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SACRAMENTO COURTS
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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SACRAMENTO

12
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 **HILTON TOBACCOS LTD, a foreign corporation,**

19 Defendant.

CASE NO. 06AS0331.

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

6 4. HILTON was not at the time of service of said Summons and Verified Complaint,
7 nor is now, an infant or minor, a financially incapable, incapacitated or incompetent person, nor
8 in the military service as defined by Article 1 of the "Soldiers' and Sailors' Civil Relief Act of
9 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. HILTON 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. HILTON has engaged in and continues to engage in acts of unfair competition as
19 defined in California Business & Professions Code, section 17200, in that HILTON has failed to
20 establish the required reserve fund and failed to certify compliance to the Attorney General, in
21 violation of California Health and Safety Code sections 104555, 104556, and 104557 and
22 implementing regulations.

23 9. Notwithstanding notice, HILTON failed to establish a Qualified Escrow Fund (as
24 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, HILTON's actions constitute "knowing" violations.

27 10. HILTON has committed four or more knowing violations of California Health and
28 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 HILTON, as requested
4 by Plaintiff, JUDGMENT is accordingly entered in favor of the Plaintiff and against HILTON
5 with respect to all claims, AS FOLLOWS:

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

9 **Sales during the year 2000:**
10 **(144,000 units x \$0.0104712) plus 6.48841% for inflation for a total of**
\$1,605.68.

11 **Sales during the year 2002:**
12 **(2,279,600 units x \$0.0136125) plus 12.97355% for inflation for a total of**
\$35,056.83.

13 **Sales during the year 2003:**
14 **(7,783,600 units x \$0.0167539) plus 16.3627565% for inflation for a total of**
\$151,741.28

15 **Sale during the year 2004:**
16 **(70,200 units x \$0.0167539) plus 20.15103% for inflation for a total of**
\$1,413.13

17 **(Total escrow improperly withheld: \$189,816.92.)**

18 B. HILTON shall, within fifteen (15) days of this Order, pay civil penalties for the
19 years 2000, 2002, 2003 and 2004 sales in the amount of 300% of the escrow amounts improperly
20 withheld, for a total of \$569,450.76 (3 x \$189,816.92) for a knowing violation of section
21 104555-104557.

22 C. Pursuant to Business and Professions Code section 17206, the Court assess a civil
23 penalty of two thousand five hundred dollars (\$2,500) against Defendant HILTON, for each
24 violation of Business and Professions Code section 17200 as alleged in the Third Cause of
25 Action, and that the Court assess a total penalty of no less than fifty thousand dollars (\$50,000).

26 D. HILTON shall appoint a resident agent for service of process in California for any
27 action to enforce any resulting injunction(s) and/or judgment in the instant action until the
28

1 defendant obtains and files with the court a written declaration from the Attorney General that
2 the terms of the judgment are satisfied.

3 E. The Court retains jurisdiction in this matter.

4 F. Plaintiff shall recover filing fees in the amount of \$241.50 pursuant to Government
5 Code section 6103.5.

6 G. Thus, the Court 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 HITLON TOBACCOS LTD
22 H-1, Smrat Complex, Saifabad, Hyderabad
23 Andhra Pradesh, India 50004

24 4) Principal Amount of Judgment for Escrow: \$ 188,403.82

25 5) Principal Amount of Judgment for Penalties: \$ 619,450.94
26 (\$569,450.76 plus \$50,000.00)

27 6) Costs: \$ 241.50

28 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.

MAR 14 2007
Dated: _____, *LOM*

LOREN E. McMASTER

Judge of the Superior Court