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SACRAMENTO COURTS
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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

Attorneys for Plaintiff

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. **SEKAP, S.A., GREEK COOPERATIVE CIGARETTE MANUFACTURING COMPANY, S.A., a.k.a. SEKAP, S.A. (SEKAP), a foreign corporation, and DOES 1 through 100, inclusive,** Defendants.	CASE NO. 05AS00644 **[~~PROPOSED~~] JUDGMENT BY COURT AFTER DEFAULT**

THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment* against Defendant SEKAP S.A. GREEK COOPERATIVE CIGARETTE MANUFACTURING COMPANY, S.A. ("SEKAP"). 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 finds 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, SEKAP, 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).SEKAP 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 SEKAP and SEKAP has failed to appear and defend in this court.

4. SEKAP 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 SEKAP 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. SEKAP 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. SEKAP 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, SEKAP 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 2003 sales in California as required

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under California Health and Safety Code section 104557. Accordingly, SEKAP's actions constitute one or more "knowing" violations.

10. SEKAP has committed one or more knowing violations of California Health and Safety Code section 104557 and are 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 SEKAP, as requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against SEKAP with respect to all claims, **AS FOLLOWS**:

A. SEKAP 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 2003</u>:
(13,055,520 units x $0.0167539) plus 16.36276% for inflation for a total of $254,517.36

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

C. SEKAP 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 **$763,552.08** 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, SEKAP are 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: "Marathon," and "GR." The injunction shall commence from the date of this Order and continue until SEKAP establishes a qualified escrow fund, deposit **$254,517.36** into said escrow fund and provides to the Attorney General the compliance certification required by sections 104555-104557 and implementing regulations.

E. Pursuant to Health and Safety Code section 104557(c)(3), SEKAP 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: "Marathon" and "GR." The injunction shall commence from the date of this Order and continue for two years as authorized by section 104557(c)(3).

F. After the sales bans imposed by this judgment elapses, SEKAP shall make quarterly deposits into a qualified escrow account fund for two (2) years after SEKAP is permitted to resume selling cigarettes in California, directly or through a distributor, retailer or similar intermediary.

G. Pursuant to Business and Professions Code section 17206, SEKAP shall, within fifteen (15) days from the date of this Order, pay a penalty of **$5,000** pursuant to Business and Professions Code section 17200.

H. SEKAP 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.

I. Defendant shall not resume sales in California until a serial number marking system is approved in writing by the Attorney General and the Board of Equalization. As a condition of resuming sales of cigarettes or tobacco products in California, defendant shall place on each pack of cigarettes or tobacco products sold in California a unique serial number, in standardized form, which identifies the tobacco product's manufacturer and the location and date of manufacture. Pursuant to Revenue and Taxation Code section 30165.1(g)(4), the marking system must provide sufficient information enable the Attorney General and the Board of Equalization to track and audit compliance by defendant.

J. For the first 24 months after resuming sales, Defendant shall make

quarterly deposits into its Qualified Escrow Fund, as specified in Title II, California Code of Regulations section 999.20(b)(7), and complete and file a Certification of Compliance and Brand Families Unit Sales Schedule 1. 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. Until the court relinquishes jurisdiction of this matter, Defendant shall recall and remove from the State of California any cigarettes, roll-your-own tobacco or other tobacco products that are contraband because either the brand family or the manufacturer is not listed on the California Tobacco Directory as required by Revenue and Taxation Code section 30165.1(e). Defendant shall recall and remove the contraband products within 15 days of discovery by Defendant, itself, or notice by any law enforcement agency as defined in Business and Professions Code section 22971(q) or representative of the California Board of Equalization or the California Attorney General.

M. SEKAP 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 **$2,800** subject to modification and/or further relief as this Court deems just and proper.

N. 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:

SEKAP
Xanthi 6th KLM
Kavala Road
GR-67100
Xanthi, Greece

4)	Principal Amount of Judgment for Escrow:	**$ 254,517.36**
5)	Principal Amount of Judgment for Penalties:	
	Health & Safety Code section 104557	**$ 763,552.08**
	Bus. & Prof. Code section 17200	**$ 5,000.00**
	Total Penalties	**$ 1,023,069.44**
6)	Costs:	**$ 3,041.50**
	Grand Total	**$1,026,110.94**

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: MAR 2 4 2006 2006

JUDGE SHELLEYANNE W. L. CHANG

Judge of the Superior Court

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: PEOPLE v. SEKAP, et al.
Case No. Sacramento Superior Court No. 05AS00644

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 94255, Sacramento, CA 94244-2550.

On April 4, 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 United States Mail at Sacramento, California, addressed as follows:

SEKAP, SA Greek Cooperative Cigarette
Manufacturing Company
Xanthi 6th Flm
Kavala Road
GR -67100 Xanthi, Greece

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 April 5, 2006, at Sacramento, California.

Kim Lahn
Declarant

/S/
Signature

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