

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

MICHAEL A. COX,
ATTORNEY GENERAL
STATE OF MICHIGAN

No. 03-2056CZ

Plaintiff,

HON. JAMES R GIDDINGS

v

GTC INDUSTRIES, LTD.,

Defendant,

Stewart H. Freeman (P13692)
Charles D. Hackney, (P14503)
Assistant Attorneys General
Attorney for Plaintiff
Consumer Protection Division
PO Box 30213
Lansing, MI 48909
(517) 335-0855

JUDGMENT FOR PLAINTIFF

The court having considered plaintiff's COMPLAINT and MOTION FOR SUMMARY DISPOSITION, the court being advised in the premises and having determined that the relief requested in the complaint should be granted,

Declaratory Relief

IT IS ORDERED that the defendant has defaulted on its escrow payment obligations, pursuant to 1999 PA 244, as amended, MCL 445.2051, 445.2052, in the total amount of \$162,390.74 (\$20,917.77 for year 2001 sales; and \$141,472.97 for year 2002

sales) which default may be cured only by defendant's filing with the Department of Treasury and the court a certificate that it has deposited into a "qualified escrow fund", as that term is defined in Act 244, § 1(i), funds in the amount of \$162,390.74, accompanied by documentation from the escrow agent verifying the factual accuracy of the certification;

Civil Penalties

IT IS FURTHER ORDERED that the defendant knowingly violated MCL 445.2052 and the court imposes a civil penalty, payable to the state's general fund, in the amount of \$487,172.22, MCL 445.2052(3)(b), plus pre-judgment interest of \$15,479.97.

Injunctive Relief Ancillary to Declaratory Relief

IT IS FURTHER ORDERED that, until such time as defendant provides proof that it has met the escrow obligations determined above, **defendant is enjoined** from manufacturing cigarettes anywhere that defendant intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(m) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States). This injunctive judgment applies to defendant, its officers, agents, servants, employees and attorneys, and to any person or entity that acts in concert or participation with them and has actual notice of this judgment by personal service or otherwise. The reasons for issuance of this injunction are: defendant has

failed to contest well-pled allegations that defendant has, on two or more occasions, knowingly defaulted on escrow deposit obligations imposed by MCL 445.2051, 445.2052.

Injunctive Relief For Multiple Knowing Violations

IT IS FURTHER ORDERED that, until the second anniversary of the date of entry of this judgment, **defendant is enjoined** from selling cigarettes to consumers within this state (whether directly or through a distributor, retailer or similar intermediary). This injunctive judgment applies to defendant, its officers, agents, servants, employees and attorneys, and to any person or entity that acts in concert or participation with them and has actual notice of this judgment by personal service or otherwise. The reasons for issuance of this injunction are: defendant has failed to contest well-pled allegations that defendant has, on two or more occasions, knowingly defaulted on escrow deposit obligations imposed by MCL 445.2051, 445.2052.

IT IS FURTHER ORDERED that as used in this judgment, the terms "cigarette" and "Master Settlement Agreement" have the same meaning as is given to them in MCL 405.2051, subsections (d) and (f), respectively.

Plaintiff may tax costs.

This judgment resolves all pending claims and closes the case with prejudice.

JAMES R. GIDDINGS

James R. Giddings, Circuit Judge

Issued this 25th day of August, 2004, in the City of Lansing, MI.

Prepared by:

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