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Attorneys for Plaintiff

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LEGAL PROCESS #12

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA, ex rel. BILL LOCKYER, Attorney General of the State of California, Plaintiff, v. **CHINA NATIONAL TOBACCO CORPORATION, a government corporation, also known as CHINA NATIONAL TOBACCO IMPORT AND EXPORT CORP. and as CHINA NATIONAL TOBACCO IMPORT AND EXPORT LIAONING CORP. ; and DOES 1 through 100, inclusive,** Defendants.	**Case No. 04AS00410** **NOTICE OF ENTRY OF JUDGMENT**

PLEASE TAKE NOTICE that on August 3, 2006, Sacramento Superior Court Judge Patricia C. Esgro issued a Judgment in the above-captioned action. A true copy of the Judgement is attached hereto as Exhibit A and incorporated by referenced herein.

Dated: August 10, 2006

Respectfully submitted,

BILL LOCKYER
Attorney General of the State of California

TOM GREENE
Chief Assistant Attorney General

DENNIS ECKHART
Senior Assistant Attorney General

WILLIAM F. SOO HOO
Deputy Attorney General
Attorneys for Plaintiff

Exhibit A

BILL LOCKYER
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SACRAMENTO COURTS
DEPT. #53 #54

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA, ex rel. BILL LOCKYER, Attorney General of the State of California, Plaintiff, **v.** **CHINA NATIONAL TOBACCO CORPORATION, a government corporation, also known as CHINA NATIONAL TOBACCO IMPORT AND EXPORT CORP. and as CHINA NATIONAL TOBACCO IMPORT AND EXPORT LIAONING CORP. ; and DOES 1 through 100, inclusive,** Defendants.	CASE NO. 04AS00410 **[PROPOSED] JUDGMENT BY COURT AFTER DEFAULT**

THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment* against Defendant **CHINA NATIONAL TOBACCO CORPORATION, a government corporation, also known as CHINA NATIONAL TOBACCO IMPORT AND EXPORT CORP.** (hereinafter "CNTC"). This Court has considered *Plaintiff's Request for Entry of Default Judgment* and accompanying declarations, papers and exhibits thereto, and the entire record in this matter and hereby find as follows:

1. The Attorney General of the State of California brings this action on behalf of Plaintiff, the People of the State of California, pursuant to California Health and Safety Code

section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code sections 104555-104557.

2. The Defendant, **CNTC**, manufactures cigarettes intended for sale in the United States and thus falls within the statutory definition of a "tobacco product manufacturer" as defined in California Health and Safety Code section 104556(i). **CNTC** has sold and continues to sell cigarettes (as defined in section 104556(d)) directly or indirectly, to consumers in California and, accordingly, have transacted and are transacting business within the State of California.

3. At least thirty (30) days have passed since the date of service of the Fourth Amended Summons and Fourth Amended Verified Complaint on **CNTC** and **CNTC** has failed to appear and defend in this court.

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

5. Jurisdiction has been reviewed and is proper over **CNTC** pursuant to California Code of Civil Procedure, section 410.10.

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

7. **CNTC** has failed and continues to fail and/or otherwise comply with the reserve fund requirements of California Health and Safety Code, sections 104555-104557 and implementing regulations (Title 11, Calif. Code of Reg., §§ 999.10a through 999.14).

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

9. Notwithstanding notice, **CNTC** has failed to certify to the Attorney General that a Qualified Escrow Fund (as defined in California Health and Safety Code section 104556(f)) has

been established and has failed to make the deposits for its 2000, 2001, 2002 and 2003 sales in California as required under California Health and Safety Code section 104557. Accordingly, **CNTC**'s actions constitute two or more "knowing" violations.

10. **CNTC** has committed two or more knowing violations of California Health and Safety Code section 104557 and is therefore subject to the maximum sanctions and penalties provided for under the reserve fund requirements of California Health and Safety Code section 104557.

THEREFORE, defaults having been entered by the clerk against **CNTC**, as requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against **CNTC** with respect to all claims, **AS FOLLOWS:**

A. **CNTC** shall, within fifteen (15) days of this Order, establish a qualified escrow fund and place into said fund the following amount as adjusted for inflation per California Health and Safety Code section 104557(a)(2):

<u>Sales during the year 2000</u>:
(60,336,610 units x $0.0104712) plus 6.48841% for inflation for a total of $672,789.40

<u>Sales during the year 2001</u>:
(62,996,600 units x $0.0136125) plus 9.68306% for inflation for a total of $940,577.04

<u>Sales during the year 2002</u>:
(32,169,800 units x $0.0136125) plus 12.97355% for inflation for a total of $494,723.27

<u>Sales during the year 2003</u>:
(23,379,000 units x $0.0167539) plus 16.3627565% for inflation for a total of $455,780.62

B. **CNTC** shall, within fifteen (15) days of this Order, provide Plaintiff with a list of the names of all cigarette brands manufactured by **CNTC**, as well as unit sales information and supporting documentation for sales in California in 2000, 2001, 2002 and 2003.

C. **CNTC** shall, within fifteen (15) days of this Order, pay civil penalties in the amount of 300% of the escrow amounts improperly withheld for its 2000 sales which are equal to the amount of **$2,018,368.20**; its 2001 sales which are equal to the amount of **$2,821,731.12**; it's 2002 sales which are equal to the amount of **$1,484,169.81**; and its 2003 sales

which are equal to the amount of **$1,367,341.86** for knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to certify to the Attorney General for the State of California that it is in compliance with California's reserve fund statute and for knowingly failing to establish a qualified escrow fund as defined under California Health and Safety Code section 104556(f) and knowingly failing to deposit sufficient escrow funds into a qualified escrow fund as required under California Health & Safety Code section 104557.

D. Pursuant to California Business and Professions Code section 17203, **CNTC** is hereby enjoined and otherwise prohibited from selling *any* cigarettes in California, either directly or through a distributor, retailer or other intermediary, *including but not limited to*, the following brands: "*Chinese Ginseng, Coco Palms, Columbus, Daqianmen, Double Happiness, Double Horses, General Diammen, Ginseng Filter, Hao, Hong Ta Shan, Ideal, Jipai Yan, Luck Hill, Luxury, Qilu, Rooster, Shuang, Shuangxi, State Express, Yangs, Yun Yan, and Zhong Nan Hai*". The injunction shall commence from the date of this Order and continue until **CNTC** establishes qualified escrow funds, deposits **$672,789.40** (in connection with their 2000 sales); **$940,577.04** (in connection with their 2001 sales); **$494,723.27** (in connection with their 2002 sales); and **$455,780.62** (in connection with their 2003 sales) into said escrow fund and provides to the Attorney General the compliance certification required by sections 104555-104557 and implementing regulations.

E. Pursuant to Title 11, California Administrative Code section 999.20(b)(8), after the sales ban imposed by this judgment elapses, **CNTC** shall make quarterly deposits into a qualified escrow account fund for two (2) years after **CNTC** is permitted to resume selling cigarettes in California, directly or through a distributor, retailer or similar intermediary.

F. Pursuant to Health and Safety Code section 104557(c)(3), **CNTC** is hereby enjoined and otherwise prohibited from selling *any* cigarettes in California, either directly or through a distributor, retailer or other intermediary, *including but not limited to*, the following brand: "*Chinese Ginseng, Coco Palms, Columbus, Daqianmen, Double Happiness, Double Horses, General Diammen, Ginseng Filter, Hao, Hong Ta Shan, Ideal, Jipai Yan, Luck Hill, Luxury, Qilu, Rooster, Shuang, Shuangxi, State Express, Yangs, Yun Yan, and Zhong Nan Hai*".

The injunction shall commence from the date of this Order and continue for two years as authorized by section 104557(c)(3).

G. Pursuant to Title 11, California Code of Regulations section 999.20(b)(1), after the sales bans imposed by this judgment elapses, **CNTC** shall make quarterly deposits into a qualified escrow account fund for two (2) years after **CNTC** is permitted to resume selling cigarettes in California, directly or through a distributor, retailer or similar intermediary.

H. Pursuant to Business and Professions Code section 17206, **CNTC** shall, within fifteen (15) days from the date of this Order, pay a penalty of **$5,000** for violations of Business and Professions Code section 17200 et seq.

I. Pursuant to Revenue and Taxation Code section 30165.1(f), **CNTC** shall, within fifteen (15) days from the date of this Order, shall appoint an agent for service of process in California for any action to enforce any resulting injunction(s) and/or judgment in the within action.

J. For the first 24 months after resuming sales, Defendant shall make quarterly deposits into its Qualified Escrow Fund, as specified in Title 11, California Code of Regulations section 999.20(b)(7), and complete and file a Certification of Compliance and Brand Families Unit Sales Schedule 1. Pursuant to Business and Professions Code section 17206, Defendant shall pay a penalty of $2,500 for each Certification of Compliance, Brand Families Unit Sales Schedule that is incomplete or inaccurate, or not filed with the Attorney General by the 20th calendar day after each quarter.

K. The Court shall retain jurisdiction in this matter.

L. **CNTC** shall within fifteen (15) days of this Order, pay all Plaintiff's reasonable costs, including but not limited to filing fees in the amount of **$241.50** pursuant to Government Code section 6103.5, and process server's fee of **$3,405.00** subject to modification and/or further relief as this Court deems just and proper.

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

1) Name/Address of Judgment Creditors:
State of California
c/o Department of Justice–Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550

2) Name/Address/Phone-Judgment Creditor's Attorney:
William F. Soo Hoo, Deputy Attorney General
Department of Justice–Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550

3) Name/Address-Judgment Debtor:

CNTC
#26 Xi Da Jie
Xuanwumeng
Xuanwu District, Beijing 100053

4)	Principal Amount of Judgment for Escrow:	**$ 2,563,870.33**
5)	Principal Amount of Judgment for Penalties:	
	Health & Safety Code section 104557	**$ 7,691,610.99**
	Bus. & Prof. Code section 17200	**$ 5,000.00**
	Total Penalties	**$ 7,696,610.99**
	Total Escrow and Penalties	**$10,260,481.31**
6)	Costs:	**$ 3,646.50**
	Grand Total	**$10,624,131.32**

7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total judgment which consists of items 4 thru 6 from the date of judgment is entered until fully paid. Interest is compounded annually.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: Aug 3, 2006

PATRICIA C. ESGRO

Judge of the Superior Court

DECLARATION OF SERVICE
(AG Mailroom)

Case Name: **PEOPLE V. CHINA NATIONAL TOBACCO CORP.**
No.: Sacramento Superior Court No. 04AS00410

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 20, 2006, I served the attached **NOTICE OF ENTRY OF JUDGMENT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

CHINA NATIONAL TOBACCO CORP.
#26 Xi Da Jie, Xuanwumeng
Huanwu District, Beijing 100053
Peoples Republic of China

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 10, 2006, at Sacramento, California.

Kim Lahn
Typed Name

Signature