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**F I L E D**

Clerk of the Superior Court

JUL 08 2004

By: J. JOHNSON, Deputy

8 Attorneys for Plaintiffs the People of the State of  
9 California

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SAN DIEGO

14 **THE PEOPLE OF THE STATE OF CALIFORNIA,**  
15 **ex rel. BILL LOCKYER, ATTORNEY GENERAL**  
**OF THE STATE OF CALIFORNIA,**

16 Plaintiff,

17 v.

18 **eSMOKES, INC., a Florida Corporation, doing**  
19 **business as WWW.ESMOKES.COM and**  
20 **WWW.CIGARETTESBYMAIL.COM, GARY E.**  
**KIRSCHNER, an individual, and DOES 1 through**  
**15, inclusive.,**

21 Defendants.

GIC 808195 (Consolidated with  
Case Nos. GIC 808197, GIC  
808198, and GIC 811625)

**STIPULATION FOR ENTRY  
OF FINAL JUDGMENT AND  
PERMANENT INJUNCTION**

Judge: Hon. Richard E.L. Strauss  
Dept.: 75

23 Plaintiff, the People of the State of California, having filed the Complaint herein, and  
24 Plaintiff appearing through its attorney Bill Lockyer, Attorney General, through Deputy  
25 Attorneys General Laura Kaplan and Michelle Fogliani; and Defendants Cyco.net, Inc., a New  
26 Mexico corporation and Richard Urrea, Chief Executive Officer and President, Daniel Urrea,  
27 Chief Financial Officer, and Francisco Urrea, Jr., Director of Cyco.net Inc., residents of New  
28 Mexico, doing business as or having done business as www.cycocigs.com and

1 www.aabakismokes.com represented by their attorney of record Charles V. Berwanger, of  
2 Gordon and Rees, LLP, ("Defendants"), Plaintiff and Defendants hereby stipulate and agree that:

3 1. On April 1, 2003, the People filed a Complaint alleging that, in the course of  
4 selling cigarettes over the Internet, Defendants has engaged in unlawful business practices in  
5 violation of Business and Professions Code section 17200 by:

6 a) selling cigarettes to children;

7 b) failing to implement adequate safeguards to ensure that minors cannot receive  
8 cigarettes purchased from their web site;

9 c) failing to comply with the Jenkins Act, 15 U.S.C. 375 et seq. ("Jenkins Act")  
10 requiring reporting the shipment of cigarettes into California by out-of-state sellers;

11 d) failing to comply with a California statute, effective January 1, 2003, and  
12 prohibiting non-face-to-face cigarette sales unless the seller complies with one of two specified  
13 requirements concerning the payment of taxes on cigarette sales to California customers (Rev. &  
14 Tax Code § 30101.7); and

15 e) engaging in false and misleading advertising for the purpose of inducing  
16 California consumers to purchase defendants cigarettes (Bus. & Prof. Code, § 17500).

17 2. The People also allege that Defendants separately violated Business and  
18 Professions Code 17500 and Revenue and Taxation Code section 30101.7, respectively, by  
19 making certain false and misleading advertising on their web sites, for the purpose of inducing  
20 California consumers to purchase defendants' cigarettes and by failing to either pay all applicable  
21 taxes on cigarettes shipped to California customers or advise those customers of their obligation  
22 to pay those taxes to the California Board of Equalization.

23 3. Defendants contend that they no longer own or operate any web site that ships  
24 tobacco products to California.

25 4. In settlement of the People's Complaint, Defendants Cyco.net, Inc., Richard  
26 Urrea, Daniel Urrea, and Francisco Urrea, Jr., their officers, directors, partners, agents,  
27 employees, representatives, assignees, successors in interest and the People stipulate to entry of  
28 this Final Judgment and permanent Injunction without the taking of proof and without this

1 Judgment constituting evidence of an admission by any party regarding any issue of law or fact  
2 alleged in the Complaint, all parties having waived the right to appeal, attempt to set aside or  
3 vacate, or otherwise to attack, directly or collaterally the Stipulated Final Judgment between  
4 Plaintiff and Defendant or any provision contained therein.

5           5. The court may sever this matter from consolidated cases GIC 808195, 811625 and  
6 808198 so that judgment may be entered in this matter.

7           6. The proposed Stipulated Final Judgment and Permanent Injunction, a copy of  
8 which is attached hereto as Exhibit 1 and incorporated by this reference, may be signed by any  
9 judge or commissioner of the Superior Court of the State of California, County of San Diego and  
10 entered by the clerk without notice, provided that this Stipulated Judgment has been executed by  
11 counsel listed below:

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1 DATED: April 28, 2004

BILL LOCKYER  
Attorney General of the State of California

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By: Laura Kaplan  
LAURA KAPLAN  
Deputy Attorney General

Attorneys for Plaintiffs the People of the State of California

7 DATED: April 21, 2004

CHARLES V. BERWANGER  
GORDON S. REES, LLP

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By: Charles V Berwanger  
CHARLES BERWANGER

Attorneys for Defendants Cyco.net, Inc.

12  
13 J.P. DATED: 4-19-04

R. Urrea  
PRESIDENT  
Cyco.net, Inc.

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16 J.P. DATED: 4-19-04

R. Urrea  
RICHARD URREA, Individual

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19 J.P. DATED: 4/19/04

D. Urrea  
DANIEL URREA, Individual

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22 J.P. DATED: 4/19/04

F. Urrea, Jr.  
FRANCISCO URREA, JR., Individual

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**DECLARATION OF SERVICE BY OVERNIGHT COURIER**

Case Name: **THE PEOPLE OF THE STATE OF CALIFORNIA, ex rel. BILL LOCKYER, ATTORNEY GENERAL OF THE STATE OF CALIFORNIA v. eSMOKES, INC,** a Florida Corporation, doing business as **WWW.ESMOKES.COM** and **WWW.CIGARETTESBYMAIL.COM**, **GARY E. KIRSCHNER**, an individual, and **DOES 1 through 15, inclusive ( People v. Cyconet, Inc.)**  
San Diego Superior Court No.: **GIC 808195 consolidated with Case Nos. GIC 808196, GIC 808198, GIC 811625**

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: 110 West "A" Street, Suite 1100, San Diego, California 92101.

On April 29, 2004, I served the attached **STIPULATED FINAL JUDGMENT AND PERMANENT INJUNCTION; STIPULATION FOR ENTRY OF FINAL JUDGMENT AND PERMANENT INJUNCTION** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid with the **UNITED PARCEL SERVICE** addressed as follows:

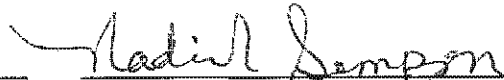
**Charles V. Berwanger**  
**Gordon & Rees, LLP**  
**101 West Broadway, Suite 1600**  
**San Diego, CA 92101**  
**FAX NO. (619) 696-7124**

Attorney for Defendants eSmokes, Inc., Gary Kirschner, an individual, Cyco.net, Inc., Richard A. Urrea, an individual, LLP Enterprises, Inc., and Adib Mograbi, an individual

**David Heasley, Esq.**  
**Silverberg, Goldman & Bikoff, LLP**  
**1101 30th Street, NW, Suite 120**  
**Washington DC 20007**  
**FAX NO. (202) 944-3306**

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 29, 2004, at San Diego, California.

NADIRAH M. SIMPSON



Declarant

Signature