

**IN THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD DIVISION**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<i>ex. rel.</i> <b>LISA MADIGAN,</b>	)	
<b>Attorney General of the State of Illinois,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>No.: 3:08-cv-03050-JES-BGC</b>
	)	
<b>v.</b>	)	
	)	
<b>HEMI GROUP, LLC,</b>	)	
	)	
<b>Defendant.</b>	)	

**STIPULATED JUDGMENT**

This matter came before the court upon the stipulation of the parties for the entry of judgment. The court enters this judgment based on the stipulation and consent of the parties, as indicated by their signatures below.

**BACKGROUND**

Defendant Hemi Group, LLC is a New Mexico limited liability corporation that was owned and managed by Kai Gachupin. Hemi Group, LLC did in the past own or operate a number of websites in the business of selling cigarettes and tobacco products to consumers via the Internet. Hemi Group, LLC's business included sales to consumers residing in the State of Illinois. Plaintiff alleges that Hemi has committed various violations of the Jenkins Act (15 U.S.C. §§ 375-378), the Prevention of Cigarette Sales to Minors Act (720 ILCS 678/1), has sold cigarettes to Illinois consumers which were acquired at a time when the cigarettes were not listed on the Illinois Directory of Compliant NPMs in violation of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 167/1), and that Plaintiff is entitled to civil penalties and a statutory injunction under 720 ILCS 678/1 and 815 ILCS 505/1.

Defendant disputes the Plaintiff's allegations and claims to relief. However, the parties wish to fully resolve all claims alleged against defendant through this Stipulated Judgment.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. Hemi Group, LLC hereby represents that it and all entities affiliated with it ceased all sales and shipments of tobacco products to consumers in the State of Illinois on September 14, 2008. Hemi Group, LLC, its directors, officers, successors and assigns, and any other business entity directly or indirectly owned, operated, managed, controlled by, or otherwise affiliated with Hemi Group, LLC shall not resume delivery sales and shipments until it has obtained either the written consent of the Illinois Attorney General's Office and the Illinois Department of Revenue or an order or judgment entered by a court of competent jurisdiction in Illinois, permitting it to resume such sales and shipments. For purposes of this Consent Judgment and the Stipulation of the parties, an entity is an "affiliate" of, or an entity is "affiliated" with, another entity if it directly or indirectly either through intermediaries or otherwise, controls, is controlled by or is under common control with the other entity.

2. In the event that Hemi Group, LLC its directors, officers, successors and assigns, and any other business entity directly or indirectly owned, operated, managed, controlled by, or otherwise affiliated with Hemi Group, LLC or its former owner, Kai Gachupin receives written consent of the Illinois Attorney General's Office and the Illinois Department of Revenue or an order or judgment permitting Hemi Group, LLC to resume delivery sales and shipments of cigarettes or tobacco products to consumers in the State of Illinois, it shall comply with all provisions of Illinois and Federal law, including but not limited to:

- a. The provisions of the Jenkins Act (15 U.S.C. §§ 375-378); specifically §376 that requires the filing of monthly reports with State taxing authorities;
- b. The provisions of the Prevention of Cigarette Sales to Minors Act (720 ILCS 678/1 *et. seq.*) and;
- c. The provisions of the Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (30 ILCS 167/1 *et. seq.*).

3. In the event that Hemi Group, LLC its directors, officers, successors and assigns, and any other business entity directly or indirectly owned, operated, managed, controlled by, or

otherwise affiliated with Hemi Group, LLC receives written consent of the Illinois Attorney General's Office and the Illinois Department of Revenue or an order or judgment permitting Hemi Group, LLC to resume delivery sales and shipments to consumers in the State of Illinois, it shall clearly and prominently display on any website the wording "Purchasers of tobacco products are responsible for the payment of applicable state taxes, including but not limited to Illinois."

4. Within one week following the date of entry of this Stipulated Judgment, the Hemi Group, LLC shall produce to Plaintiff, the Illinois Department of Revenue's Excise Tax Division located at 101 West Jefferson Street, Springfield, Illinois 62702, the name and address of the person to whom the shipment was made, the brand and the quantity of the product sold covering each and every shipment of cigarettes or tobacco products that Hemi Group, LLC, have sold or delivered for shipment to all consumers in Illinois since November 2004.

5. Hemi Group, LLC represents that all information set out in Exhibit A is accurate and correct. Hemi Group, LLC recognizes that the State of Illinois is relying on the representations set out in Exhibit A in entering into this agreement

6. All claims Plaintiff brought or could have brought against Hemi Group, LLC its directors, officers, successors and assigns, and any other business entity directly or indirectly owned, operated, managed, controlled by, or otherwise affiliated with Hemi Group, LLC in case number 3:08-cv-03050 are dismissed with prejudice.

7. This stipulation is binding upon Hemi Group, LLC, its directors, officers, successors and assigns, and any other business entity directly or indirectly owned, operated, managed, controlled by, or otherwise affiliated with Hemi Group, LLC and upon the State of Illinois.

8. Jurisdiction and venue for any action or proceeding to enforce the provisions of this stipulation shall be in the District Court for the Central District of Illinois, and service may be accomplished by certified mail to Hemi Group, LLC's attorney, Randolph "Dolph" Barnhouse, Luebben Johnson & Barnhouse LLC 7424 4<sup>th</sup> Street NW, Los Ranchos de Albuquerque, New Mexico 87101, or after written notice has been given to the Plaintiff, any other person designated

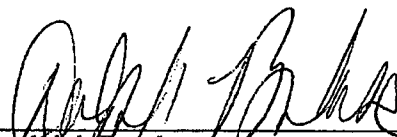
by Hemi Group to accept service on its behalf. Any required notices to the Plaintiff, should be sent to the Tobacco Enforcement Bureau, 500 S. Second Street, Springfield, Illinois 62706; and the Illinois Department of Revenue, Legal Department, 100 W. Randolph, Chicago, Illinois 60601.

9. The parties shall be responsible for their own attorneys' fees and costs incurred in this case.

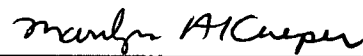
10. This Stipulated Judgment may be executed in counterparts.

**IT IS SO STIPULATED:**

8-11-11  
Dated

  
\_\_\_\_\_  
Randolph Barnhouse  
Luebben Johnson & Barnhouse LLP  
7424 4<sup>th</sup> Street NW  
Los Ranchos, NM 87107  
Telephone: (505) 938-9132  
Fax: (505) 842-6124  
[dbarnhouse@luebbenlaw.com](mailto:dbarnhouse@luebbenlaw.com)  
Attorney for Defendant

August 12, 2011  
Dated

  
\_\_\_\_\_  
Marilyn Kueper  
Assistant Attorney General  
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Fax: (217) 524-4701  
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Attorney for Plaintiff

\_\_\_\_\_  
Dated

\_\_\_\_\_  
District Court Judge

**Exhibit A**

1. Hemi Group, LLC at one time owned or operated all of the following websites:

www.001cigarettes.com	www.buydiscountcigarettes.com
www.acigs.com	www.cigarettesexpress.com
www.adobecigarettes.com	www.cigarettesusa.com
www.bigchiefcigarettes.com	www.eztobacco.com
www.bigindiantobacco.com	www.usamadecigs.com

2. Hemi Group, LLC certifies that it sold the following websites and that the purchaser(s) have no relationship to the Hemi Group, its Directors, Officers, employees, successors and assigns, and/or to Kai Gachupin:

www.001cigarettes.com	www.buydiscountcigarettes.com
www.acigs.com	www.cigarettesexpress.com
www.adobecigarettes.com	www.cigarettesusa.com
www.bigchiefcigarettes.com	www.eztobacco.com
www.bigindiantobacco.com	www.usamadecigs.com

to Keystone State Acquisition Partners of 2800 E. Main St., Newark, Delaware on September 15, 2008.

3. Hemi Group, LLC currently owns and operates the following websites:

None.

4. Hemi Group, LLC made sales of cigarettes or tobacco products to Illinois consumers from approximately April of 2001 through September 14, 2008. (Sales prior to November 4, 2004, in Illinois were minimal, however, due to a software upgrade, those sales are shown with an incorrect date.)