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SACRAMENTO COURTS
DEPT. #53 #54

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

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 **TABACALERA HONNINGTON, a foreign**
corporation,

19 Defendant.

CASE NO. 06AS03315

~~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 TABACALERA HONNINGTON, a foreign corporation, (hereafter,
23 "HONNINGTON"). This Court has considered *Plaintiff's Request for Entry of Default Judgment*
24 and accompanying declarations, papers and exhibits thereto, and the entire record in this matter
25 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, HONNINGTON, 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 HONNINGTON has failed to appear and defend in this court.

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

24 9. Notwithstanding notice, HONNINGTON 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, HONNINGTON's actions constitute "knowing" violations.

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

7 A. HONNINGTON 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 2004:**

11 **(10,716,600 units x \$0.0167539) plus 20.15103% for inflation for a total of**
12 **\$215,725.16. HONNINGTON deposited a total of \$118,558.75 for 2004 sales**
13 **leaving a balance due of \$97,166.40 for 2004 sales.**

14 **Sales during the year 2005:**

15 **(8,918,200 units x \$0.0167539) plus 24.25497 for inflation for a total of**
16 **\$185,655.52.**

17 B. HONNINGTON shall, within fifteen (15) days of this Order, pay civil penalties in the
18 amount of 300% of the escrow amounts improperly withheld, for a total of \$848,465.76 for
19 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
20 certify to the Attorney General for the State of California that it is in compliance with
21 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund
22 as defined under California Health and Safety Code section 104556(f) and knowingly failing to
23 deposit sufficient escrow funds into a qualified escrow fund as required under California Health
24 & Safety Code section 104557.

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

D. HONNINGTON shall retain an agent for service of process in California (pursuant to
Revenue & Taxation Code section 30165.1(f)(1) for enforcement of this judgment and order until

1 this judgment is satisfied, the order is obeyed and the injunction is dissolved.

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

3 F. HONNINGTON 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

13 2) Name/Address/Phone-Judgment Creditor's Attorney:
14 Corinne Lee Murphy, Deputy Attorney General
15 Department of Justice-Office of the Attorney General
16 1300 I. Street
17 P.O. Box 944255
18 Sacramento, CA 94244-2550
19 (916) 323-3795

20 3) Name/Address-Judgment Debtor:
21 TABACALERA HONNINGTON
22 Tte. Bernabe Gonzalez, Nro. 1620
23 Asuncion-Paraguay

24 4) Principal Amount of Judgment for Escrow: \$282,821.92

25 5) Principal Amount of Judgment for Penalties: \$898,465.76

26 6) Costs: \$ 241.50

27 7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the
28 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.

25 APR 03 2007
26 Dated: _____, 2006

PATRICIA C. ESGRO

Judge of the Superior Court