

COPY

FILED
ENDORSED

2007 JAN 25 AM 6:21

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 CORINNE LEE MURPHY (SBN 72050)
 WILLIAM F. SOOHOO (SBN 80694)
 5 Deputy Attorneys General
 1300 I Street, Suite 125
 6 P.O. Box 944255
 Sacramento, CA 94244-2550
 7 Telephone: (916) 323-3853
 Fax: (916) 323-0813

8 Attorneys for Plaintiff

9
 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 WAHANA SARANA BALADIKA, a foreign**
corporation,

19 Defendant.

CASE NO. 06AS03314

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

20
 21 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
 22 *Judgment* against Defendant PT WAHANA SARANA BALADIKA, a foreign corporation,
 23 (hereafter, "PT WAHANA"). This Court has considered *Plaintiff's Request for Entry of Default*
 24 *Judgment* and accompanying declarations, papers and exhibits thereto, and the entire record in
 25 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

1 sections 104555-104557.

2 2. The Defendant, PT WAHANA, 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 WAHANA has failed to appear and defend in this court.

7 4. PT WAHANA 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 WAHANA 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 WAHANA has engaged in and continues to engage in acts of unfair
20 competition as defined in California Business & Professions Code, section 17200, in that PT
21 WAHANA 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 WAHANA failed to establish a Qualified Escrow
25 Fund (as defined in California Health and Safety Code section 104556(f)) and also failed to make
26 the annual deposits as required under California Health and Safety Code section 104557.
27 Accordingly, PT WAHANA's actions constitute "knowing" violations.

28 10. PT WAHANA 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 WAHANA, as
5 requested by Plaintiff, JUDGMENT is accordingly entered in favor of the Plaintiff and against
6 PT WAHANA with respect to all claims, AS FOLLOWS:

7 A. PT WAHANA 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 **(47,822,400 units x \$0.0136125) plus 12.97355% for inflation for a total of
\$735,436.78.**

12 **Sales during the year 2003:**

13 **(23,580,000 units x \$0.0167539) plus 16.3627565% for inflation for a total of
\$459,692.10.**

14 B. PT WAHANA 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 \$3,585,386.64 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 & Safety Code section 104557.

22 C. Pursuant to Business and Professions Code section 17206, PT WAHANA 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 WAHANA 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,

1 the order is obeyed and the injunction is dissolved.

2 E. The Court shall retain jurisdiction in this matter.

3 F. PT WAHANA shall within fifteen (15) days of this Order, pay all Plaintiff's
4 reasonable costs in the amount of \$241.50 pursuant to Government Code section 6103.5 and
5 subject to modification and/or further relief as this Court deems just and proper.

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

7 1) Name/Address of Judgment Creditors:

8 State of California
9 c/o Department of Justice-Office of the Attorney General
10 1300 I. Street
11 P.O. Box 944255
12 Sacramento, CA 94244-2550

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

12 Corinne Lee Murphy, Deputy Attorney General
13 Department of Justice-Office of the Attorney General
14 1300 I. Street
15 P.O. Box 944255
16 Sacramento, CA 94244-2550
17 (916) 323-3795

15 3) Name/Address-Judgment Debtor:

16 PT WAHANA SARANA BALADIKA
17 Kompleks Kota Grogol Permai, Blok E No. 2
18 Jl. prof. Dr. Latumenten No. 19
19 Jakarta 11460 Indonesia

18 4) Principal Amount of Judgment for Escrow: \$1,195,128.88

19 5) Principal Amount of Judgment for Penalties: \$3,635,386.64

20 6) Costs: \$ 241.50

21 7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the

22 total judgment which consists of items 4 thru 6 from the date of judgment is entered until fully
23 paid.

24 IT IS SO ORDERED, ADJUDGED AND DECREED.

25
26 Dated: JAN 25 2007
27 _____, ~~2006~~

27 SHELLEYANNE W.L. CHANG

28 _____
Judge of the Superior Court

30175850.wpd