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8
9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF SACRAMENTO

11
12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
13 **rel. BILL LOCKYER, Attorney General of the State**
of California,

14 Plaintiff,

15 v.

16 **SEKAP, S.A. GREEK COOPERATIVE**
17 **CIGARETTE MANUFACTURING COMPANY**
18 **S.A., a foreign corporation, a.k.a. SEKAP, S.A. and**
DOES 1 through 100, inclusive,

19 Defendants.

02AS01117

~~[PROPOSED]~~ JUDGMENT BY
COURT AFTER DEFAULT

20 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
21 *Judgment* against Defendant **SEKAP S.A. GREEK COOPERATIVE CIGARETTE**
22 **MANUFACTURING COMPANY S.A., a.k.a. SEKAP, S.A.** (hereafter, "SEKAP"). This
23 Court has considered *Plaintiff's Request for Entry of Default Judgment* and accompanying
24 declarations, papers and exhibits thereto, and the entire record in this matter and hereby finds as
25 follows:

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

1 sections 104555-104557.

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

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

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

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

14 6. Venue has been reviewed and is proper pursuant to California Code of Civil
15 Procedure, section 393.

16 7. **SEKAP** has failed and continues to fail and/or refuse to comply or otherwise
17 bring itself into compliance with the reserve fund requirements of California Health and Safety
18 Code, sections 104555-104557 and implementing regulations (Title 11, Calif. Code of Reg., §§
19 999.10a through 999.14).

20 8. **SEKAP** has engaged in and continues to engage in acts of unfair competition as
21 defined in California Business & Professions Code, section 17200, in that **SEKAP** has failed to
22 establish the required reserve fund and failed to certify compliance to the Attorney General, in
23 violation of California Health and Safety Code sections 104555, 104556, and 104557 and
24 implementing regulations.

25 9. Notwithstanding notice, **SEKAP** failed to establish a Qualified Escrow Fund (as
26 defined in California Health and Safety Code section 104556(f)) and also failed to make the
27 annual deposits as required under California Health and Safety Code section 104557.

28 Accordingly, **SEKAP**'s actions constitute "knowing" violations.

1 10. SEKAP has committed two or more knowing violations of California Health
2 and Safety Code section 104557 and is therefore subject to the maximum sanctions and penalties
3 provided for under the reserve fund requirements of California Health and Safety Code section
4 104557.

5 **THEREFORE**, default having been entered by the clerk against **SEKAP**, as requested
6 by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against **SEKAP**
7 with respect to all claims, **AS FOLLOWS**:

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

11 **Sales during the year 2000:**

12 **(12,645,920 units x \$0.0104712) plus 6.48841% for inflation for a total of**
13 **\$141,009.78;**

14 **Sales during the year 2001:**

15 **(20,895,600 units x \$0.0136125%) plus 9.68306% for inflation for a total of**
16 **\$311,983.98.**

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

20 C. **SEKAP** shall, within fifteen (15) days of this Order, pay civil penalties in the amount
21 of 300% of the escrow amounts improperly withheld, for a total of **\$1,358,980.89** for knowingly
22 violating California Health and Safety Code section 104557(a)(2), (c), by failing to certify to the
23 Attorney General for the State of California that it is in compliance with California's reserve
24 fund statute and for knowingly failing to establish a qualified escrow fund as defined under
25 California Health and Safety Code section 104556(f) and knowingly failing to deposit sufficient
26 escrow funds into a qualified escrow fund as required under California Health & Safety Code
27 section 104557.

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1 D. Pursuant to California Health and Safety section 104557(c)(3), **SEKAP** is hereby
2 enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-year period
3 commencing from the date of this Order, either directly or through a distributor, retailer or other
4 intermediary, *including but not limited to*, the following brands: "Ideal," "Biofilter Full Flavor,"
5 "Biofilter Lights," "Biofilter Ultra," and "GR."

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

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

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

14 H. **SEKAP** shall within fifteen (15) days of this Order, pay all Plaintiff's reasonable
15 costs, including but not limited to all costs associated with translation of documents, preparation
16 of Hague service forms, service of process, which includes costs of mailing, filing fees totaling
17 **\$4,350.00** costs as provided by California Code of Civil Procedure section 1033.5 and subject to
18 modification and/or further relief as this Court deems just and proper.

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

20 1) Name/Address of Judgment Creditors:
21 State of California
22 c/o Department of Justice--Office of the Attorney General
23 1300 I. Street
24 P.O. Box 944255
25 Sacramento, CA 94244-2550

24 2) Name/Address/Phone-Judgment Creditor's Attorney:
25 Michele M. DeCristoforo
26 Deputy Attorney General
27 Department of Justice--Office of the Attorney General
28 1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

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3) Name/Address-Judgment Debtor:
SEKAP
Xanthi 6th KLM,
Kavala Road, GR-67100
Xanthi, Greece

4) Principal Amount of Judgment for Escrow: \$ 452,993.63
5) Principal Amount of Judgment for Penalties: \$1,363,980.89
6) Costs: \$ 4,350.00

7) 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.
MAR 14 2003

Dated: _____, 2003

LOREN E. McMASTER

Judge of the Superior Court