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SACRAMENTO COURTS
DEPT. #54

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.** **SUMATRA TOBACCO TRADING COMPANY NV, a foreign corporation, and DOES 1 through 100, inclusive,** Defendants.	CASE NO. 04AS03010 **~~[PROPOSED]~~ JUDGMENT BY COURT AFTER DEFAULT**

THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment* against Defendant **SUMATRA TOBACCO TRADING COMPANY NV** (hereafter, "**SUMATRA**"). 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

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104557(c), to enforce the reserve fund requirements of California Health and Safety Code sections 104555-104557.

2. The Defendant, **SUMATRA**, is a company that has transacted and is transacting business in California and manufactures cigarettes as defined in California Health and Safety Code section 104556(i)(1).

3. At least thirty (30) days have passed since the date of service of the Summons and Verified Complaint and **SUMATRA** has failed to appear and defend in this court.

4. **SUMATRA** 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 pursuant to California Code of Civil Procedure, section 410.10.

6. **SUMATRA** has failed and continues to fail and/or refuse to comply or otherwise bring itself into compliance 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).

7. **SUMATRA** has engaged in and continues to engage in acts of unfair competition as defined in California Business & Professions Code, section 17200, in that **SUMATRA** 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.

8. Notwithstanding notice, **SUMATRA** failed to establish a Qualified Escrow Fund (as defined in California Health and Safety Code section 104556(f)) and also failed to make the annual deposits as required under California Health and Safety Code section 104557. Accordingly, **SUMATRA**'s actions constitute "knowing" violations.

9. **SUMATRA** has committed two 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, default having been entered by the clerk against **SUMATRA,** as requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against **SUMATRA** with respect to all claims, **AS FOLLOWS**:

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

Sales during the year 2000:

(3,500,000 units x $0.0104712%) plus 6.48841% for inflation for a total of $39,027.10

Sales during the year 2001:

(4,084,000 units x $0.0136125%) plus 9.68306% for inflation for a total of $60,976.57.

Total (2000-2001 sales): $100,003.67

B. **SUMATRA** shall, within fifteen (15) days of this Order, provide Plaintiff with a list of the names of all cigarette brands manufactured by **SUMATRA,** as well as unit sales information and supporting documentation for sales in California in 2000 and 2001.

C. **SUMATRA** 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 **$300,011.01** 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 Health and Safety section 104557(c)(3), **SUMATRA** is hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-year period

commencing from the date of this Order, either directly or through a distributor, retailer or other intermediary, *including but not limited to*, the following brands: "United."

E. Pursuant to Business and Professions Code section 17206, **SUMATRA** shall, within fifteen (15) days from the date of this Order, pay a penalty of $2,500.00 for each violation of Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total assessed penalty of **$5,000.00**.

F. **SUMATRA** shall, within fifteen (15) days from the date of this Order, shall appoint an agent for service of process in California for enforcement of this judgment and order until this judgment is satisfied, the order is obeyed and the injunction is dissolved.

G. The Court shall retain jurisdiction in this matter.

H. **SUMATRA** 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 subject to modification and/or further relief as this Court deems just and proper.

I. 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:
Corinne L. Murphy
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:
SUMATRA TOBACCO TRADING COMPANY NV
Jalan Pattimur A No. 3
Pematang Siantar 2113
North Sumatra, Indonesia

4) Principal Amount of Judgment for Escrow: **$100,003.67**

5) Principal Amount of Judgment for Escrow Penalties: **$300,011.01**

6) Principal Amount of Judgment for Bus. & Prof. Code section 17200 Penalties: **$ 5,000.00**

7) Costs: **$ 241.50**

8) 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 14 2005, 2005

THOMAS M. CECIL

JUDGE OF THE SUPERIOR COURT