

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,

Plaintiff,

v.

ARCTIC GLACIER INTERNATIONAL INC.,

Defendant.

No. 10-1050 - CP

HON. PAULA J.M. MANDERFIELD

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M. Elizabeth Lippitt (P70373)  
Attorney for Plaintiff  
Michigan Department of Attorney General  
Corporate Oversight Division  
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Attorneys for Defendant

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MIKE FRYSTON  
CLERK OF THE 30TH  
JUDICIAL CIRCUIT COURT  
INGHAM COUNTY CLERK

2010 SEP - 1 P 3:53

FILED

**CONSENT JUDGMENT AND ORDER**

At a Session of said Court held in the  
City of Lansing, State of Michigan,  
this 31 day of Aug., 2010.

PRESENT: Honorable Paula J.M. Manderfield, Circuit Judge

## I. PREAMBLE

WHEREAS the Plaintiff, Michigan Attorney General Mike Cox, on behalf of the State of Michigan, filed a Complaint For Consent Judgment (“Complaint”) against Defendant Arctic Glacier International Inc. (“Arctic Glacier”), as part of the resolution of this matter, alleging violation of the Michigan Antitrust Reform Act (“MARA”), MCL 445.771 *et seq.*, for alleged participation in a contract, combination, or conspiracy in restraint of trade or commerce in the packaged ice industry in southeastern Michigan;

AND WHEREAS Arctic Glacier does not admit that the law has been violated as alleged in the Complaint, and does not admit that the facts as alleged in the Complaint are true, but does desire to resolve all claims with the Michigan Attorney General relating to its investigation of alleged antitrust violations in the packaged ice industry;

AND WHEREAS the State of Michigan and Arctic Glacier (“Parties”), through their respective counsel, have consented to the entry of this Consent Judgment without trial or adjudication of any issue of fact herein, and without the Consent Judgment constituting any evidence against, or an admission by, any party with respect to any issue of law or fact herein;

AND WHEREAS Arctic Glacier has represented to the State of Michigan that the injunctive relief and payment of fines, fees, and costs ordered herein can and will be adhered to and that Arctic Glacier is currently unaware of any grounds for asking the Court to modify any of the provisions contained below;

NOW, THEREFORE, before the taking of any testimony, and without trial or final adjudication of any issue of fact or law herein, and upon consent of the Parties hereto, it is hereby **ORDERED** as follows:

## **II. PARTIES**

- A. 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.
- B. The Attorney General is the chief legal officer of Michigan. The Attorney General is authorized to bring this action for alleged violation of MARA.

## **III. JURISDICTION**

- A. 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, and over the subject matter pursuant to section 605 of the RJA, MCL § 600.605 and section 5 of the MARA, MCL § 445.775.
- B. The interpretation and enforcement of this Consent Judgment shall be governed by the laws of the State of Michigan.

## **IV. DEFINITIONS**

- A. “Arctic Glacier” means Arctic Glacier International Inc., and for purposes of this Consent Judgment includes its successors and assigns, and its parents, subsidiaries, affiliates, directors, officers, managers, agents and employees.
- B. “Packaged Ice Industry” means any business activity relating to the production, delivery, packaging, or sale of packaged ice for human consumption.

## **V. INJUNCTIVE RELIEF**

For a period of three years, Arctic Glacier, in accordance with the terms of this Consent Judgment, is prohibited from knowingly participating in an unlawful agreement, contract,

combination or conspiracy to allocate Packaged Ice customers in southeastern Michigan in violation of MARA.

#### **VI. PAYMENT**

A. Arctic Glacier shall pay to the State of Michigan the sum of THREE HUNDRED AND FIFTY THOUSAND DOLLARS AND 00/100 (\$350,000.00) in fines, fees, and costs, according to the following payment schedule:

1. \$125,000.00 within 7 calendar days of the approval and entry of this Consent Judgment by the Court; and
2. \$225,000.00 on or before December 31, 2010, but no earlier than December 3, 2010.

Payment under this Paragraph shall be made by check made payable, and delivered, to the Michigan Attorney General.

B. In the event of a default or delay in payment, interest at the rate of twenty (20) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

#### **VII. ENFORCEMENT**

A. Upon a final finding by a court of competent jurisdiction that Arctic Glacier has violated any of the provisions set forth within this Consent Judgment, and if such a finding is not appealed by Arctic Glacier or the period within which Arctic Glacier can file a timely appeal has lapsed, Arctic Glacier will be subject to a fine of thirty-five thousand dollars (\$35,000.00) for each act of non-compliance. This fine shall be in addition to any penalties that may be levied against Arctic Glacier pursuant to MARA.

B. Upon a final finding by a court of competent jurisdiction that Arctic Glacier has violated any of the provisions set forth within this Consent Judgment, and if such a finding is not appealed by Arctic Glacier or the period within which Arctic Glacier can file a timely appeal has

lapsed, Arctic Glacier will be subject to an order requiring the payment of all costs associated with any action necessary to enforce the terms of this Consent Judgment, including reasonable attorneys' fees.

### **VIII. PARTIES BOUND**

This Consent Judgment is binding upon the Parties, their successors and assigns and their parents, subsidiaries, officers, agents, servants, employees, and attorneys, and on those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

### **IX. RESOLUTION OF CLAIMS**

A. The entry of this Consent Judgment shall terminate, conclude and resolve all Attorney General investigations, inquiries, claims and/or proceedings relating to alleged violations of MARA, the federal antitrust laws, or any other competition law by Arctic Glacier in the Packaged Ice Industry. With the entry of this Consent Judgment, the State of Michigan, its State Agencies, its operating units, and its successors-in-interest and assigns, completely release, discharge and waive all causes of action, claims, rights, damages, liabilities, expenses, and losses of any kind, whether presently known or unknown, asserted or unasserted, in law or in equity, including, but not limited to, any claims on behalf of Michigan consumers, relating to alleged violations of MARA, the federal antitrust laws, or any other competition law by Arctic Glacier in the Packaged Ice Industry.

B. This Consent Judgment does not have any effect whatsoever on the legal rights or remedies of any nature to any third party, including Michigan private direct and indirect consumers.

**X. RETENTION OF JURISDICTION**

The Court shall exercise continuing jurisdiction over the implementation of the obligations in this Consent Judgment. This jurisdiction shall terminate three years from the filing date.

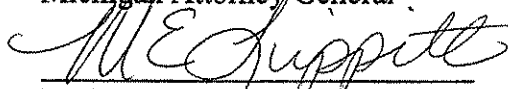
**XI. SEVERABILITY**

The invalidity or unenforceability of any provisions of this Consent Judgment will not affect the validity or enforceability of any other provision.

Dated: August 31, 2010

Respectfully Submitted,

MICHAEL A. COX  
Michigan Attorney General



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Assistant Attorney General  
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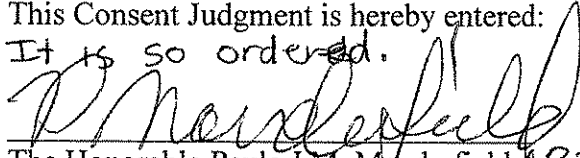
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ERIC P. ENSON  
Attorneys for Defendant

This Consent Judgment is hereby entered:

It is so ordered.



The Honorable Paula J.M. Manderfield (P34319)  
Ingham County Circuit Court Judge