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PEOPLE OF THE STATE OF CALIFORNIA  
9 ex rel. Attorney General Bill Lockyer

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SANTA CRUZ  
12

13 PEOPLE OF THE STATE OF CALIFORNIA ex rel.  
14 Attorney General Bill Lockyer,  
15 Plaintiff,  
16 v.  
17 SWEDISH MATCH NORTH AMERICA INC., a  
18 Delaware corporation; and, DOES 1 through 100,  
inclusive,  
19 Defendants.

Case No.: CV 141004

**COMPLAINT FOR CIVIL  
PENALTIES, INJUNCTION,  
AND OTHER EQUITABLE  
RELIEF  
[Amount Demanded Exceeds  
\$10,000]**

20 The People of the State of California, by and through Bill Lockyer, Attorney  
21 General of the State of California, are informed and believe and, based on such information and  
22 belief, allege against defendants, and each of them, as follows:  
23

**DEFENDANTS**

24 1. Defendant SWEDISH MATCH NORTH AMERICA INC. (hereinafter  
25 referred to as "SWEDISH MATCH") is, and at all relevant times was, a Delaware corporation  
26 with its principal place of business at 6600 West Broad Street, Richmond, VA 23230.  
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1                   2.       SWEDISH MATCH is in the business of selling or distributing smokeless  
2 tobacco products in the State of California.

3                   3.       SWEDISH MATCH does not have a principal office in the State of  
4 California.

5                   4.       The true names and capacities, whether individual, corporate, or  
6 otherwise, of defendants sued herein under the fictitious names of DOES 1 through 30, inclusive,  
7 are unknown to plaintiff who therefore sues said defendants by such fictitious names. Plaintiff  
8 will amend this complaint to show the true names of each when the same has been ascertained.  
9 Defendants sued herein as DOES 1 through 30 are and at all relevant times were engaged with  
10 defendant SWEDISH MATCH in the development, planning, and placement of the activities  
11 complained of herein and as such directed, managed, controlled, or otherwise engaged in the  
12 conduct complained of herein.

13                   5.       The true names and capacities, whether individual, corporate, or  
14 otherwise, of defendants sued herein under the fictitious names of DOES 31 through 100,  
15 inclusive, are unknown to plaintiff who therefore sues said defendants by such fictitious names.  
16 Plaintiff will amend this complaint to show the true names of each when the same has been  
17 ascertained. Defendants sued herein as DOES 31 through 100 directed, managed, controlled, or  
18 otherwise engaged in the conduct complained of herein.

19                   6.       Whenever in this complaint reference is made to any act or transaction of a  
20 defendant, such allegation shall be deemed to mean that said defendant and its owners, officers,  
21 directors, agents, employees, or representatives did or authorized such acts while actively  
22 engaged in the management, direction or control of the affairs of the defendant and while acting  
23 within the scope and course of their duties.

24                   7.       At all relevant times, each defendant was, and still is, an agent, servant,  
25 employee, partner, franchisee, or joint venturer of each other defendant and at all times was, and  
26 still is, acting within the course and scope of said agency, service, employment, partnership,  
27 franchise, or joint venture.

28



1 (Section 118950, subd. (a) (9).)

2 “Use of smokeless tobacco products among minors in this  
3 state is increasing.”

4 (Section 118950, subd. (a) (7).)

5 “Distribution of tobacco product samples and coupons is a  
6 recognized source by which minors obtain tobacco products,  
7 beginning the addiction process.”

8 (Section 118950, subd. (a) (10).)

9 “It is the intent of the Legislature that keeping children from  
10 beginning to use tobacco products in any form and encouraging all  
11 persons to quit tobacco use shall be among the highest priorities in  
12 disease prevention for the State of California.”

13 (Section 118950, subd. (a) (11).)

14 14. Beginning at a date unknown to plaintiff, but at least since June 23, 2000,  
15 SWEDISH MATCH and DOES 1-100 performed, engaged in, or caused the nonsale distribution  
16 of smokeless tobacco by offering free packages of Timber Wolf and/or Red Man and/or other  
17 brands in violation of Section 118950.

18 15. Beginning at a date unknown to plaintiff, but at least since June 23, 2000,  
19 SWEDISH MATCH and DOES 1-100 performed, engaged in, or caused the nonsale distribution  
20 of coupons or rebate offers for smokeless tobacco in violation of Section 118950.

21 16. Defendants gave or caused to be given to the general public smokeless  
22 tobacco and/or coupons or rebate offers for smokeless tobacco at:

23 a) the Watsonville Speedway on the Santa Cruz County Fairgrounds, on  
24 or about June 23, 2000 and July 28, 2000; and

25 b) the California Mid-State Fair in Paso Robles, on or about July 26 to  
26 August 6, 2000.

27 17. The Watsonville Speedway is located on and part of the Santa Cruz  
28 County Fairgrounds, which is a fairgrounds owned, operated, or maintained by a public entity.

18. The California Mid-State Fair fairgrounds is owned, operated, or  
maintained by a public entity.

1                   19.     Defendants' nonsale distribution of smokeless tobacco violates Section  
2 118950. Section 118950, subdivision (d) sets forth minimum mandatory civil penalties.  
3 Defendants are liable for civil penalties as provided in Section 118950, subdivision (d).

4   **SECOND CAUSE OF ACTION**  
5   **UNLAWFUL, UNFAIR OR DECEPTIVE BUSINESS PRACTICES**  
6   (Violation of California Business and Professions Code section 17200 et seq.)

7                   20.     Plaintiff incorporates by reference paragraphs 1 through 10 of this  
8 complaint herein as though set forth in full.

9                   21.     Beginning at a date unknown to plaintiff, but at least since June 23, 2000,  
10 SWEDISH MATCH and DOES 1-100 have engaged in and are continuing to engage in acts of  
11 unfair competition as defined in Business and Professions Code section 17200 in that defendants  
12 have distributed smokeless tobacco and/or coupons or rebate offers for smokeless tobacco to the  
13 general public on public grounds, in violation of Health and Safety Code Section 118950, as  
14 alleged in the First Cause of Action, above.

15   **WHEREFORE**, plaintiff prays for judgment as follows:

16                   22.     That pursuant to Health and Safety Code section 118950, subdivision (d),  
17 defendants and each of them be ordered to pay a civil penalty of at least \$200 for the first  
18 violation, \$500 for the second violation, and \$1000 for each succeeding violation of Section  
19 118950, subdivision (b), according to proof, in an amount not less than \$1,000,000.

20                   23.     That pursuant to Business and Professions Code section 17206, defendants  
21 and each of them be assessed a civil penalty of \$2500 for each act of unfair competition, as  
22 proven at trial, but in an amount of not less than \$2,500,000.

23                   24.     That pursuant to Business and Professions Code section 17203, defendants  
24 and each of them, personally and through their successors, agents, representatives, employees,  
25 and any and all other persons who act under, by, through, or on behalf of defendants be  
26 permanently restrained and enjoined from engaging in, directing, facilitating, or participating in  
27 any manner in the nonsale distribution on public grounds of smokeless tobacco or coupons or  
28 rebate offers for smokeless tobacco, including but not limited to conduct in violation of Health

1 and Safety Code section 118950 alleged in the First Cause of Action of this complaint.

2                   25.     That plaintiff recover costs of suit.

3                   26.     That plaintiff obtain such other and further relief as the nature of the case  
4 may require and the court deems proper to dissipate the unlawful, deceptive and/or unfair acts  
5 complained of herein.

6 Dated: May \_\_\_\_, 2001

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of the State of California  
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