STATE OF MAINE KENNEBEC, SS.

SUPERIOR COURT CIVIL ACTION DOCKET NO. CV-04-

COMPLAINT

STATE OF MAINE,

Plaintiff

v.

G.A. ANDRON & CO., INC.,

Defendant

INTRODUCTION

The State of Maine brings this action pursuant to 22 M.R.S.A. §1580-L and 5 M.R.S.A. ¶¶ 207 and 209 to permanently enjoin defendant G.A. Andron & Co., Inc. from violating 22 M.R.S.A. § 1580-L. The State also seeks civil penalties for intentional violations of the UTPA.

PARTIES

1. Plaintiff, the State of Maine, is a sovereign state that brings this action, by and through its Attorney General, pursuant to 22 M.R.S.A. § 1580-L (18), 5 M.R.S.A. §§ 191 and 209 and the powers vested in him by common law.

2. Defendant G.A. Andron & Co., Inc. is a corporation with a principal place of business in Deer Park, New York. At all times relevant to this complaint defendant has been licensed by the State of Maine to distribute cigarettes and tobacco products within the State.

JURISDICTION

3. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 105 and 5 M.R.S.A. § 209.

STATUTORY BACKGROUND

4. The Maine Attorney General maintains a directory listing all tobacco product manufacturers that have met certain requirements under 22 M.R.S.A. § 1580-L (6).

5. 22 M.R.S.A. § 1580-L (7) provides that [I]t us unlawful for any person to affix a tax stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory or to distribute, sell or offer or possess for sale I this State cigarettes of a tobacco product manufacturer or brand family not included in the directory. A person who violates this subsection engages in an unfair and deceptive act in violation of the Maine Unfair Trade Practices Act.

6. For purposes of § 1580-L, the term "cigarette" includes roll-your-own tobacco.

The Attorney General may bring an action to enjoin violations of 22 M.R.S.A. §
1580-L (7) pursuant to 22 M.R.S.A. § 1580-L(18).

8. A civil penalty of up to \$10,000 may be adjudged for intentional violations of the Maine Unfair Trade Practices Act, pursuant to 5 M.R.S.A. § 209.

9. The Attorney General may recover its costs of this action pursuant to 15 M.R.S.A. § 1580-L (19) and 5 M.R.S.A. § 209.

FACTS

10. Between January 1, 2004 and March 31, 2004, Defendant affixed 130 Maine tax stamps to packages of cigarettes manufactured by Soex, a tobacco product manufacturer that did not appear on the directory maintained by the Attorney General.

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11. Between January 1, 2004 and March 31, 2004, Defendant affixed 40 Maine tax stamps to packages of cigarettes manufactured by VCT, a tobacco product manufacturer that did not appear on the directory.

COUNT I

12. The allegations in paragraphs 1 thorough 10 are incorporated herein.

13. Defendant's conduct in affixing 130 Maine tax stamps to cigarettes manufactured by Soex, a tobacco product manufacturer that does not appear on the directory maintained by the Attorney General violates 22 M.R.S.A. §1580-L(7)

14. Defendant's conduct described herein is intentional, and defendant knew that Soex did not appear on the directory maintained by the Attorney General.

COUNT II

15. The allegations in paragraphs 1 through 10 are incorporated herein.

16. The Defendant's conduct in affixing 40 Maine tax stamps to packages of eigarettes manufactured by VCT, a tobacco product manufacturer that does not appear on the directory maintained by the Attorney General violates 22 M.R.S.A. § 1580-L (7).

17. Defendant's conduct described herein is intentional, and defendant knew that VCT did not appear on the directory maintained by the Attorney General.

RELIEF REQUESTED

WHEREFORE, the State of Maine respectfully requests that this Court:

Find that G.A. Andron & Co., Inc. committed 130 violations 22 M.R.S.A. § 1580 L by affixing 130 Maine tax stamps to packages of cigarettes manufactured by Soex.

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2. Find that G.A. Andron & Co., Inc. committed 40 violations of 22 M.R.S.A. § 1580-L by affixing 40 Maine tax stamps to packages of cigarettes manufactured by VCT.

3. Assess a civil penalty of up to \$10,000 per violation against G.A. Andron & Co., Inc. for each intentional violation of 22 M.R.S.A. § 1580-L and 5 M.R.S.A. § 207.

4. Enjoin G.A. Andron & Co., Inc. from affixing a Maine tax stamp to packages of cigarettes of a tobacco product manufacturer or brand family not included on the directory maintained by the Attorney General pursuant to 22 M.R.S.A. § 1580-L, or distributing, selling, offering for sale, or possessing for sale in Maine, cigarettes or roll-your-own tobacco of a tobacco product manufacturer or brand family not included on the directory.

5. Order G.A. Andron & Co., Inc. to pay all costs and attorney's fees associated with the prosecution of this action.

6. Order such other relief as this Court deems just, proper and equitable.Dated:

Respectfully Submitted,

G. STEVEN ROWE ATTORNEY GENERAL

Dated: 11/15/04

Milling R. Oke

MÉLISSA REYNOLDS O'DEA Maine Bar No. 8308 Assistant Attorney General 6 State House Station Augusta, Maine 04333 Tel. (207) 626-8800

Attorneys for the State of Maine

STATE OF MAINE KENNEBEC, SS.

SUPERIOR COURT CIVIL ACTION DOCKET NO. CV-04- 272

STATE OF MAINE,

Plaintiff ·

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G.A. ANDRON & CO., INC.,

Defendant

CONSENT DECREE AND ORDER

Plaintiff State of Maine, having filed a Complaint against Defendant, G.A. Andron & Co., Inc. and Defendant G.A. Andron & Co., Inc. having consented to the entry of this Consent Decree and Order, for purposes of settlement only, without this Decree constituting evidence against or admission by any party as to any issue of fact or law other than as to jurisdiction and without trial of any issue of fact or law, NOW THEREFORE, upon consent of the parties hereto, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. JURISDICTION

1. This Court has jurisdiction over the Plaintiff and Defendant G.A. Andron & Co., Inc. and the subject matter of this action. The Complaint states a claim for relief under 22 M.R.S.A. § 1580-L (Tobacco Manufacturers Act) and 5 M.R.S.A. § 207 (Unfair Trade Practices Act).

II. INJUNCTION

2. Defendant G.A. Andron & Co., Inc., its officers, directors, employees, agents, representatives, successors, assigns, and those in active concert or participation with them who receive actual notice of this injunction are permanently enjoined from violating the requirements of the Tobacco Manufacturers Act, 22 M.R.S.A. § 1580-L (the "Act").

3. It is further ordered that G.A. Andron & Co., Inc. shall adequately and properly train all agents, representatives, and/or employees to ensure compliance with the Act.

III. PENALTIES

4. Defendant G.A. Andron & Co., Inc. shall pay a civil penalty of \$1,700 to the State of Maine pursuant to 5 M.R.S.A. § 209.

IV. RETENTION OF JURISDICTION

5. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Decree and Order to apply to the Court at any time for further order and directions as may be necessary or appropriate for the modification, construction, enforcement, or execution of this Consent Decree and Order. Each and every violation of this Consent Decree and Order shall be treated as a separate contempt thereof.

V. EFFECTIVE DATE

6. This Order shall be effective immediately upon entry.

IT IS HEREBY ORDERED

Dated: 3/7/05

Justice, Superior Court

WE CONSENT:

Dated: 11/30/04

G. STEVEN ROWE ATTORNEY GENERAL

MELTSSA REYNOLDS O'DEA Maine Bar No. 8308 Assistant Attorney General 6 State House Station Augusta, Maine 04333 Tel. (207) 626-8800

Attorneys for the State of Maine

Dated: 11/23/04

By: Title: G.A. Andron & Co., Inc. 89 North Industry Court Deer Park NY 11729

A Duly Authorized Representative