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FILED
ENDORSED
OCT 29 2007
By E. MUNIZ
Deputy Clerk

8 Attorneys for Plaintiff

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF SACRAMENTO

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13 **PEOPLE OF THE STATE OF CALIFORNIA, ex.**
Rel. BILL LOCKYER, Attorney General of the
14 **State of California,**
15 Plaintiff,
16 v.
17 **GRAND RIVER ENTERPRISES/6 NATIONS,**
LTD., a foreign corporation, and DOES 1 through
18 **100, inclusive,**
19 Defendant.

CASE NO. 05AS01688

~~PROPOSED~~ JUDGMENT BY
COURT AFTER DEFAULT

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21 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
22 *Judgment* against Defendant **GRAND RIVER ENTERPRISES/6 NATIONS, LTD., a foreign**
23 **corporation,** (hereafter, "**GRAND RIVER**"). This Court has considered *Plaintiff's Request for*
24 *Entry of Default Judgment* and accompanying declarations, papers and exhibits thereto, and the
25 entire record in 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, **GRAND RIVER**, 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 **GRAND RIVER** has failed to appear and defend in this court.

7 4. **GRAND RIVER** 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. **GRAND RIVER** 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. **GRAND RIVER** 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 **GRAND RIVER** has failed to establish the required reserve fund and failed to certify
22 compliance to the Attorney General, in violation of California Health and Safety Code sections
23 104555, 104556, and 104557 and implementing regulations.

24 9. Notwithstanding notice, **GRAND RIVER** 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, **GRAND RIVER**'s actions constitute "knowing" violations.

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

7 A. **GRAND RIVER** 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 (32,013,800 units x \$0.0136125) plus 12.97356% for inflation for a total of
12 \$492,324.22.

12 Sales during the year 2003:
13 (75,352,720 units x \$0.0167539) plus 16.36276% for inflation for a total of
14 \$1,469,023.88.

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

17 C. **GRAND RIVER** shall, within fifteen (15) days of this Order, pay civil penalties in
18 the amount of 300% of the escrow amounts improperly withheld, for a total of **\$5,884,044.30** 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 D. Pursuant to California Health and Safety section 104557(c)(3), **GRAND RIVER** is
26 hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-year
27 period commencing from the date of this Order, either directly or through a distributor, retailer or
28 other intermediary, *including but not limited to*, the following brands: "Scenic 101," "MVP,"

1 "Opal" and "Capitol."

2 E. Pursuant to Business and Professions Code section 17206, **GRAND RIVER** shall,
3 within fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation
4 of Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total
5 assessed penalty of **\$5,000.00** in addition to the penalty specified in Paragraph C of this
6 judgment.

7 F. **GRAND RIVER** shall, within fifteen (15) days from the date of this Order, shall
8 appoint an agent for service of process in California (pursuant to Revenue & Taxation Code
9 section 30165.1(f)(1) for enforcement of this judgment and order until this judgment is satisfied,
10 the order is obeyed and the injunction is dissolved.

11 G. The Court shall retain jurisdiction in this matter.

12 H. **GRAND RIVER** shall within fifteen (15) days of this Order, pay all Plaintiff's
13 reasonable costs in the amount of **\$1,159.00** pursuant to Government Code section 6103.5 and
14 subject to modification and/or further relief as this Court deems just and proper.

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

16 1) Name/Address of Judgment Creditors:
17 State of California
18 c/o Department of Justice--Office of the Attorney General
19 1300 I. Street
20 P.O. Box 944255
21 Sacramento, CA 94244-2550

22 2) Name/Address/Phone-Judgment Creditor's Attorney:
23 William F. Soo Hoo, Deputy Attorney General
24 Department of Justice--Office of the Attorney General
25 1300 I. Street
26 P.O. Box 944255
27 Sacramento, CA 94244-2550
28 (916) 323-3853

3) Name/Address-Judgment Debtor:
GRAND RIVER ENTERPRISES/6 NATIONS
1001 Highway #6 South
Ohsweken Ontario NOA 1MO
Canada

4) Principal Amount of Judgment for Escrow: **\$1,961,348.10**

5) Principal Amount of Judgment for Penalties: **\$5,889,044.30**

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6) Costs:

TOTAL \$ 1,159.00
\$7,851,551.40

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.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: OCT 29 2007, 2007

JUDGE SHELLEYANNE W. L. CHANG

Judge of the Superior Court

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