

FILED
ENDORSED

06 JUN -2 AM 11: 19

LEGAL PROCESS #3

BILL LOCKYER
Attorney General of the State of California
THOMAS GREENE
Chief Assistant Attorney General
DENNIS ECKHART
Senior Assistant Attorney General
WILLIAM F. SOO HOO (SBN 80694)
CORINNE L. MURPHY (SBN 72050)
Deputy Attorneys General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

CASE NO. 05AS02606

**PEOPLE OF THE STATE OF CALIFORNIA,
ex rel. BILL LOCKYER, Attorney General of the
State of California,**

Plaintiff,

v.

**INTERCONTINENTAL PACIFIC MFG., a
Philippines corporation; MIGHTY
CORPORATION, a Philippines corporation; and
DOES 1 through 100, inclusive,**

Defendants.

**NOTICE OF ENTRY OF
JUDGMENT**

1 PLEASE TAKE NOTICE that on May 23, 2006, the Sacramento Superior Court
2 per Judge Shelleyanne W. L. Chang issued a Judgment in the above captioned action. A true
3 copy of the Judgment is attached hereto as Exhibit A and incorporated by reference herein.
4

5 Dated: June 1, 2006
6

7 Respectfully submitted,
8

9 BILL LOCKYER
10 Attorney General of the State of California
11 THOMAS GREENE
12 Chief Assistant Attorney General
13 DENNIS ECKHART
14 Senior Assistant Attorney General
15

16 WILLIAM F. SOOHOO
17 Deputy Attorneys General
18 Attorneys for Plaintiff
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

FILED
ENDORSED

2006 MAY 23 AM 8:43

SACRAMENTO COURTS
DEPT. #53 #54

1 BILL LOCKYER
Attorney General of the State of California
2 THOMAS GREENE
Chief Assistant Attorney General
3 DENNIS ECKHART
Senior Assistant Attorney General
4 WILLIAM F. SOO HOO (SBN 80694)
CORINNE L. MURPHY (SBN 72050)
5 PETER M. WILLIAMS (SBN 180533)
Deputy Attorneys General
6 1300 I Street
P.O. Box 944255
7 Sacramento, CA 94244-2550

8 Attorneys for Plaintiff

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SACRAMENTO

11
12 **PEOPLE OF THE STATE OF CALIFORNIA,**
13 **ex rel. BILL LOCKYER, Attorney General of the**
14 **State of California,**

15 Plaintiff,

16 v.

17 **INTERCONTINENTAL PACIFIC MFG., a**
Philippines corporation; MIGHTY
18 **CORPORATION, a Philippines corporation; and**
DOES 1 through 100, inclusive,

19 Defendants.

CASE NO. 05AS02606

**[PROPOSED] JUDGMENT BY
COURT AFTER DEFAULT**

20 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment*
21 against Defendants INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION. This
22 Court has considered *Plaintiff's Request for Entry of Default Judgment* and accompanying
23 declarations, papers and exhibits thereto, and the entire record in this matter and hereby finds as
24 follows:

25 1. The Attorney General of the State of California brings this action on behalf of
26 Plaintiff, the People of the State of California, pursuant to California Health and Safety Code
27 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
28

1 sections 104555-104557.

2 2. The Defendants, INTERCONTINENTAL PACIFIC, and MIGHTY
3 CORPORATION, manufacture cigarettes intended for sale in the United States and thus falls
4 within the statutory definition of a "tobacco product manufacturer" as defined in California
5 Health and Safety Code section 104556(i). INTERCONTINENTAL PACIFIC, and MIGHTY
6 CORPORATION have sold and continues to sell cigarettes (as defined in section 104556(d))
7 directly or indirectly, to consumers in California and, accordingly, have transacted and are
8 transacting business within the State of California.

9 3. At least thirty (30) days have passed since the date of service of the Summons and
10 Verified Complaint on INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION and
11 they have failed to appear and defend in this court.

12 4. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION were not at
13 the time of service of the Summons and Verified Complaint, nor are they now, an infant or
14 minor, a financially incapable, incapacitated or incompetent person, nor in the military service as
15 defined by Article 1 of the "Soldiers' and Sailors' Civil Relief Act of 1940" as amended (50
16 U.S.C. Appen. § 501 et seq.).

17 5. Jurisdiction has been reviewed and is proper over INTERCONTINENTAL
18 PACIFIC, and MIGHTY CORPORATION pursuant to California Code of Civil Procedure,
19 section 410.10.

20 6. Venue has been reviewed and is proper pursuant to California Code of Civil
21 Procedure, section 393.

22 7. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION have failed
23 and continue to fail and/or otherwise comply with the reserve fund requirements of California
24 Health and Safety Code, sections 104555-104557 and implementing regulations (Title 11, Calif.
25 Code of Reg., §§ 999.10a through 999.14).

26 8. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION have
27 engaged in and continue to engage in acts of unfair competition as defined in California Business
28 and Professions Code, section 17200, in that defendants have failed to establish the required

1 reserve fund and failed to certify compliance to the Attorney General, in violation of California
2 Health and Safety Code sections 104555, 104556, and 104557 and implementing regulations.

3 9. Notwithstanding notice, INTERCONTINENTAL PACIFIC, and MIGHTY
4 CORPORATION have failed to certify to the Attorney General that a Qualified Escrow Fund (as
5 defined in California Health and Safety Code section 104556(f)) have been established and have
6 failed to make their deposits for its 2002 and 2003 sales in California as required under
7 California Health and Safety Code section 104557. Accordingly, INTERCONTINENTAL
8 PACIFIC, and MIGHTY CORPORATION's actions constitute two "knowing" violations.

9 10. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION have
10 committed two knowing violations of California Health and Safety Code section 104557 and are
11 therefore subject to the maximum sanctions and penalties provided for under the reserve fund
12 requirements of California Health and Safety Code section 104557.

13 **THEREFORE**, defaults having been entered by the clerk against
14 INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION, as requested by Plaintiff,
15 **JUDGMENT** is accordingly entered in favor of the Plaintiff and against
16 INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION with respect to all claims,
17 **AS FOLLOWS:**

18 A. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall,
19 within fifteen (15) days of this Order, establish a Qualified Escrow Fund and place into said
20 fund the following amount as adjusted for inflation per California Health and Safety Code
21 section 104557(a)(2):

22 **Sales during the year 2002:**

23 (26,124,600 units x 0.0136125) plus 12.97355% for inflation for a total of
24 \$403,541.07

25 **Sales during the year 2003:**

26 (7,581,240 units x \$0.0167539) plus 16.36276% for inflation for a total of
27 \$147,796.27

28 B. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall,
within fifteen (15) days of this Order, provide Plaintiff with a list of the names of all cigarette

1 brands manufactured by INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION, as
2 well as unit sales information and supporting documentation for sales in California in 2002 and
3 2003.

4 C. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall,
5 within fifteen (15) days of this Order, pay civil penalties in the amount of 300% of the escrow
6 amounts improperly withheld, for a total of \$2,198,213.72 for knowingly violating California
7 Health and Safety Code section 104557(a)(2), (c), by failing to certify to the Attorney General for
8 the State of California that it is in compliance with California's reserve fund statute and for
9 knowingly failing to establish a qualified escrow fund as defined under California Health and
10 Safety Code section 104556(f) and knowingly failing to deposit sufficient escrow funds into a
11 qualified escrow fund as required under California Health & Safety Code section 104557.

12 D. Pursuant to California Business and Professions Code section 17203,
13 INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION are hereby enjoined and
14 otherwise prohibited from selling *any* cigarettes in California, either directly or through a
15 distributor, retailer or other intermediary, *including but not limited to*, the following brand:
16 "Sixty-One," "Move," and "Tacoma." The injunction shall commence from the date of this
17 Order and continue until INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION
18 establish qualified escrow funds, deposit \$549,553.43 into said escrow fund, corrects all
19 violations of Health & Safety Code section 104555-104557, Revenue and Taxation Code section
20 30165.1 and implementing regulations and provides to the Attorney General the compliance
21 certification required by Health & Safety Code section 104555-104557, Revenue and Taxation
22 Code section 30165.1 and implementing regulations.

23 E. Pursuant to Health and Safety Code section 104557(c)(3),
24 INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION are hereby enjoined and
25 otherwise prohibited from selling *any* cigarettes in California, either directly or through a
26 distributor, retailer or other intermediary, *including but not limited to*, the following brand:
27 "Sixty-One," "Move," and "Tacoma." The injunction shall commence from the date of this
28 Order and continue for two years as authorized by section 104557(c)(3).

1 F. Pursuant to Business and Professions Code section 17206,
2 INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall, within fifteen (15)
3 days from the date of this Order, pay a penalty of \$5,000 pursuant to Business and Professions
4 Code section 17200.

5 G. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall,
6 within fifteen (15) days from the date of this Order, shall appoint an agent for service of process
7 in California, pursuant to Revenue and Taxation Code section 30165.1(f)(1) for enforcement of
8 this judgment and order under this judgment is satisfied, the order is obeyed and the injunction is
9 dissolved.

10 H. Defendant shall not resume sales in California until a serial number marking
11 system is approved in writing by the Attorney General and the Board of Equalization. As a
12 condition of resuming sales of cigarettes or tobacco products in California, defendant shall place
13 on each pack of cigarettes or tobacco products sold in California a unique serial number, in
14 standardized form, which identifies the tobacco product's manufacturer and the location and date
15 of manufacture. Pursuant to Revenue and Taxation Code section 30165.1(g)(4), the marking
16 system must provide sufficient information enable the Attorney General and the Board of
17 Equalization to track and audit compliance by defendant.

18 I. For the first 24 months after resuming sales, Defendant shall make quarterly
19 deposits into its Qualified Escrow Fund, as specified in Title 11, California Code of Regulations
20 section 999.20(b)(7), and complete and file a Certification of Compliance and Brand Families
21 Unit Sales Schedule 1. Defendant shall pay a penalty of \$2,500 for each Certification of
22 Compliance, Brand Families Unit Sales Schedule that is incomplete or inaccurate, or not filed
23 with the Attorney General by the 20th calendar day after each quarter.

24 J. The Court shall retain jurisdiction in this matter.

25 K. Until the court relinquishes jurisdiction of this matter, Defendant shall
26 recall and remove from the State of California any cigarettes, roll-your-own tobacco or other
27 tobacco products that are contraband because either the brand family or the manufacturer is not
28 listed on the California Tobacco Directory as required by Revenue and Taxation Code section

30165.1(e). Defendant shall recall and remove the contraband products within 15 days of discovery by Defendant, itself, or notice by any law enforcement agency as defined in Business and Professions Code section 22971(q) or representative of the California Board of Equalization or the California Attorney General.

L. INTERCONTINENTAL PACIFIC, and MIGHTY CORPORATION shall within fifteen (15) days of this Order, pay all Plaintiff's reasonable costs, including but not limited to filing fees in the amount of **\$241.50** and service of process fee of **\$3,000.00** pursuant to Government Code section 6103.5 and subject to modification and/or further relief as this Court deems just and proper.

M. The Court further orders, as just and appropriate, the following:

1) Name/Address of Judgment Creditors:

State of California
c/o Department of Justice--Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550

2) Name/Address/Phone-Judgment Creditor's Attorney:

William F. Soo Hoo, Deputy Attorney General
Department of Justice--Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

3) Name/Address-Judgment Debtor:

INTERCONTINENTAL PACIFIC MANUFACTURING
204 I Alvarez Drive
Don Alfaro St.
Tetuan, Zamboanga City Philippines

MIGHTY CORPORATION

No. 55 Barrio Tikay
Malolos, Bulcan, Philippines 3000

4) Principal Amount of Judgment for Escrow: \$ 549,553.43

5) Principal Amount of Judgment for Penalties:

Health & Safety Code section 104557 \$ 2,198,213.72

Bus. & Prof. Code section 17200 \$ 5,000.00

Total Penalties \$ 2,203,213.72

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

6) Costs: \$ 3,241.50

Grand Total \$2,206,455.22

7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total judgment which consists of items 4 thru 6 from the date of judgment is entered until fully paid.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: May 23, 2006

JUDGE SHELLEYANNE W. L. CHANG

Judge of the Superior Court

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: PEOPLE v. INTERCONTINENTAL PACIFIC MFG., et al.

No.: **Sacramento Superior Court No. 05AS01991**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

June 1, 2006

On ~~May 31, 2006~~, I served the attached **NOTICE OF ENTRY OF JUDGMENT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

INTERCONTINENTAL PACIFIC MFG.
#015 McArthur Highway, Barrio Tikay
Malolos, Bulacan, Philippines 3000

MIGHTY CORPORATION
#015 McArthur Highway, Barrio Tikay
Malolos, Bulacan Philippines 3000

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on ~~May 31, 2006~~, at Sacramento, California.

June 1

Kim Lahn

Declarant



Signature