

ENDORSED

2004 JUL -1 AM 10:11

SACRAMENTO COURTS
DEPT. #53 #54

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10 Attorneys for Plaintiff

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SACRAMENTO

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14 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
15 **rel. BILL LOCKYER, Attorney General of the State**
of California,

16 Plaintiff,

17 v.

18 **EDUARDO AROUSTAMYAN, a foreign**
19 **corporation, and DOES 1 through 100, inclusive,**

20 Defendants.

CASE NO. 03AS06133

[PROPOSED] JUDGMENT BY
COURT AFTER DEFAULT

21 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default Judgment*
22 against Defendant **EDUARDO AROUSTAMYAN** (hereafter, "**EDUARDO**"). This Court has
23 considered *Plaintiff's Request for Entry of Default Judgment* and accompanying declarations,
24 papers and exhibits thereto, and the entire record in this matter and hereby finds as follows:

25 1. The Attorney General of the State of California brings this action on behalf of
26 Plaintiff, the People of the State of California, pursuant to California Health and Safety Code
27 section 104557(c), to enforce the reserve fund requirements of California Health and Safety Code
28 sections 104555-104557.

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

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

6 4. **EDUARDO** was not at the time of service of the Summons and Verified
7 Complaint, nor is now, an infant or minor, a financially incapable, incapacitated or incompetent
8 person, nor in the military service as defined by Article 1 of the "Soldiers' and Sailors' Civil
9 Relief Act of 1940" as amended (50 U.S.C. Appen. § 501 et seq.).

10 5. Jurisdiction has been reviewed and is proper pursuant to California Code of Civil
11 Procedure, section 410.10.

12 6. **EDUARDO** has failed and continues to fail and/or refuse to comply or otherwise
13 bring itself into compliance with the reserve fund requirements of California Health and Safety
14 Code, sections 104555-104557 and implementing regulations (Title 11, Calif. Code of Reg., §§
15 999.10a through 999.14).

16 7. **EDUARDO** has engaged in and continues to engage in acts of unfair competition
17 as defined in California Business & Professions Code, section 17200, in that **EDUARDO** has
18 failed to establish the required reserve fund and failed to certify compliance to the Attorney
19 General, in violation of California Health and Safety Code sections 104555, 104556, and 104557
20 and implementing regulations.

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

25 9. **EDUARDO** has committed two or more knowing violations of California Health
26 and Safety Code section 104557 and is therefore subject to the maximum sanctions and penalties
27 provided for under the reserve fund requirements of California Health and Safety Code section
28 104557.

1 **THEREFORE**, default having been entered by the clerk against **EDUARDO**, as
2 requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against
3 **EDUARDO** with respect to all claims, **AS FOLLOWS**:

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

7 Sales during the year 2000:
8 (107,800 units x \$0.0104712) plus 6.48841% for inflation for a total of
9 \$1,202.03

10 Sales during the year 2001:
11 (152,000 units x \$0.0136125) plus 9.68306% for inflation for a total of
12 \$2,269.45.

13 Total (2001-2002 sales): \$3,471.48

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

17 C. **EDUARDO** shall, within fifteen (15) days of this Order, pay civil penalties in the
18 amount of 300% of the escrow amounts improperly withheld, for a total of \$10,414.44 for
19 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
20 certify to the Attorney General for the State of California that it is in compliance with
21 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund
22 as defined under California Health and Safety Code section 104556(f) and knowingly failing to
23 deposit sufficient escrow funds into a qualified escrow fund as required under California Health
& Safety Code section 104557.

24 D. Pursuant to California Health and Safety section 104557(c)(3), **EDUARDO** is
25 hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-year
26 period commencing from the date of this Order, either directly or through a distributor, retailer or
27 other intermediary, *including but not limited to*, the following brands: "Akhtamar," "Cartier,"
28 "Davidoff," "Garni," "Gitantes," "Royalls," "Sabrania," and "Sobrania."

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

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

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

9 H. **EDUARDO** shall within fifteen (15) days of this Order, pay all Plaintiff's
10 reasonable costs, including but not limited to filing fees in the amount of **\$241.50** pursuant to
11 Government Code section 6103.5 and subject to modification and/or further relief as this Court
12 deems just and proper.

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

- 14 1) Name/Address of Judgment Creditors:
15 State of California
16 c/o Department of Justice—Office of the Attorney General
17 1300 I. Street
18 P.O. Box 944255
19 Sacramento, CA 94244-2550
- 20 2) Name/Address/Phone-Judgment Creditor's Attorney:
21 Corinne L. Murphy
22 Deputy Attorney General
23 Department of Justice—Office of the Attorney General
24 1300 I. Street
25 P.O. Box 944255
26 Sacramento, CA 94244-2550
- 27 3) Name/Address-Judgment Debtor:
28 **EDUARDO**
34 Rostovyan Street #6
Yerevan, Armenia
- 4) Principal Amount of Judgment for Escrow: \$ 3,471.48
- 5) Principal Amount of Judgment for Escrow Penalties: \$ 10,414.44
- 6) Principal Amount of Judgment for Bus. & Prof Code
section 17200 Penalties: \$ 5,000.00
- 7) Costs: \$ 241.50

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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.

JUL - 1 2004
Dated: _____, 2004

LOREN E. McMASTER

Judge of the Superior Court

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People ex rel. Bill Lockyer v. Eduardo Aroustamyan** No.: **03AS06133**

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, P.O. Box 944255, Sacramento, California 94244-2550.

On April 27, 2004, I served the attached **[PROPOSED] JUDGMENT BY COURT AFTER DEFAULT** 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:

Eduardo Aroustamyan
34 Rostovyan Street #6
Yerevan, Armenia

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 27, 2004, at Sacramento, California.

JUDY VARVEL

Declarant


Signature