Delaware corporation with its principal place of business located at 1654 Marthaler Lane, West St. Paul, Minnesota.

JURISDICTION AND VENUE

4. Arctic Glacier is, and was at all relevant times, engaged in trade and commerce, within the meaning of MARA, MCL § 445.771 *et seq.*, in the State of Michigan, including, but not limited to, Ingham County.
5. This Court has jurisdiction over Arctic Glacier pursuant to Sections 711 and 715 of the Revised Judicature Act (“RJA”), MCL § 600.711 and MCL § 600.715.
6. Venue is proper in this Court pursuant to Sections 605 and 1631 of the RJA, MCL § 600.605 MCL § 600.1631, and Section 5 of MARA, MCL § 445.775.
7. This action for penalties, injunctive relief, and costs and attorneys’ fees is brought by the Attorney General in the name of the State of Michigan and its State Agencies and is therefore properly brought in the Ingham County Circuit Court; MCL § 445.777.
8. Pursuant to MCL 445.777 and MCL 445.778, the Attorney General is authorized to seek and obtain penalties, costs and attorneys’ fees, injunctive relief, and other equitable relief to restrain Defendant’s violations of MARA.

DEFENDANT'S COURSE OF ACTION

A. Anti-Competitive Conduct

9. From January 1, 2001, until July 17, 2007, Defendant, through a subsidiary corporation and its predecessor corporation acquired in December 2004, was a producer and seller of packaged ice for human consumption ("Packaged Ice") in the State of Michigan.
10. From January 1, 2001, until July 17, 2007, Arctic Glacier, through certain of its employees of a subsidiary corporation and its predecessor corporation acquired in December 2004, participated in a conspiracy to allocate customers of Packaged Ice sold in southeastern Michigan.
11. In furtherance of the conspiratorial activity, Arctic Glacier, through certain of its employees of a subsidiary corporation and its predecessor corporation acquired in December 2004, engaged in discussions with representatives of another packaged ice producer. Through these discussions, agreements and/or understandings were reached to allocate Packaged Ice customers in southeastern Michigan.

B. Market Structure

12. Michigan contains distinct and separate markets for the purchase of Packaged Ice.
13. Packaged Ice is commonly sold in supermarkets, convenience stores, beverage stores, drug stores, gas stations, and other retail outlets. Packaged Ice is used primarily to cool beverages and food.

C. Injury to Plaintiff

14. As a result of the contract, combination or conspiracy alleged herein, Arctic Glacier charged Plaintiff anticompetitive prices for Packaged Ice, and Plaintiff has sustained injury to its State Agencies.

VIOLATION OF LAW

COUNT I
VIOLATION OF SECTION 2 OF THE
MICHIGAN ANTITRUST REFORM ACT

15. Plaintiff incorporates by reference the allegations above and adopts the same as though fully set forth herein.
16. Arctic Glacier entered into and engaged in a contract, combination, or conspiracy in an unreasonable restraint of trade in violation of Section 2 of the Michigan Antitrust Reform Act, MCL 445.772.
17. The acts done by Arctic Glacier as part of, and in furtherance of, the contract, combination, or conspiracy were authorized, ordered, or done by its officers, agents, employees, or representatives while actively engaged in the management of Arctic Glacier's affairs.
18. As a direct and proximate result of Arctic Glacier's unlawful conduct, Plaintiff has been damaged by paying anticompetitive prices that it would not have had to pay in the absence of the unlawful conduct of Arctic Glacier as alleged herein.
19. Arctic Glacier has engaged in a per se unlawful conspiracy by agreeing to allocate customers across geographic territories in southeastern Michigan.
20. Arctic Glacier's conduct has adversely affected trade and commerce within the southeastern Michigan Packaged Ice market.
21. Arctic Glacier, by and through its anticompetitive actions as outlined herein, has violated MARA, MCL 445.772.
22. As a direct and proximate result of Arctic Glacier's violations of MARA, the State of Michigan and its State Agencies suffered harm in an undetermined amount.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that this honorable Court enter the Consent Judgment filed with this Complaint.

Dated: August 31, 2010

Respectfully Submitted,

MICHAEL A. COX
Michigan Attorney General



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