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ENDORSED

2004 JUL -1 AM 9:40  
SACRAMENTO COURTS  
DEPT. #53 #54

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8  
9 SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF SACRAMENTO

11  
12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**  
rel. **BILL LOCKYER, Attorney General of the State**  
13 **of California,**  
14 **Plaintiff,**  
15 **v.**  
16 **SEKAP S.A., GREEK COOPERATIVE**  
**CIGARETTE MANUFACTURING COMPANY,**  
17 **S.A. a.k.a. SEKAP S.A. (SEKAP) a foreign**  
**corporation, and DOES 1 through 10, inclusive,**  
18 **Defendants.**  
19

03AS06076

**[PROPOSED] JUDGMENT BY  
COURT AFTER ENTRY OF  
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 Manufacturing  
22 Company, S.A., a.k.a. SEKAP S.A. (hereinafter "SEKAP"). This Court has considered  
23 *Plaintiff's Request for Entry of Default Judgment* and accompanying declarations, papers and  
24 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 and California Business and Professions Code section 17200 et seq.

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

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

8           4. Defendant SEKAP 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 SEKAP pursuant to California  
13 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. SEKAP has failed and continues to fail and/or otherwise comply with the reserve  
17 fund requirements of California Health and Safety Code, sections 104555-104557 and  
18 implementing regulations (Calif. Code of Reg., tit. 11, §§ 999.10a through 999.14).

19           8. SEKAP has engaged in and continues to engage in acts of unfair competition as  
20 defined in California Business & Professions Code section 17200, in that the defendant has failed  
21 to 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, SEKAP failed to certify to the Attorney General that a  
25 qualified escrow fund (as defined in California Health and Safety Code section 104556(f)) has  
26 been established and also failed to make the deposit for its 2002 sales in California as required  
27 under California Health and Safety Code section 104557. Accordingly, the defendant's actions  
28 constitute one or more "knowing" violations.

1 10. SEKAP has committed two or more knowing violations of California Health and  
2 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 defendant SEKAP,  
6 as requested by plaintiff, **JUDGMENT** is accordingly entered in favor of the plaintiff and against  
7 the defendant with respect to all claims, **AS FOLLOWS**:

8 A. SEKAP shall, within fifteen (15) days of this Order, establish a qualified escrow fund  
9 and place into said fund the following amount as adjusted for inflation as required by California  
10 Health and Safety Code section 104557(a)(2):

11 Sales during the year 2002:

12 (36,010,400 units x \$0.0136125%) plus 12.97355% for inflation for a total of  
13 \$553,786.

14 B. SEKAP shall, within fifteen (15) days of this Order, provide plaintiff with a list of  
15 the names of all of the cigarette brands manufactured by SEKAP, as well as unit sales  
16 information and supporting documentation for its sales in California in 2002.

17 C. SEKAP shall, within fifteen (15) days of this Order, pay civil penalties in the amount  
18 of 300% of the escrow amounts improperly withheld, for a total of \$1,661,358 for knowingly  
19 violating California Health and Safety Code section 104557(a)(2), (c), by failing to certify  
20 compliance with California's reserve fund statute to the Attorney General and knowingly failing  
21 to establish a qualified escrow fund as defined under California Health and Safety Code section  
22 104556(f) and knowingly failing to deposit sufficient funds into a qualified escrow fund as  
23 required under California Health & Safety Code section 104557.

24 D. Pursuant to California Business and Processions Code, section 17203, SEKAP is  
25 hereby enjoined and otherwise prohibited from selling *any* of its cigarettes in California  
26 commencing from the date of this Order, either directly or through a distributor, retailer or other  
27 intermediary, *including but not limited to*, the following brands: "Ideal," "GR," and "Marathon."  
28 The injunction shall commence from the date of this Order and continue until SEKAP

1 SEKAP establishes a qualified escrow fund, deposits the sums now owed for all prior sales  
2 years, and provides to the Attorney General the annual compliance certifications required by  
3 section 104557 and implementing regulations.

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

7 E. Pursuant to Business and Professions Code section 17206, SEKAP shall, within  
8 fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each violation of  
9 Business and Professions Code section 17200 alleged in the Third Cause of Action, for a total  
10 assessed penalty of \$10,000.00.

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

14 G. The Court further orders that plaintiff may confiscate and destroy any and all of the  
15 tobacco products offered for sale in California by SEKAP while the injunction banning sales is  
16 in place.

17 H. The Court shall retain jurisdiction in this matter.

18 I. SEKAP shall within fifteen (15) days of this Order, pay all plaintiff's reasonable  
19 costs, including ~~\$2,310.00~~ for service and translation costs, as well as filing fees in the amount of  
20 ~~\$241.50~~ pursuant to Government Code section 6103.5 and subject to modification and/or further  
21 relief as this Court deems just and proper.

22 J. The Court further orders, as just and appropriate, the following:

- 23 1) Name/Address of Judgment Creditor:  
24 State of California  
25 c/o Department of Justice—Office of the Attorney General  
26 1300 I. Street  
27 P.O. Box 944255  
28 Sacramento, CA 94244-2550
- 2) Name/Address/Phone-Judgment Creditor's Attorney:  
Michele M. DeCristoforo  
Deputy Attorney General

1 Department of Justice-Office of the Attorney General  
2 1300 I. Street  
3 P.O. Box 944255  
4 Sacramento. CA 94244-2550

5 3) Name/Address-Judgment Debtor:  
6 **SEKAP S.A.**  
7 **XANTHI 6<sup>TH</sup> KLM**  
8 **KAVALA ROAD**  
9 **GR - 67100**  
10 **XANTHI, GREECE**

11 4) Principal Amount of Judgment for Escrow: \$ 553,786.00

12 5) Principal Amount of Judgment for Penalties: \$1,671,358.00  
13 (Health & Saf. Code, §104557 and Bus. & Prof. Code,  
14 § 17200 et seq)

15 6) Costs: \$ 2,551.50

16 7) Post-judgment simple interest at the rate of ten percent (10%) per annum on the total  
17 judgment which consists of item 5 from the date of judgment is entered until fully  
18 paid. Interest is compounded annually.

19 IT IS SO ORDERED, ADJUDGED AND DECREED.

20 Dated: JUL - 1 2004  
21 \_\_\_\_\_, 2004

22 SHELLEYANNE W.L. CHANG

23 \_\_\_\_\_  
24 Judge of the Superior Court  
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26  
27  
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