BILL LOCKYER
Attorney General of the State of California
THOMAS GREENE
Chief Assistant Attorney General
DENNIS ECKHART
Senior Assistant Attorney General
WILLIAM H. SOOHOO (SBN 80694)
Deputy Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 323-3853
Fax: (916) 323-0813
Attorneys for Plaintiff

04 JUL -6 PM 3:19
LEGAL PROCESS #1

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.** **SEKAP, S.A. GREEK COOPERATIVE CIGARETTE MANUFACTURING COMPANY S. A., a foreign corporation, a.k.a. SEKAP, S.A. and DOES 1 through 100, inclusive,** Defendants.	03AS02298 **NOTICE OF ENTRY OF JUDGMENT** (C.C.P. Section 664.5)

PLEASE TAKE NOTICE that on July 1, 2004, the Sacramento Superior Court per Judge Shelleyanne W.L. Chang issued a Judgment in the above-captioned action. A true copy of the Judgment is attached here to as Exhibit A and incorporated by reference herein.

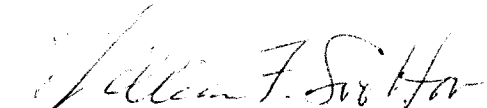
Dated: July 6, 2004

Respectfully submitted,

BILL LOCKYER
Attorney General of the State of California

THOMAS GREENE
Chief Assistant Attorney General

DENNIS ECKHART
Senior Assistant Attorney General



WILLIAM SOOHOO
Deputy Attorneys General

Attorneys for Plaintiff

EXHIBIT A

BILL LOCKYER
Attorney General of the State of California
THOMAS GREEN
Chief Assistant Attorney General
DENNIS ECKHART
Senior Assistant Attorney General
MICHELE M. DECRISTOFORO (SBN 166242)
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 323-3795 (DeCristoforo)
Fax: (916) 323-0813
Attorneys for Plaintiff

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.** **SEKAP S.A., GREEK COOPERATIVE CIGARETTE MANUFACTURING COMPANY, S.A. a.k.a. SEKAP S.A. (SEKAP) a foreign corporation, and DOES 1 through 10, inclusive,** Defendants.	03AS06076 **~~[PROPOSED]~~ JUDGMENT BY COURT AFTER ENTRY OF 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., a.k.a. **SEKAP** S.A. (hereinafter "**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 and California Business and Professions Code section 17200 et seq.

2. 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, has transacted and is 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. Defendant **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 (Calif. Code of Reg., tit. 11, §§ 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 the 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** 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 also failed to make the deposit for its 2002 sales in California as required under California Health and Safety Code section 104557. Accordingly, the defendant's actions constitute one or more "knowing" violations.

10. **SEKAP** 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 defendant **SEKAP**, as requested by plaintiff, **JUDGMENT** is accordingly entered in favor of the plaintiff and against the defendant 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 as required by California Health and Safety Code section 104557(a)(2):

<u>Sales during the year 2002</u>:

(36,010,400 units x $0.0136125%) plus 12.97355% for inflation for a total of $553,786.

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

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 **$1,661,358** for knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to certify compliance with California's reserve fund statute to the Attorney General and 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 funds into a qualified escrow fund as required under California Health & Safety Code section 104557.

D. Pursuant to California Business and Processions Code, section 17203, **SEKAP** is hereby enjoined and otherwise prohibited from selling *any* of its cigarettes in California 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: "Ideal," "GR," and "Marathon." The injunction shall commence from the date of this Order and continue until **SEKAP**

SEKAP establishes a qualified escrow fund, deposits the sums now owed for all prior sales years, and provides to the Attorney General the annual compliance certifications required by section 104557 and implementing regulations.

After the sales ban elapses, **SEKAP** shall make quarterly deposits into a qualified escrow fund for five (5) years after **SEKAP** is permitted to resume selling cigarettes in California, directly or through a distributor, retailer or similar intermediary.

E. Pursuant to Business and Professions Code section 17206, **SEKAP** 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 **$10,000.00**.

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

G. The Court further orders that plaintiff may confiscate and destroy any and all of the tobacco products offered for sale in California by **SEKAP** while the injunction banning sales is in place.

H. The Court shall retain jurisdiction in this matter.

I. **SEKAP** shall within fifteen (15) days of this Order, pay all plaintiff's reasonable costs, including **$2,310.00** for service and translation costs, as well as 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.

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

1) Name/Address of Judgment Creditor:
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:
Michele M. DeCristoforo
Deputy Attorney General

Department of Justice–Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

3) Name/Address-Judgment Debtor:
SEKAP S.A.
XANTHI 6TH KLM
KAVALA ROAD
GR - 67100
XANTHI, GREECE

4) Principal Amount of Judgment for Escrow: **$ 553,786.00**

5) Principal Amount of Judgment for Penalties: **$1,671,358.00**
(Health & Saf. Code, §104557 and Bus. & Prof. Code, § 17200 et seq)

6) Costs: **$ 2,551.50**

7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total judgment which consists of item 5 from the date of judgment is entered until fully paid. Interest is compounded annually.

IT IS SO ORDERED, ADJUDGED AND DECREED.

Dated: _____, 2004

SHELLEYANNE W.L. CHANG

_____
Judge of the Superior Court

DECLARATION OF SERVICE
(AG Mailroom)

Case Name: **PEOPLE v. SEKAP, et al.**

No.: 03AS06076

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. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 6, 2004, 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 internal mail collection system at the Office of the Attorney General at 1300 I Street, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

SEKAP
Xanthi 6th KLM
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 July 6, 2004, at Sacramento, California.

C. DUNKLE
Typed Name

Signature