

OFFICE COPY  
ATTORNEY GENERAL

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 DENNIS ECKHART  
Senior Assistant Attorney General  
3 PHILLIP S. PRIESMAN  
Deputy Attorney General  
4 State Bar No. 249068  
110 West A Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 525-4279  
7 Fax: (619) 645-2061  
E-mail: Phil.Priesman@doj.ca.gov  
8 *Attorneys for the People of the State of California*

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE  
FEB 13 2011  
E. LaBarbera

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF RIVERSIDE  
12 INDIO BRANCH

13  
14 **THE PEOPLE OF THE STATE OF**  
15 **CALIFORNIA, ex rel. Edmund G. Brown**  
16 **Jr., Attorney General of the State of**  
17 **California,**

Plaintiff,

v.

18 **RHONDA R. . GASAWAY, individually,**  
19 **dba NATIVE MADE TOBACCO,**

20 Defendant.  
21

Case No. **INC 10009062**

**STIPULATED JUDGMENT AND**  
**PERMANENT INJUNCTION**

22  
23 This Stipulated Judgment and Permanent Injunction ("Stipulated Judgment") is issued and  
24 entered based upon the Stipulation for Entry of Stipulated Judgment and Permanent Injunction  
25 ("Stipulation") entered into by the parties to this action and the Court's approval of the same  
26 based on its independent review of the Stipulation. This stipulation is for settlement purposes  
27  
28

**COPY**

1 only, and shall not be deemed or construed as evidence or admission of any issue of law. This  
2 Stipulated Judgment is made with reference to the following findings of fact:

3 1. Defendant Rhonda Gasaway is doing business as Native Made Tobacco and is  
4 engaging in the sale of cigarettes and other tobacco products.

5 2. The People allege that in the course of selling cigarettes and other tobacco products,  
6 defendant has engaged in unlawful business practices, in violation of Business & Professions  
7 Code section 17200, by:

8 (a) violating the California tobacco directory law, Revenue and Taxation Code  
9 section 30165.1, and specifically by

10 1. selling, offering, or possessing for sale in this state cigarettes of a tobacco  
11 product manufacturer or brand family not included in the California tobacco directory,  
12 which acts are prohibited by subdivision (e)(2) of section 30165.1;

13 2. selling or distributing cigarettes that defendant knows or should know are  
14 intended to be distributed in violation of subdivision (e)(2), which acts are prohibited  
15 by subdivision (e)(3) of section 30165.1;

16 3. acquiring, holding, owning, possessing, transporting, importing or  
17 causing to be imported cigarettes that the person knows or should know are intended  
18 to be distributed in violation of (e) (2), which acts are also prohibited by subdivision  
19 (e)(3) of section 30165.1;

20 (b) violating the California Cigarette Fire-Safety and Firefighter Protection Act,  
21 Health and Safety Code section 14950 et seq., and specifically from selling, offering,  
22 or possessing for sale in this state cigarettes not in compliance with the requirements  
23 of the Act, which acts are prohibited by section 14951(a) of the Health and Safety  
24 Code; and

25 (c) violating the Contraband Cigarette Trafficking Act, 18 U.S.C. section 2341 et  
26 seq., and specifically shipping, transporting, receiving, possessing, selling,  
27 distributing, or purchasing contraband cigarettes as defined in the Act, i.e., any  
28 quantity greater than 10,000 cigarettes whose packs do not bear California cigarette

1 excise tax stamps, which acts are prohibited by section 2342(a) of 18 United States  
2 Code.

3 3. The Parties have entered into a Stipulation in order to settle this action, and have  
4 requested that the Court approve the Stipulation.

5 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

6 1. The court has subject matter jurisdiction of this action.

7 2. The court has personal jurisdiction over the defendant for the purpose of entering and  
8 enforcing this Stipulated Judgment.

9 3. Rhonda Gasaway individually and as the owner of Native Made Tobacco cannot  
10 avoid any provision of this agreement by acting in concert or participation with any other person  
11 or entity, by contract, agreement, or other agreement, regardless of whether they own or control  
12 the entity.

13 4. Pursuant to Business and Professions Code section 17203, defendant s and its  
14 directors, officers, successors and assigns, and any other business entity directly or indirectly  
15 owned, operated, managed, controlled by, or otherwise affiliated with it (an entity is an "affiliate"  
16 of, or an entity is "affiliated" with, another specified entity if directly, or indirectly through one or  
17 more intermediaries, controls, is controlled by or is under common control with the other  
18 specified entity) is enjoined from engaging in unlawful business practices as follows:

19 (a) Defendant shall permanently cease and desist from violating the California  
20 tobacco directory law, Revenue and Taxation Code section 30165.

21 (b) Defendant shall permanently cease and desist from violating the California  
22 Cigarette Fire-Safety and Firefighter Protection Act, Health and Safety Code sections  
23 14950 et seq.

24 (c) Defendant shall permanently cease and desist from violating the Contraband  
25 Cigarette Trafficking Act, 18 U.S.C. section 2341 et seq.

26 (d) In addition to the above, if after entry of this Stipulated Judgment, defendant  
27 sells cigarettes or other tobacco products by any non- face-to-face transaction to any person  
28



1 residing in California, defendant shall also fully comply with section 30101.7 of the  
2 Revenue and Taxation Code and section 22963 of the Business and Professions Code;

3 (e) The provisions in paragraphs 3(a) – 3(d) above shall not apply to any cigarette  
4 sales to enrolled members of a federally-recognized Native American Tribe.

5 (f) Within five (5) days following the date defendant receives a court endorsed  
6 copy of this Stipulated Judgment, defendant shall provide a copy of the Stipulation For  
7 Entry of Stipulated Judgment and Permanent Injunction and this Stipulated Judgment to the  
8 following: (1) any business or individual to which plaintiff requests a copy be sent; (2) all  
9 successors or assigns of any business conducted by defendant since January 1, 2006, that  
10 sold any cigarettes or other tobacco products to customers in California; and (3) all  
11 businesses and individuals with which defendant had any agreements specifically regarding  
12 cigarettes or other tobacco products purchased by California consumers, distributors,  
13 wholesalers or tribal entities.

14 (g) If after entry of this Stipulated Judgment, defendant continues to sell cigarettes  
15 or other tobacco products in California, defendant shall:

16 (1) apply for and maintain a cigarette and tobacco product retailer's license  
17 with the California Board of Equalization;

18 (2) provide plaintiff's attorney of record a copy of the written policies and  
19 procedures which defendant has adopted to ensure compliance with all California laws,  
20 including those referred to in subparagraphs 6 (a) through (e), above,

21 (3) provide a copy of the policies and procedures to each employee with any  
22 responsibility in the sale or shipment of cigarettes or other tobacco products in the State of  
23 California; and

24 (4) allow inspections of defendant's premises by representatives of the  
25 California Board of Equalization and the California Attorney General to monitor  
26 compliance with this Stipulated Judgment.

1           5.    This Stipulated Judgment is binding upon the defendant, present and future  
2 successors and assigns, and any other business entity directly or indirectly owned, operated,  
3 managed, controlled by, or otherwise affiliated with defendant, and upon plaintiff.

4           6.    If defendant violates this Stipulated Judgment, defendant shall pay as a penalty to the  
5 People five thousand dollars (\$5000) for each violation.

6           7.    Defendant Rhonda R. Gasaway shall pay to the State of California the sum of  
7 \$10,000 in attorneys' fees and costs.

8           8.    The court accepts that this Stipulated Judgment is a compromise of disputed claims  
9 and acknowledges that by entry into the Stipulated Judgment and Permanent Injunction no  
10 enjoined party admits any liability, obligation or wrongdoing of any kind.

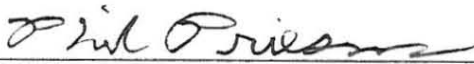
11          9.    The court retains jurisdiction for the purpose of enabling any party to this Stipulated  
12 Judgment to apply to the court at any time for such further orders and directions as may be  
13 necessary and appropriate for the construction or carrying out of this Stipulated Judgment, for the  
14 modification or termination of any of its injunctive provisions, for the enforcement of any of its  
15 provisions, or for punishment of any violations of its provisions.

16          10.   Jurisdiction and venue for any action or proceeding to enforce the provisions of this  
17 Stipulated Judgment shall be in the Indio Branch of the Riverside County Superior Court.  
18 Service may be accomplished on defendant by certified mail addressed to Sam Long, 3877 12th  
19 Street, Riverside, California 92501, and to Native Made at its place of business, or after written  
20 notice has been given to the plaintiff, any other person designated to accept service on their  
21 behalf. Service may be accomplished on the State of California by certified mail to Phillip  
22 Priesman, Deputy Attorney General, P.O. Box 85266, San Diego, California 92101, or after  
23 written notice has been given to defendant, any other person designated by the State of California  
24 to accept service on its behalf.  
25  
26  
27  
28

1 11. Defendant shall cooperate with the Attorney General's Office in its investigation of  
2 tobacco sales on Indian reserves and reservations.

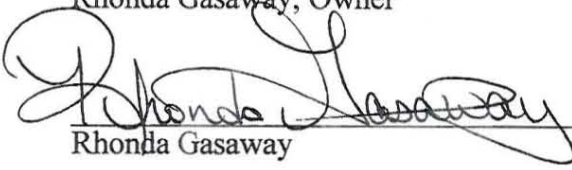
3  
4  
5 Dated: 10.4.10

EDMUND G. BROWN JR.  
Attorney General of California  
DENNIS ECKHART  
Senior Assistant Attorney General

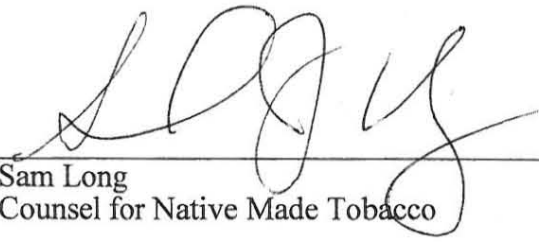
6  
7  
8   
9 Phillip S. Priesman  
Deputy Attorney General  
Attorneys for the People of the State of California

10  
11  
12 Dated:  
13 9-14-10

Native Made Tobacco,  
Rhonda Gasaway, Owner

14  
15   
Rhonda Gasaway

16  
17 Dated:  
18 9-14-10

19  
20   
21 Sam Long  
Counsel for Native Made Tobacco

22 IT IS SO ORDERED, ADJUDGED AND DECREED.

23  
24 Date: FEB 18 2011

HAROLD W. HOPP  
25 Judge of the Superior Court

26  
27 50100152 VN 2:15  
28 2VM DIEGO  
V.L. LONNIE GENEVA