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**F I L E D**

Clerk of the Superior Court

MAY 07 2004

By: J. JOHNSON, Deputy *ty*

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

10  
11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SAN DIEGO

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

16 Plaintiff,

17 v.

18 **eSMOKES, INC., a Florida Corporation, doing**  
**business as WWW.ESMOKES.COM and**  
19 **WWW.CIGARETTESBYMAIL.COM, GARY E.**  
20 **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. Wayne L. Peterson  
Dept.: 75

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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 LLP Enterprises, Inc., a  
26 Virginia corporation and Adib Mograbi, President of LLP Enterprises Inc., and a resident of  
27 Virginia, doing business as Cigoutlet, the Tobacco Store, www.cigoutlet.com and  
28 www.affordablecigs.com represented by their attorney of record Charles V. Berwanger, of

1 Gordon and Rees, LLP, ("Defendants"), Plaintiff and Defendants hereby stipulate and agree that:

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

- 5 a) selling cigarettes to children;
- 6 b) failing to implement adequate safeguards to ensure that minors cannot receive  
7 cigarettes purchased from their web site;
- 8 c) failing to comply with the Jenkins Act, 15 U.S.C. 375 et seq. ("Jenkins Act")  
9 requiring reporting the shipment of cigarettes into California by out-of-state sellers;
- 10 c) failing to comply with a California statute, effective January 1, 2003, and  
11 prohibiting non-face-to-face cigarette sales unless the seller complies with one of two specified  
12 requirements concerning the payment of taxes on cigarette sales to California customers (Rev. &  
13 Tax Code § 30101.7); and
- 14 e) engaging in false and misleading advertising for the purpose of inducing  
15 California consumers to purchase defendants cigarettes (Bus. & Prof. Code, § 17500).

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

22 3. In settlement of the People's Complaint, Defendants LLP Enterprises, Adib  
23 Mograbi their officers, directors, partners, agents, employees, representatives, assignees,  
24 successors in interest and the People stipulate to entry of this Final Judgment and permanent  
25 Injunction without the taking of proof and without this Judgment constituting evidence of an  
26 admission by any party regarding any issue of law or fact alleged in the Complaint, all parties  
27 having waived the right to appeal, attempt to set aside or vacate, or otherwise to attack, directly  
28 or collaterally the Stipulated Final Judgment between Plaintiff and Defendant or any provision

1 contained therein.

2 4. The court may sever this matter from consolidated cases GIC 808195, 811625 and  
3 808198 so that judgment may be entered in this matter.

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

9 DATED: April 26, 2004

BILL LOCKYER  
Attorney General of the State of California

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By: Laura Kaplan  
LAURA KAPLAN  
Deputy Attorney General

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Attorneys for Plaintiffs the People of the State  
of California

CUB

Approved as to form

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DATED: March 26, 2004

CHARLES V. BERWANGER  
GORDON S. REES, LLP

16

17

By: Charles V. Berwanger  
CHARLES BERWANGER

18

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Attorneys for Defendants LLP Enterprises, Inc.  
and Adib Mograbi

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DATED: 4/26/04

Adib Mograbi  
PRESIDENT AND DIRECTOR  
LLP Enterprises Inc.

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DATED: 4/26/04

Adib Mograbi  
ADIB MOGRABI

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