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SACRAMENTO COURTS
DEPT. #53 #54

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9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO
11

12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
rel. BILL LOCKYER, Attorney General of the State
13 **of California,**
14 **Plaintiff,**
15 **v.**
16 **SINNAR BIDI UDYOG LTD., a foreign**
corporation, SHRIRANG SARDA, individually and
17 **d.b.a. SHRIRANG KISANLAL SARDA and/or**
KISANLAL BASTIRAM SARDA, KISANLAL
18 **BASTIRAM SARDA, individually and d.b.a.**
KISANLAL BASTIRAM SARDA, and DOES 1
19 **through 10, inclusive,,**
20 **Defendants.**

03AS03426

**[PROPOSED] JUDGMENT BY
COURT AFTER ENTRY OF
DEFAULT**

21 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
22 *Judgment* against defendants SINNAR BIDI UDYOG, LTD. ("SINNAR BIDI"), SHRIRANG
23 SARDA, individually and d.b.a. SHRIRANG KISANLAL SARDA and/or KISANLAL
24 BASTIRAM SARDA, and KISANLAL BASTIRAM SARDA, individually and d.b.a.
25 KISANLAL BASTIRAM SARDA (hereafter collectively referred to as "the Sarda defendants.")
26 This Court has considered *Plaintiff's Request for Entry of Default Judgment* and accompanying
27 declarations, papers and exhibits thereto, and the entire record in this matter and hereby finds as
28

1 follows:

2 1. The Attorney General of the State of California brings this action on behalf of
3 plaintiff, the People of the State of California, pursuant to California Health and Safety Code
4 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
5 sections 104555-104557 and California Business and Professions Code section 17200 et seq.

6 2. Defendant SINNAR BIDI, acting in concert with the other defendants,
7 manufactures cigarettes intended for sale in the United States and thus falls within the statutory
8 definition of a "tobacco product manufacturer" as defined in California Health and Safety Code
9 section 104556(i). The Sarma defendants have sold and continue to sell cigarettes (as defined in
10 section 104556(d)) directly or indirectly, to consumers in California and, accordingly, have
11 transacted and are transacting business within the State of California.

12 3. At least thirty (30) days have passed since the date of service of the Amended
13 Summons and Verified Complaint on the defendants and the defendants have failed to appear
14 and defend in this court.

15 4. Neither SINNAR BIDI, SHRIRANG SARDA nor KISANLAL BASTIRAM
16 SARDA was at the time of service of the Amended Summons and Verified Complaint, nor is
17 now, an infant or minor, a financially incapable, incapacitated or incompetent person, nor in the
18 military service as defined by Article 1 of the "Soldiers' and Sailors' Civil Relief Act of 1940" as
19 amended (50 U.S.C. Appen. § 501 et seq.).

20 5. Jurisdiction has been reviewed and is proper over all of the defendants pursuant to
21 California Code of Civil Procedure section 410.10.

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

24 7. Defendants, including SINNAR BIDI, have failed and continue to fail and/or
25 otherwise comply with the reserve fund requirements of California Health and Safety Code,
26 sections 104555-104557 and implementing regulations (Calif. Code of Reg., tit. 11, §§ 999.10a
27 through 999.14).

28 8. The Sarma defendants have engaged in and continue to engage in acts of unfair

1 competition as defined in California Business & Professions Code section 17200, in that the
2 defendants have failed to establish the required reserve fund and failed to certify compliance to
3 the Attorney General, in violation of California Health and Safety Code sections 104555,
4 104556, and 104557 and implementing regulations.

5 9. Notwithstanding notice, the defendants failed to certify to the Attorney General
6 that a qualified escrow fund (as defined in California Health and Safety Code section 104556(f))
7 has been established and also failed to make the annual deposits as required under California
8 Health and Safety Code section 104557. Accordingly, the defendants' actions constitute
9 "knowing" violations.

10 10. The Sarda defendants have committed two or more knowing violations of
11 California Health and Safety Code section 104557 and are therefore subject to the maximum
12 sanctions and penalties provided for under the reserve fund requirements of California Health
13 and Safety Code section 104557.

14 **THEREFORE**, defaults having been entered by the clerk against defendants
15 SINNAR BIDI, SHRIRANG SARDA and KISANLAL BASTIRAM SARDA, as requested by
16 plaintiff, **JUDGMENT** is accordingly entered in favor of the plaintiff and against the Sarda
17 defendants with respect to all claims, **AS FOLLOWS**:

18 A. The Sarda defendants shall, within fifteen (15) days of this Order, establish a qualified
19 escrow fund and place into said fund the following amounts as such amounts are adjusted for
20 inflation as required by California Health and Safety Code section 104557(a)(2):

21 **Sales during the year 2000:**

22 **(2,054,550 units x \$0.0104712) plus 6.48841% for inflation for a total of**
23 **\$22,907.47;**

24 **Sales during the year 2001:**

25 **(891,100 units x \$0.0136125%) plus 9.68306% for inflation for a total of**
26 **\$13,304.66; and**

27 **///**

28 **///**

1 **Sales during the year 2002:**

2 **(253,600 units x \$0.0136125%) plus 12.97355% for inflation for a total of**
3 **\$3,899.99.**

4 **Total (2000-2002 sales): \$40,112.12**

5 B. The Sarda defendants shall, within fifteen (15) days of this Order, provide plaintiff
6 with a list of the names of all of their cigarette brands manufactured by SINNAR BIDI, as well as
7 unit sales information and supporting documentation for sales in California in 2000, 2001 and
8 2002.

9 C. The Sarda defendants shall, within fifteen (15) days of this Order, pay civil penalties
10 in the amount of 300% of the escrow amounts improperly withheld, for a total of **\$120,336.36** for
11 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
12 certify compliance with California's reserve fund statute to the Attorney General and knowingly
13 failing to establish a qualified escrow fund as defined under California Health and Safety Code
14 section 104556(f) and knowingly failing to deposit sufficient funds into a qualified escrow fund
15 as required under California Health & Safety Code section 104557.

16 D. Pursuant to California Health and Safety section 104557(c)(3), the Sarda defendants
17 are hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-
18 year period commencing from the date of this Order, either directly or through a distributor,
19 retailer or other intermediary, *including but not limited to*, the following brands: "Kailas Bidi,"
20 "Bullet Bidi," "Indian Bidi," "Vishnu Bidi," and "Hare Krishna Bidi."

21 After the two-year ban elapses, the Sarda defendants shall make quarterly deposits into a
22 qualified escrow fund for five (5) years after defendants are permitted to resume selling cigarettes
23 in California, directly or through a distributor, retailer or similar intermediary.

24 E. Pursuant to Business and Professions Code section 17206, the Sarda defendants shall,
25 within fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation
26 of Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total
27 assessed penalty of **\$10,000.00**.

28 F. The Sarda defendants shall, within fifteen (15) days from the date of this Order,

1 appoint an agent for service of process in California for any action to enforce any resulting
2 injunction(s) and/or judgment in the within action.

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

4 H. The Sarda defendants shall within fifteen (15) days of this Order, pay all plaintiff's
5 reasonable costs, including but not limited to filing fees in the amount of **\$241.50** pursuant to
6 Government Code section 6103.5 and subject to modification and/or further relief as this Court
7 deems just and proper.

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

9 1) Name/Address of Judgment Creditors:
10 State of California
11 c/o Department of Justice--Office of the Attorney General
12 1300 I. Street
13 P.O. Box 944255
14 Sacramento, CA 94244-2550

13 2) Name/Address/Phone-Judgment Creditor's Attorney:
14 Michele M. DeCristoforo
15 Deputy Attorney General
16 Department of Justice--Office of the Attorney General
17 1300 I. Street
18 P.O. Box 944255
19 Sacramento, CA 94244-2550
20 (916) 323-3795

18 3) Name/Address-Judgment Debtors:
19 **SINNAR BIDI UDYOG LTD., SHRIRANG SARDA & KISANLAL**
20 **BASTIRAM SARDA**
21 Camel House
22 Nashik-Pune Road
23 Nashik-422-011 INDIA.

21 4) Principal Amount of Judgment for Escrow: **\$ 40,112.12**

22 5) Principal Amount of Judgment for Penalties: **\$130,336.36**
23 (Health & Saf. Code, §104557 and Bus. & Prof. Code,
24 § 17200 et seq)

24 6) Costs: **\$241.50**

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