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SACRAMENTO COURTS
DEPT. #53 #54

1 BILL LOCKYER
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Chief Assistant Attorney General
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9

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SUPERIOR COURT OF CALIFORNIA

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COUNTY OF SACRAMENTO

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**People of the State of California, ex rel. Bill Lockyer,
Attorney General of the State of California,
Plaintiff,**

CASE NO. 05AS00713

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**NOTICE OF ENTRY OF
JUDGMENT**

16

v.

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18

**CIG-TEC TOBACCO, LLP, a foreign corporation,
and DOES 1 through 100, inclusive,**

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Defendant.

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TO: DEFENDANT, CIG-TEC TOBACCO, LLP

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1 PLEASE TAKE NOTICE that on July 20, 2005, Sacramento County Superior Court
2 Judge Loren E. McMaster issued a Judgment in the above-captioned action. A true copy of the
3 Judgment is attached hereto as Exhibit A and incorporated by reference herein.

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5 Dated: July 26, 2005

6 Respectfully submitted,

7 BILL LOCKYER
8 Attorney General of the State of California

9 TOM GREENE
10 Chief Assistant Attorney General
11 DENNIS ECKHART
12 Senior Assistant Attorney General

13 
14 WILLIAM F. SOO HOO
15 Deputy Attorney General
16 Attorneys for Plaintiff

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EXHIBIT A

1 BILL LOCKYER
Attorney General of the State of California
2 THOMAS GREENE
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3 DENNIS ECKHART
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Filed
ENDORSED
JUL 20 2005
By L. Hashikuni, Deputy

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10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SACRAMENTO

12 **PEOPLE OF THE STATE OF CALIFORNIA,**
13 **ex rel. BILL LOCKYER, Attorney General of the**
14 **State of California,**
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17 **CIG-TEC TOBACCO, LLP, a foreign corporation,**
18 **and DOES 1 through 100, inclusive,**
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Plaintiff,

v.

Defendants.

No. 05AS00713

~~PROPOSED~~ JUDGMENT BY
COURT AFTER DEFAULT

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

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

28 2. The Defendant, **CIG-TEC**, manufactures cigarettes intended for sale in the

1 United States and thus falls within the statutory definition of a "tobacco product manufacturer" as
2 defined in California Health and Safety Code section 104556(i). **CIG-TEC** has sold and
3 continues to sell cigarettes (as defined in section 104556(d)) directly or indirectly, to consumers
4 in California and, accordingly, has transacted and is transacting business within the State of
5 California.

6 3. At least thirty (30) days have passed since the date of service of the Summons and
7 Verified Complaint on **CIG-TEC** and **CIG-TEC** has failed to appear and defend in this court.

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

12 5. Jurisdiction has been reviewed and is proper over **CIG-TEC** pursuant to
13 California Code of Civil 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. **CIG-TEC** has failed and continues to fail and/or otherwise comply with the
17 reserve fund requirements of California Health and Safety Code, sections 104555-104557 and
18 implementing regulations (Title 11, Calif. Code of Reg., §§ 999.10a through 999.14).

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

24 9. Notwithstanding notice, **CIG-TEC** has failed to certify to the Attorney General
25 that a Qualified Escrow Fund (as defined in California Health and Safety Code section
26 104556(f)) has been established and also failed to make the deposit for its 2003 sales in
27 California as required under California Health and Safety Code section 104557. Accordingly,
28 **CIG-TEC's** actions constitute one or more "knowing" violations.

1 10. **CIG-TEC** has committed one 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 **CIG-TEC**, as requested
6 by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and against **CIG-TEC**
7 with respect to all claims, **AS FOLLOWS**:

8 A. **CIG-TEC** shall, within fifteen (15) days of this Order, establish a
9 Qualified Escrow Fund and place into said fund the following amount as adjusted for inflation
10 per California Health and Safety Code section 104557(a)(2):

11 **Sales during the year 2003:**

12 **(576,000 units x \$0.0167539) plus 16.3627565% for inflation for a total of**
13 **\$11,229.12**

14
15 B. **CIG-TEC** shall, within fifteen (15) days of this Order, provide Plaintiff
16 with a list of the names of all cigarette brands manufactured by **CIG-TEC**, as well as unit sales
17 information and supporting documentation for sales in California in 2003.

18 C. **CIG-TEC** shall, within fifteen (15) days of this Order, pay civil penalties
19 in the amount of 300% of the escrow amounts improperly withheld, for a total of **\$33,687.00** for
20 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
21 certify to the Attorney General for the State of California that it is in compliance with
22 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund
23 as defined under California Health and Safety Code section 104556(f) and knowingly failing to
24 deposit sufficient escrow funds into a qualified escrow fund as required under California Health
25 & Safety Code section 104557.

26 D. Pursuant to California Business and Professions Code section 17203,
27 **CIG-TEC** is hereby enjoined and otherwise prohibited from selling *any* cigarettes in California,
28 either directly or through a distributor, retailer or other intermediary, *including but not limited to*,

1 the following brand: "CT." The injunction shall commence from the date of this Order and
2 continue until **CIG-TEC** establishes a qualified escrow fund, deposits **\$11,229.12** into said
3 escrow fund and provides to the Attorney General the compliance certification required by
4 sections 104555-104557 and implementing regulations.

5 After the sales ban elapses, **CIG-TEC** shall make quarterly deposits into a
6 qualified escrow account fund for five (5) years after **CIG-TEC** is permitted to resume selling
7 cigarettes in California, directly or through a distributor, retailer or similar intermediary.

8 E. Pursuant to Business and Professions Code section 17206, **CIG-TEC**
9 shall, within fifteen (15) days from the date of this Order, pay a penalty of **\$5,000** pursuant to
10 Business and Professions Code section 17200.

11 F. **CIG-TEC** shall, within fifteen (15) days from the date of this Order, shall
12 appoint an agent for service of process in California for any action to enforce any resulting
13 injunction(s) and/or judgment in the within action.

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

15 H. **CIG-TEC** shall within fifteen (15) days of this Order, pay all Plaintiff's
16 reasonable costs, including but not limited to filing fees in the amount of **\$241.50** pursuant to
17 Government Code section 6103.5 and subject to modification and/or further relief as this Court
18 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
- 26 2) Name/Address/Phone-Judgment Creditor's Attorney:
27 William F. Soo Hoo, Deputy Attorney General
28 Department of Justice-Office of the Attorney General
1300 I Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

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3) Name/Address-Judgment Debtor:

CIG-TEC
303 Roxbury Industrial Center
Charles City, VA 23030

4) Principal Amount of Judgment for Escrow: \$ 11,229.12

5) Principal Amount of Judgment for Penalties: \$ 33,687.00

6) Costs: \$ 241.50

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.

JUL 20 2005

Dated: _____, 2005

LOREN E. McMASTER

Judge of the Superior Court

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **PEOPLE v. CIG-TEC TOBACCO, LLP, et al.**

No.: 05AS00713

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 and older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 26, 2005, I served the attached **NOTICE OF ENTRY OF JUDGEMENT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Gary H. Ilch
CIG-TEC TOBACCO, LLP
303 Roxbury Industrial Center
Charles City, VA 23030

Gary H. Ilch
CIG-TEC TOBACCO, LLP
P.O. Box 3344
Glen Allen, VA 23058

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 July 26, 2005, at Sacramento, California.

Kim Lahn

Declarant

/s/
Signature