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SACRAMENTO COURTS
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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**
State of California,

15 Plaintiff,

16 v.

17 **TABACALERA REGIONAL, a foreign corporation,**

18 Defendant.

CASE NO. 06AS03315

~~PROPOSED~~ JUDGMENT BY
COURT AFTER DEFAULT

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

25 1. The Attorney General of the State of California brings this action on behalf of
26 Plaintiff, the People of the State of California, pursuant to California Health and Safety Code
27 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
28 sections 104555-104557.

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

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

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

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

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

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

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

23 9. Notwithstanding notice, REGIONAL failed to establish a Qualified Escrow Fund
24 (as defined in California Health and Safety Code section 104556(f)) and also failed to make the
25 annual deposits as required under California Health and Safety Code section 104557.
26 Accordingly, REGIONAL's actions constitute "knowing" violations.

27 10. REGIONAL has committed two or more knowing violations of California Health
28 and Safety Code section 104557 and is therefore subject to the maximum sanctions and penalties

1 provided for under the reserve fund requirements of California Health and Safety Code section
2 104557.

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

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

9 **Sales during the year 2005:**

10 **(20,051,600 units x. \$0.0167539) plus 24.25497 for inflation for a total of**
11 **\$417,426.19. REGIONAL deposited a total of \$134,666.69 for 2005 sales**
12 **leaving a balance due of \$282,759.50 for 2005 sales.**

13 B. REGIONAL shall, within fifteen (15) days of this Order, pay civil penalties in the
14 amount of 300% of the escrow amounts improperly withheld, for a total of \$848,278.68 for
15 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
16 certify to the Attorney General for the State of California that it is in compliance with
17 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund
18 as defined under California Health and Safety Code section 104556(f) and knowingly failing to
19 deposit sufficient escrow funds into a qualified escrow fund as required under California Health
& Safety Code section 104557.

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

24 D. REGIONAL shall retain an agent for service of process in California (pursuant to
25 Revenue & Taxation Code section 30165.1(f)(1) for enforcement of this judgment and order until
26 this judgment is satisfied, the order is obeyed and the injunction is dissolved.

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

28 F. REGIONAL shall within fifteen (15) days of this Order, pay all Plaintiff's reasonable

