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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO
12

13 **PEOPLE OF THE STATE OF CALIFORNIA, ex.**
14 **Rel. BILL LOCKYER, Attorney General of the**
15 **State of California,**

16 Plaintiff,

17 v.

18 **PT. BENTOEL PRIMA, a foreign corporation,**
19 **a.k.a. PT. BENTOEL**

20 Defendant.

CASE NO. 06AS03348

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

21 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
22 *Judgment* against Defendant PT. BENTOEL PRIMA, a foreign corporation, a.k.a. PT.
23 BENTOEL (hereafter, "PT. BENTOEL"). This Court has considered *Plaintiff's Request for*
24 *Entry of Default Judgment* and accompanying declarations, papers and exhibits thereto, and the
25 entire record in this matter and hereby finds as follows:

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

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ENDORSED

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1 sections 104555-104557.

2 2. The Defendant, PT. BENTOEL, is a company that has transacted and is
3 transacting business in California and manufactures cigarettes as defined in California Health and
4 Safety Code section 104556(i)(1).

5 3. At least thirty (30) days have passed since the date of service of the Summons and
6 Verified Complaint and PT. BENTOEL has failed to appear and defend in this court.

7 4. PT. BENTOEL was not at the time of service of said Summons and Verified
8 Complaint, nor is now, an infant or minor, a financially incapable, incapacitated or incompetent
9 person, nor in the military service as defined by Article 1 of the "Soldiers' and Sailors' Civil
10 Relief Act of 1940" as amended (50 U.S.C. Appen. § 501 et seq.).

11 5. Jurisdiction has been reviewed and is proper pursuant to California Code of Civil
12 Procedure section 410.10.

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

15 7. PT. BENTOEL has failed and continues to fail and/or refuse to comply or
16 otherwise bring itself into compliance with the reserve fund requirements of California Health
17 and Safety Code, sections 104555-104557 and implementing regulations (Title 11, Calif. Code of
18 Reg., §§ 999.10a through 999.14).

19 8. PT. BENTOEL has engaged in and continues to engage in acts of unfair
20 competition as defined in California Business and Professions Code, section 17200, in that PT.
21 BENTOEL has failed to establish the required reserve fund and failed to certify compliance to
22 the Attorney General, in violation of California Health and Safety Code sections 104555,
23 104556, and 104557 and implementing regulations.

24 9. Notwithstanding notice, PT. BENTOEL failed to establish a qualified escrow fund
25 (as defined in California Health & Saf. Code, § 104556(f)) and also failed to make the annual
26 deposits as required under California Health and Safety Code section 104557. Accordingly, PT.
27 BENTOEL's actions constitute "knowing" violations.

28 10. PT. BENTOEL has committed two or more knowing violations of California

1 Health and Safety Code section 104557 and is therefore subject to the maximum sanctions and
2 penalties provided for under the reserve fund requirements of California Health and Safety Code
3 section 104557.

4 THEREFORE, default having been entered by the clerk against PT. BENTOEL, as
5 requested by Plaintiff, JUDGMENT is accordingly entered in favor of the Plaintiff and against
6 PT. BENTOEL with respect to all claims, AS FOLLOWS:

7 A. PT. BENTOEL shall, within fifteen (15) days of this Order, place into a Qualified
8 Escrow Fund the following amounts as such amounts are adjusted for inflation as required by
9 California Health and Safety Code section 104557(a)(2):

10 Sales during the year 2002:
11 (918,200 units x \$0.0136125) plus 12.97355% for inflation for a total of
\$14,120.54.

12 Sales during the year 2003:
13 (259,400 units x \$0.0167539) plus 16.3627565% for inflation for a total of
\$5,057.00.

14 B. PT. BENTOEL shall, within fifteen (15) days of this Order, pay civil penalties in the
15 amount of 300% of the escrow amounts improperly withheld, for a total of \$57,532.62 for
16 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
17 certify to the Attorney General for the State of California that it is in compliance with
18 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund as
19 defined under California Health and Safety Code section 104556(f) and knowingly failing to
20 deposit sufficient escrow funds into a qualified escrow fund as required under California Health
21 and Safety Code section 104557.

22 C. Pursuant to Business and Professions Code section 17206, PT. BENTOEL shall,
23 within fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation
24 of Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total
25 assessed penalty of \$50,000 in addition to the penalty specified in Paragraph C of this judgment.

26 D. PT. BENTOEL shall, within fifteen (15) days from the date of this Order, shall
27 appoint an agent for service of process in California (pursuant to Revenue & Taxation Code
28 section 30165.1(f)(1) for enforcement of this judgment and order until this judgment is satisfied,

