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Requested Date: 07-JUL-2017 Ready Time: NOW Case Number: NEW Case Name: CA V GRAND RIVER Name of Docs: S&C, CCCS (3) DOCS	
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**SUMMONS
(CITACION JUDICIAL)**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
Superior Court Of California,
Sacramento
07/07/2017
rsanniguel
By RFM, Deputy
Case Number:
34-2017-00215131

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Grand River Enterprises Six Nations Ltd., a corporation, and Does 1-20

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

People of the State of California

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Superior Court of Calif., Sacramento Co.

CASE NUMBER:
(Número del Caso):

720 Ninth Street
Sacramento, CA 95814 USA

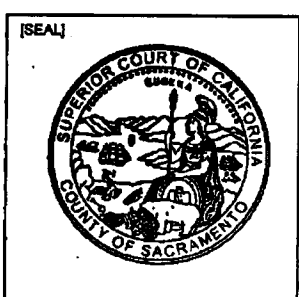
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Michael Edson;455 Golden Gate Ave.#11000 San Francisco,CA 94102 USA;415-703-5087;415-703-5480(Fx)

DATE: JUL - 7 - 2017
(Fecha)

Clerk, by RFM, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):
- 3. on behalf of (specify):
 - under: CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - other (specify):
- 4. by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Michael M. Edson, SBN 117858
 Office of the Attorney General
 455 Golden Gate Ave., Ste. 11000
 San Francisco, CA 94102
 TELEPHONE NO.: 415-703-5087 FAX NO.: 415-703-5480
 ATTORNEY FOR (Name): People of the State of California

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
 STREET ADDRESS: 720 9th Street
 MAILING ADDRESS:
 CITY AND ZIP CODE: Sacramento, CA 95814
 BRANCH NAME:

FOR COURT USE ONLY

FILED
Superior Court Of California,
Sacramento
07/07/2017
 rsanniguel
 By Am, Deputy
Case Number:
94-2017-00215131

CASE NUMBER:
 JUDGE:
 DEPT:

CASE NAME:
 People of the State of Calif. v. Grand River Enterprises Six Nations Ltd.

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000) Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <p><input type="checkbox"/> Auto (22)</p> <p><input type="checkbox"/> Uninsured motorist (46)</p> <p>Other P/DP/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</p> <p><input type="checkbox"/> Asbestos (04)</p> <p><input type="checkbox"/> Product liability (24)</p> <p><input type="checkbox"/> Medical malpractice (45)</p> <p><input type="checkbox"/> Other P/DP/W/D (23)</p> <p>Non-P/DP/W/D (Other) Tort</p> <p><input checked="" type="checkbox"/> Business tort/unfair business practice (07)</p> <p><input type="checkbox"/> Civil rights (08)</p> <p><input type="checkbox"/> Defamation (13)</p> <p><input type="checkbox"/> Fraud (16)</p> <p><input type="checkbox"/> Intellectual property (19)</p> <p><input type="checkbox"/> Professional negligence (25)</p> <p><input type="checkbox"/> Other non-P/DP/W/D tort (35)</p> <p>Employment</p> <p><input type="checkbox"/> Wrongful termination (36)</p> <p><input type="checkbox"/> Other employment (15)</p>	<p>Contract</p> <p><input type="checkbox"/> Breach of contract/warranty (06)</p> <p><input type="checkbox"/> Rule 3.740 collections (09)</p> <p><input type="checkbox"/> Other collections (09)</p> <p><input type="checkbox"/> Insurance coverage (18)</p> <p><input type="checkbox"/> Other contract (37)</p> <p>Real Property</p> <p><input type="checkbox"/> Eminent domain/Inverse condemnation (14)</p> <p><input type="checkbox"/> Wrongful eviction (33)</p> <p><input type="checkbox"/> Other real property (26)</p> <p>Unlawful Detainer</p> <p><input type="checkbox"/> Commercial (31)</p> <p><input type="checkbox"/> Residential (32)</p> <p><input type="checkbox"/> Drugs (38)</p> <p>Judicial Review</p> <p><input type="checkbox"/> Asset forfeiture (05)</p> <p><input type="checkbox"/> Petition re: arbitration award (11)</p> <p><input type="checkbox"/> Writ of mandate (02)</p> <p><input type="checkbox"/> Other judicial review (39)</p>	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <p><input type="checkbox"/> Antitrust/Trade regulation (03)</p> <p><input type="checkbox"/> Construction defect (10)</p> <p><input type="checkbox"/> Mass tort (40)</p> <p><input type="checkbox"/> Securities litigation (28)</p> <p><input type="checkbox"/> Environmental/Toxic tort (30)</p> <p><input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)</p> <p>Enforcement of Judgment</p> <p><input type="checkbox"/> Enforcement of judgment (20)</p> <p>Miscellaneous Civil Complaint</p> <p><input type="checkbox"/> RICO (27)</p> <p><input type="checkbox"/> Other complaint (not specified above) (42)</p> <p>Miscellaneous Civil Petition</p> <p><input type="checkbox"/> Partnership and corporate governance (21)</p> <p><input type="checkbox"/> Other petition (not specified above) (43)</p>
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): 3
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 7, 2017
 Deputy Attorney General Michael Edson
 (TYPE OR PRINT NAME)

/s/ Michael Edson
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other P/DPD/W (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (not asbestos or toxic/environmental) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other P/DPD/W (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/W (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other P/DPD/W

Non-P/DPD/W (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (not medical or legal)
- Other Non-P/DPD/W Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract (not unlawful detainer or wrongful eviction)
- Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (not provisionally complex) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (36) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
- Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
- Enforcement of Judgment
 - Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (non-domestic relations)
 - Sister State Judgment
 - Administrative Agency Award (not unpaid taxes)
 - Petition/Certification of Entry of Judgment on Unpaid Taxes
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint RICO (27)

- Other Complaint (not specified above) (42)
 - Declaratory Relief Only
 - Injunctive Relief Only (non-harassment)
 - Mechanics Lien
 - Other Commercial Complaint Case (non-tort/non-complex)
- Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (not specified above) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief From Late Claim
- Other Civil Petition

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FILED
Superior Court Of California,
Sacramento
07/07/2017
rsannmiguel
By RSM , Deputy
Case Number:
34-2017-00215131

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

GRAND RIVER ENTERPRISES SIX NATIONS LTD., a corporation, and DOES 1-20.

Defendants.

Case No. _____

COMPLAINT FOR CIVIL PENALTIES, INJUNCTION AND OTHER EQUITABLE RELIEF FOR VIOLATIONS OF

- 1. Health & Saf. Code, § 104555 et seq.
- 2. Rev. & Tax. Code, § 30165.1 et seq.
- 3. Bus. & Prof. Code, § 17200 et seq.

1 The People of the State of California, by and through Xavier Becerra, Attorney General of
2 the State of California, allege as follows:

3 **PARTIES**

4 1. Plaintiff, the People of the State of California, act through their Attorney General,
5 Xavier Becerra, the chief law enforcement officer of the state. (Cal. Const., art. V, § 13.)

6 2. The Attorney General is authorized by Health and Safety Code section 104557,
7 subdivision (c), to bring actions to enforce Health and Safety Code sections 104555-104558 (the
8 “Escrow Statute”). (All Code citations herein are to the California Code unless otherwise
9 specified.)

10 3. The Attorney General is charged with administering Revenue and Taxation Code
11 section 30165.1 (the “Directory Statute”) and may bring actions to enforce this law.

12 4. The Attorney General is authorized by Business and Professions Code section 17204
13 to bring actions to enforce the California Unfair Competition Law, Business and Professions
14 Code sections 17200-17210 (the “UCL”).

15 5. Defendant Grand River Enterprises Six Nations Ltd. (“Grand River” or GRE”) is, and
16 at all relevant times was, a Canadian corporation, Canadian Federal Corporation No. 325446-1,
17 with a registered principal place of business listed as 2176 Chiefswood Road, Ohsweken, Ontario,
18 Canada.

19 6. Defendants Does 1 through 20 inclusive are sued herein pursuant to Code of Civil
20 Procedure section 474. The true names and capacities of defendants sued in this complaint under
21 the fictitious names of Does 1 through 20, inclusive, are unknown to the People, who therefore
22 sue such defendants by such fictitious names. Defendants sued herein as Does 1 through 20 are,
23 and at all relevant times were, engaged in the activities and conduct complained of herein.

24 7. Whenever reference is made in this complaint to any act of GRE, such allegations
25 shall mean that GRE, through its agents, employees, or representatives, did or authorized such
26 acts while actively engaged in the management, direction, or control of the affairs of GRE and
27 while acting within the scope and course of their duties.

28

1 **JURISDICTION AND VENUE**

2 8. This is an action for injunctive relief and civil penalties under various statutory
3 provisions, which are properly before this Court.

4 9. The violations of law alleged in this complaint occurred in Sacramento County and in
5 other counties in California, or occurred outside of California but were intended by Defendants to
6 target California.

7 **GENERAL ALLEGATIONS**

8 10. As used in this complaint, "California" means all territory within the exterior
9 boundaries of the State of California and includes all territory within these boundaries owned by
10 or ceded to the United States of America, including Indian country as defined in 18 U.S.C.
11 § 1151.

12 11. As used in this complaint, the "United States" means all territory within the exterior
13 boundaries of the United States, including Indian country as defined in 18 U.S.C. § 1151.

14 12. GRE manufactures and at all relevant times did fabricate several brands of cigarettes
15 that have been and continue to be for sale in the United States, including California. These
16 include Seneca, Opal, and Couture brand cigarettes (hereinafter "GRE Cigarettes").

17 13. GRE holds a Canadian license to export cigarettes from Canada, and, since at least
18 2004, has exported cigarettes from Canada for sale elsewhere, including the United States.

19 14. Since at least 2004, none of these GRE Cigarettes has been legal for sale in
20 California.

21 15. Big Sandy Rancheria of Western Mono Indians of California, also known as Big
22 Sandy Rancheria Band of Mono Indians ("Big Sandy," "Big Sandy Rancheria," or "the Tribe"), is
23 an Indian tribe with approximately 431 members, located near Fresno, California.

24 a. On information and belief, Big Sandy Rancheria operates a business that
25 imports, buys, and resells cigarettes, including GRE Cigarettes.

26 b. On information and belief, Big Sandy Rancheria operates this business either
27 itself or through at least two affiliated entities: Big Sandy Rancheria Tobacco
28 Distribution and BSR-Distributing, and perhaps others with similar names.

1 c. In this complaint, when Plaintiff is unsure which of these Big Sandy-related
2 entities is involved – the Tribe itself, Big Sandy Rancheria Tobacco
3 Distribution, BSR-Distributing, or some other entity affiliated with the Tribe –
4 these entities will be referred to collectively simply as “BSR.”

5 16. From at least 2004 to May 2012, GRE sold over one billion GRE-Cigarettes to BSR
6 via sales to an intermediary, Native Wholesale Supply Company (“Native Wholesale”).

- 7 a. Native Wholesale is a corporation headquartered in New York.
8 b. GRE sold the cigarettes noted above directly to Native Wholesale.
9 c. Native Wholesale then sold these GRE Cigarettes to BSR.
10 d. BSR, thereafter, resold the cigarettes to other distributors and/or retailers in
11 California, from whom they ultimately were sold to California consumers.
12 e. GRE knew or should have known, and intended, that the cigarettes it sold to
13 Native Wholesale were ultimately to be sold to BSR and then to California
14 consumers.
15 f. On December 28, 2016, the Sacramento County Superior Court entered
16 judgment against Native Wholesale, finding it liable for, among other things,
17 selling cigarettes from 2004 to May 2012 to BSR in violation of California law,
18 and enjoining Native Wholesale from selling GRE Cigarettes in California.

19 17. In May 2012, GRE ceased using Native Wholesale as an intermediary, and from at
20 least May 2012 to present, GRE has sold GRE-Cigarettes directly to BSR. BSR then sold and
21 continues to sell the GRE-Cigarettes in California either at retail through its own retail outlet or
22 via sales to other retailers and distributors throughout the State, including, for example, Huber
23 Enterprises in Loleta, California. These cigarettes ultimately are purchased by California
24 consumers.

25 18. On information and belief, from at least 2014 to present, GRE also has sold GRE
26 Cigarettes to other distributors, retailers and/or consumers in California via Ho-Chunk, Inc.
27 and/or affiliated entities such as HCI Distribution Company and HCI Logistics, which on
28 information and belief are affiliated with the Winnebago Tribe of Nebraska.

1 19. GRE intends that the cigarettes it sells to United States-located entities be sold
2 throughout the United States, including specifically California.

- 3 a. GRE has expressed its intent to reach the largest United States market possible,
4 and has acted to achieve that goal.
- 5 b. GRE has promoted, and on information and belief continues to promote, the
6 sale of GRE Cigarettes throughout the United States, including California.
- 7 c. GRE monitors the sales and sellers of GRE Cigarettes in the United States,
8 including California.
- 9 d. GRE has admitted that it is responsible for paying escrow due under each
10 state's laws, and on information and belief in fact does pay such escrow in
11 several states, but not in California.
- 12 e. On information and belief, GRE has made efforts to make its cigarettes
13 compliant with at least one California law, the Cigarette Fire Safety and
14 Firefighter Protection Act ("Fire Safety Act," Health & Saf. Code, § 14950 et
15 seq.).
- 16 f. Since at least 2004, GRE has used, and on information and belief continues to
17 use, distribution channels for GRE Cigarettes that it intends, knows and/or
18 should know, end in the sale of GRE Cigarettes in California, and has made no
19 effort to stop such California sales.

20 20. The People have incurred and will continue to incur significant attorney fees and
21 costs in connection with this action and the investigation that led up to it.

22 **FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS –**
23 **VIOLATION OF THE ESCROW STATUTE,**
24 **HEALTH & SAF. CODE, § 104555 ET SEQ.**

24 21. The People re-allege and incorporate by reference paragraphs 1 through 20 of this
25 complaint.

26 22. GRE is not, and never has been, a signatory to the Master Settlement Agreement
27 ("MSA"), as defined in the Health and Safety Code section 104556, subdivision (e).

1 23. GRE is not, and never has been, a "Participating Manufacturer" within the meaning
2 of section II(jj) of the MSA.

3 24. Pursuant to Health and Safety Code section 104557, subdivision (a): "Any tobacco
4 product manufacturer selling cigarettes to consumers within the state, whether directly or through
5 a distributor, retailer or similar intermediary or intermediaries," must either join the settlement to
6 become a Participating Manufacturer as that term is defined in section II(jj) of the MSA, and
7 generally perform its financial obligations under the MSA; or, among other things, "[p]lace into a
8 qualified escrow fund by April 15 of the year following the year in question" a specified amount
9 of money per "unit sold" in California.

10 25. A "unit sold" is a cigarette "sold to a consumer in the state by the applicable tobacco
11 product manufacturer, whether directly or through a distributor, retailer, or similar intermediary
12 or intermediaries," with certain specified exceptions. (Health & Saf. Code, § 104556, subd. (j).)

13 26. Pursuant to Health and Safety Code section 104557, subdivision (c), every cigarette
14 manufacturer whose cigarettes are sold in California and is not a signatory to the MSA (a "Non-
15 Participating Manufacturer," or "NPM") must annually certify to the Attorney General that it is in
16 full compliance with subdivision (a), among other things.

17 27. GRE is, and at all relevant times has been, a "tobacco product manufacturer" within
18 the meaning of Health and Safety Code section 104556, subdivision (i)(1), because it
19 manufactures GRE Cigarettes it intends to be sold in the United States.

20 28. The Attorney General repeatedly has sent notices to GRE or its attorneys reminding
21 GRE of its obligations under the Escrow Statute.

22 29. At issue here are sales of GRE Cigarettes in California for the years 2014 through
23 2016, for which GRE violated the Escrow Statute by:

- 24 a. Failing to deposit in a qualified escrow account the amounts required by law in
25 violation of Health and Safety Code section 104557, subdivision (a), as detailed
26 below, and
27
28

1 b. Failing to file with the Attorney General annual certifications required by law,
2 in violation of California Health and Safety Code section 104557, subdivision
3 (c), as detailed below.

4 30. Each of the above violations was made knowingly.

5 **A. GRE's 2014 Violations**

6 31. On information and belief, between January 1, 2014 and December 31, 2014, GRE
7 sold an estimated 134,874,000 units (individual cigarettes) to consumers in California either
8 directly or through intermediaries, including BSR.

9 32. In 2014, escrow was due at a rate of \$0.0308783 per unit sold.

10 33. On the basis of the number of units sold indicated in paragraph 31, above, the total
11 escrow deposit due on GRE's 2014 California cigarette sales is \$4,164,679.83. As of the date of
12 this complaint, GRE has not deposited in a qualified escrow account any of the escrow deposit
13 due for its 2014 California sales, as required by Health and Safety Code section 104557,
14 subdivision (a).

15 34. As of the date of this complaint, GRE has not filed the annual certification of
16 compliance with the Attorney General for its 2014 California sales, as required by Health and
17 Safety Code section 104557, subdivision (c), and implementing regulations.

18 **B. GRE's 2015 Violations**

19 35. On information and belief, between January 1, 2015 and December 31, 2015, GRE
20 sold an estimated 145,482,000 units (individual cigarettes) to consumers in California either
21 directly or through intermediaries including BSR.

22 36. In 2015, escrow was due at a rate of \$0.0318047 per unit sold.

23 37. On the basis of the number of units sold indicated in paragraph 35, above, the total
24 escrow deposit due on GRE's 2015 California cigarette sales is 4,627,011.37.

25 38. As of the date of this complaint, GRE has not deposited in a qualified escrow account
26 any of the escrow deposit due for its 2015 California sales, as required by Health and Safety Code
27 section 104557, subdivision (a).

28

1 39. As of the date of this complaint, GRE has not filed the annual certification of
2 compliance with the Attorney General for its 2015 California sales, as required by Health and
3 Safety Code section 104557, subdivision (c), and implementing regulations.

4 **C. GRE's 2016 Violations**

5 40. On information and belief, between January 1, 2016 and December 31, 2016, GRE
6 sold an estimated 123,930,000 units (individual cigarettes) to consumers in California either
7 directly or through intermediaries, including BSR.

8 41. In 2016, escrow was due at a rate of \$0.0327588 per unit sold.

9 42. On the basis of the number of units sold indicated in paragraph 40, above, the total
10 escrow deposit due on GRE's 2016 California cigarette sales is \$4,059,798.08.

11 43. As of the date of this complaint, GRE has not deposited in a qualified escrow account
12 any of the escrow deposit due for its 2016 California sales, as required by Health and Safety Code
13 section 104557, subdivision (a).

14 44. As of the date of this complaint, GRE has not filed the annual certification of
15 compliance with the Attorney General for its 2016 California sales, as required by Health and
16 Safety Code section 104557, subdivision (c), and implementing regulations.

17 **SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS –**
18 **VIOLATION OF THE DIRECTORY STATUTE,**
REV. & TAX. CODE, § 30165.1, SUBDIVISION (e)(2) AND/OR (e)(3)

19 45. The People re-allege and incorporate by reference paragraphs 1-44 of this complaint.

20 46. In 2003, California enacted its "Directory Statute," Revenue and Taxation Code
21 section 30165.1.

22 47. California Revenue and Taxation Code section 30165.1, subdivision (c) provides,
23 among other things, that the California Attorney General shall publish on his Internet website a
24 list ("the Directory") of all tobacco product manufacturers and brand families that satisfy the
25 requirements for listing specified in section 30165.1.

26 48. For a manufacturer and its cigarette brands to qualify for listing on the Directory, a
27 manufacturer must, among other things, be either a Participating Manufacturer that is compliant
28 with its payment obligations under the MSA, or be a Non-Participating Manufacturer that is

1 compliant with the Escrow Statute and various other tobacco-related laws. (See generally Rev. &
2 Tax. Code, § 30165.1.)

3 49. Neither GRE nor any cigarette brand manufactured by GRE, including the Seneca,
4 Opal, and Couture brands, has ever satisfied the requirements for listing on the Attorney
5 General's Directory as set forth in Revenue and Taxation Code section 30165.1.

6 50. Neither GRE nor any cigarette brand manufactured by GRE, including the Seneca,
7 Opal, and Couture brands, has ever been listed in the Attorney General's Directory.

8 51. California Revenue and Taxation Code section 30165.1, subdivision (e)(2) provides
9 that, "No person shall sell, offer, or possess for sale in this state, ship or otherwise distribute into
10 or within this state or import for personal consumption in this state, cigarettes of a tobacco
11 product manufacturer or brand family not included in the [D]irectory."

12 52. Since at least January 1, 2014 and continuing to the present, GRE has sold, offered,
13 and/or possessed for sale in this State, and/or shipped or otherwise distributed into or within this
14 State an estimated approximately 404,286,000 GRE Cigarettes, in violation of Revenue and
15 Taxation Code section 30165.1, subdivision (e)(2).

16 53. Revenue and Taxation Code section 30165.1, subdivision (e)(3), provides, in part,
17 that no person shall sell, distribute, acquire, hold, own, possess, transport, import, or cause to be
18 imported cigarettes that the person knows or should know are intended to be distributed in
19 violation of section 30165.1, subdivision (e)(2).

20 54. Since at least January 1, 2014 and continuing to present, GRE has sold, distributed,
21 acquired, owned, and/or possessed approximately 404,286,000 GRE Cigarettes, in approximately
22 35,842 cases, that it knew or should have known were intended to be distributed in California in
23 violation of Revenue and Taxation Code section 30165.1, subdivision (e)(2), in violation of
24 section 30165.1, subdivision (e)(3).

25 **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS –**
26 **VIOLATION OF THE UNFAIR COMPETITION LAW,**
BUS. & PROF. CODE, § 17200 ET SEQ.

27 55. The People re-allege and incorporate by reference paragraphs 1-54 of this complaint.
28

1 56. GRE has engaged in and continues to engage in business acts or practices that
2 constitute unfair competition as defined in California's Unfair Competition Law ("UCL"),
3 Business & Professions Code section 17200 et seq. These acts or practices include, but are not
4 limited to, the following:

- 5 a. Violated Health and Safety Code section 104555 et seq. as more fully detailed
6 above;
- 7 b. Violated Revenue and Tax Code section 30165.1, subdivision (e)(2), as more
8 fully detailed above;
- 9 c. Violated Revenue and Tax Code section 30165.1, subdivision (e)(3), as more
10 fully detailed above.

11 **PRAYER FOR RELIEF**

12 The People pray for the following relief:

13 **A. For First Claim (Violation of Escrow Statute)**

14 1. That the Court order GRE, within 15 days, to place into a qualified escrow account
15 the funds necessary to bring GRE into full compliance with Health and Safety Code section
16 104557 for sales in years 2014-2016 inclusive, which is \$12,851,489.28 or a greater amount to be
17 proven. (See Health & Saf. Code, § 104557, subd. (c)(1).)

18 2. That the Court assess civil penalties against GRE in the amount of 300% of the
19 escrow amount improperly withheld for sales in the years 2014-2016, which are \$38,554,467.85,
20 or a greater amount to be proven at trial, for knowingly violating the Escrow Statute; or, if no
21 knowing violation is found, civil penalties in an amount equal to 100% of the amount improperly
22 withheld from escrow for sales in the years 2014-2016, which are \$12,851,489.28, or a greater
23 amount to be proven at trial. (See Health & Saf. Code, § 104557, subd. (c)(1) & (2).)

24 3. That the Court enjoin GRE from selling cigarettes to consumers within the state,
25 whether directly or through a distributor, retailer, or similar intermediary, for a period of two
26 years. (See Health & Saf. Code, § 104557, subd. (c)(3).)

1 4. That the Court order GRE to provide to the Attorney General the written
2 certifications required by Health and Safety Code section 104557, subdivision (c), for each year
3 2014-2016, inclusive.

4 5. That the Court award Plaintiff its costs of investigating and prosecuting the action,
5 including expert fees, reasonable attorneys' fees, and costs. (See Code Civ. Proc., § 1021.8(a).)

6 **B. For Third Claim (Violation of Unfair Competition Law)**

7 6. That Defendants, their successors, agents, representatives, employees, and all persons
8 who act in concert with them be permanently enjoined from engaging in unfair competition as
9 defined in Business and Professions Code section 17200, including, but not limited to, the acts
10 and practices alleged in this Complaint, under the authority of Business and Professions Code
11 section 17203, including but not limited to:

12 a. Selling, directly or indirectly, cigarettes, including but not limited to
13 Seneca, Opal, and Couture brand cigarettes, to any entity located in California, until it
14 pays into a qualified escrow account the sums it now owes as specified above, as well as
15 pays all civil penalties owing and provides to the Attorney General the annual compliance
16 certification required by Health and Safety Code section 104555 et seq. Said compliance
17 should include disclosure of such information concerning the company, its officers,
18 owners, trademarks, and business partners (including manufacturers, importers and
19 distributors of its products) as may be required to assure the Attorney General that past
20 violations have been brought into compliance and future violations will be prevented.

21 b. Selling, directly or indirectly, to persons and businesses in California for
22 resale in California any cigarettes unless the brand family and manufacturer are listed on
23 the California tobacco directory, as required by California's tobacco Directory Statute.
24 (Rev. & Tax. Code, § 30165.1.)

25 7. That the Court make such orders or judgments as may be necessary to prevent the use
26 or employment by any Defendant of any practice that constitutes unfair competition or as may be
27 necessary to restore to any person in interest any money or property that may have been acquired
28

1 by means of such unfair competition, under the authority of Business and Professions Code
2 section 17203;

3 8. That the Court assess a civil penalty of \$2,500 against each Defendant for each
4 violation of Business and Professions Code section 17200 in an amount according to proof but
5 not less than \$12,846,436, under the authority of Business and Professions Code section 17206,
6 including but not limited to the following:

- 7 a. \$2,500 for each violation of the Escrow Statute, for at least \$15,000 for GRE's
8 three failures to deposit the required escrow for sales in 2014, 2015, and 2016,
9 and 3 failures to submit the required certifications, or another amount up to
10 \$2,500 per violation of the Escrow Statute as determined by the Court.
11 b. At least \$358 for each of an estimated 35,842 cases of GRE Cigarettes sold in
12 violation of the Directory Statute, for a total of \$12,831,436, or another amount
13 of up to \$2,500 for each violation of the Directory Statute found by the Court.

14 **C. Other Relief**

15 9. That the Court award the People their costs of investigation, expert witness fees, costs
16 of the action, and reasonable attorneys' fees in amounts to be determined by proof, pursuant to
17 Revenue and Taxation Code section 30165.1, subdivision (p), and Code of Civil Procedure
18 section 1021.8.

19 10. That the Court order GRE to designate an agent for service of process in California
20 for any action to enforce any judgment or injunction issued in this action.

21 11. That the Court retain jurisdiction of this action.

22 12. That the Court order GRE to disclose, upon demand by the Attorney General, any and
23 all information needed to enforce a judgment and/or injunction.

24 13. That the Court award such other and further relief as is appropriate and just.
25
26
27
28

1 Dated: July 7, 2017

Respectfully Submitted,

2 XAVIER BECERRA
3 Attorney General of California
4 KAREN LEAF
5 Senior Assistant Attorney General
6 MICHAEL M. EDSON
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8 JAMES V. HART
9 Deputy Attorneys General

/s/ Michael Edson

10 MICHAEL M. EDSON
11 Deputy Attorney General
12 *Attorneys for Plaintiff*
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