COPY

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, State Bar No. 80
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone:
Fax:

Attorneys for Plaintiff People of the State of California

FILED
2006 DEC 28 PM 3:15
LEGAL PROCESS #12

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

People of the State of California, ex rel. Bill Lockyer, Attorney General of the State of California, Plaintiff. v. **GRAND RIVER ENTERPRISES, et al.** Defendants.	**Case No. 05AS04121** **NOTICE OF ENTRY OF JUDGMENT**

PLEASE TAKE NOTICE that on December 19, 2006, the Sacramento Superior Court per Judge Loren E. McMaster issued a Judgment in the above-captioned action. A true copy of the Judgment is attached hereto as Exhibit A and incorporated by reference herein.

Dated: December 27, 2007

Respectfully submitted,

BILL LOCKYER
Attorney General of the State of California

DENNIS ECKHART
Senior Assistant Attorney General

William F. Soo Hoo
Deputy Attorney General
Attorney for Plaintiff

30173502.wpd

SA2005301245

BILL LOCKYER
Attorney General of the State of California
THOMAS GREENE
Chief Assistant Attorney General
DENNIS ECKHART
Senior Assistant Attorney General
WILLIAM F. SOO HOO (SBN 80694)
Deputy Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone:
Facsimile:
Attorneys for Plaintiff

FILED
ENDORSED
2006 DEC 19 PM 6:49
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.** **GRAND RIVER ENTERPRISES/6 NATIONS LTD, a foreign corporation, and DOES 1 through 100, inclusive,** Defendants.	CASE NO. 05AS04121 **~~[PROPOSED]~~ JUDGMENT BY COURT AFTER DEFAULT**

THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment* against Defendant **GRAND RIVER ENTERPRISES/6 NATIONS LTD, a foreign corporation** (hereinafter **"GRAND RIVER"**). 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, **GRAND RIVER**, 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) **GRAND RIVER** 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 Summons and Verified Complaint on **GRAND RIVER** and **GRAND RIVER** has failed to appear and defend in this court.

4. **GRAND RIVER** was not at the time of service of the Summons and 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 **GRAND RIVER** 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. **GRAND RIVER** 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. **GRAND RIVER** 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, **GRAND RIVER** 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 2004 sales in

California as required under California Health and Safety Code section 104557. Accordingly, **GRAND RIVER's** actions constitute one or more "knowing" violations.

10. **GRAND RIVER** has committed one 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 **GRAND RIVER**, as requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against **GRAND RIVER** with respect to all claims, **AS FOLLOWS**:

A. **GRAND RIVER** 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 2004</u>:
(6,448,400 units x $0.0167539) plus 20.151102% for inflation for a total of $129,806.29

B. **GRAND RIVER** shall, within fifteen (15) days of this Order, provide Plaintiff with a list of the names of all cigarette brands manufactured by **GRAND RIVER**, as well as unit sales information and supporting documentation for sales in California in 2004.

C. **GRAND RIVER** shall, within fifteen (15) days of this Order, pay civil penalties in the amount of 300% of the escrow amounts improperly withheld, for a total of **$389,418.87** 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, **GRAND RIVER** 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: "*Scenic 101,*" "*Opal*" and "*MVP*". The injunction shall commence from the date of this Order and continue until **GRAND RIVER** establishes a qualified escrow fund, deposit **$129,806.29** 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, **GRAND RIVER** shall make quarterly deposits into a qualified escrow account fund for two (2) years after **GRAND RIVER** 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), **GRAND RIVER** 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: "*Scenic 101,*" "*Opal*" and "*MVP*". 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, **GRAND RIVER** shall make quarterly deposits into a qualified escrow account fund for two (2) years after **GRAND RIVER** 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, **GRAND RIVER** 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. **GRAND RIVER** 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. The Court shall retain jurisdiction in this matter.

K. **GRAND RIVER** 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 **$395.00** subject to modification and/or further relief as this Court deems just and proper.

L. 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
(916) 323-3795

3) Name/Address-Judgment Debtor:

GRAND RIVER
1001 Highway #6 South
Ohsweken
Ontario, Canada

4)	Principal Amount of Judgment for Escrow:	**$ 129,806.29**
5)	Principal Amount of Judgment for Penalties:	
	Health & Safety Code section 104557	**$ 394,418.87**
	Bus. & Prof. Code section 17200	**$ 5,000.00**
	Total Penalties	**$ 394,418.87**
	Total Escrow and Penalties	**$ 524,225.16**
6)	Costs:	**$ 636.50**
	Grand Total	**$ 524,861.66**

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: Dec 19, 2006

LOREN E. McMASTER

Judge of the Superior Court

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Grand River Enterprises/6 Nations LTD.**

No.: Sacramento Superior Court No. 05AS04121

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; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On December ~~27~~ 28, 2006, I served the attached **CASE MANAGEMENT CONFERENCE** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Sacramento, California, addressed as follows:

GRAND RIVER ENTERPRISES
1001 Highway #6 South
Ohsweken, Ontario, Canada

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 December ~~27~~ 28, 2006, at Sacramento, California.

Kim Lahn	
Declarant	Signature

30091528.wpd