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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SACRAMENTO
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14 **PEOPLE OF THE STATE OF CALIFORNIA, ex.**
15 **Rel. BILL LOCKYER, Attorney General of the**
16 **State of California,**

17 Plaintiff,

18 v.

19 **"GRAND TOBACCO" ARMENIAN-CANADIAN**
20 **JOINT VENTURE, LTD, also known as GRAND**
TOBACCO COMPANY, LTD., a foreign
corporation, and DOES 1 through 100, inclusive,

21 Defendant.
22

CASE NO. 02AS07516

**[PROPOSED] JUDGMENT BY
COURT AFTER DEFAULT**

23 THIS MATTER is before the Court on *Plaintiff's Request for Entry of Default*
24 *Judgment* against Defendant "**GRAND TOBACCO" ARMENIAN-CANADIAN JOINT**
25 **VENTURE, LTD, also known as GRAND TOBACCO COMPANY, LTD.** (hereafter,
26 "**GRAND TOBACCO**"). This Court has considered *Plaintiff's Request for Entry of Default*
27 *Judgment* and accompanying declarations, papers and exhibits thereto, and the entire record in
28 this matter and hereby finds as follows:

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

5 2. The Defendant, **GRAND TOBACCO**, is a company that has transacted and is
6 transacting business in California and manufactures cigarettes as defined in California Health and
7 Safety Code section 104556(i)(1).

8 3. At least thirty (30) days have passed since the date of service of the First
9 Amended Summons and First Amended Verified Complaint and **GRAND TOBACCO** has
10 failed to appear and defend in this court.

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

15 5. Jurisdiction has been reviewed and is proper pursuant to California Code of Civil
16 Procedure, section 410.10.

17 6. Venue has been reviewed and is proper pursuant to California Code of Civil
18 Procedure, section 393.

19 7. **GRAND TOBACCO** has failed and continues to fail and/or refuse to comply or
20 otherwise bring itself into compliance with the reserve fund requirements of California Health
21 and Safety Code, sections 104555-104557 and implementing regulations (Title 11, Calif. Code of
22 Reg., §§ 999.10a through 999.14).

23 8. **GRAND TOBACCO** has engaged in and continues to engage in acts of unfair
24 competition as defined in California Business & Professions Code, section 17200, in that
25 **GRAND TOBACCO** has failed to establish the required reserve fund and failed to certify
26 compliance to the Attorney General, in violation of California Health and Safety Code sections
27 104555, 104556, and 104557 and implementing regulations.

28 9. Notwithstanding notice, **GRAND TOBACCO** failed to establish a Qualified

1 Escrow Fund (as defined in California Health and Safety Code section 104556(f)) and also failed
2 to make the annual deposits as required under California Health and Safety Code section 104557.
3 Accordingly, **GRAND TOBACCO**'s actions constitute "knowing" violations.

4 10. **GRAND TOBACCO** has committed two or more knowing violations of
5 California Health and Safety Code section 104557 and is therefore subject to the maximum
6 sanctions and penalties provided for under the reserve fund requirements of California Health
7 and Safety Code section 104557.

8 **THEREFORE**, default having been entered by the clerk against **GRAND TOBACCO**,
9 as requested by Plaintiff, **JUDGMENT** is accordingly entered in favor of the Plaintiff and
10 against **GRAND TOBACCO** with respect to all claims, **AS FOLLOWS**:

11 A. **GRAND TOBACCO** shall, within fifteen (15) days of this Order, place into a
12 Qualified Escrow Fund the following amounts as such amounts are adjusted for inflation as
13 required by California Health and Safety Code section 104557(a)(2):

14 **Sales during the year 2000:**

15 **(5,735,000 units x \$0.0104712) plus 6.48841% for inflation for a total of**
16 **\$63,948.69;**

17 **Sales during the year 2001:**

18 **(1,893,200 units x \$0.0136125%) plus 9.68306% for inflation for a total of**
19 **\$28,266.61.**

20 B. **GRAND TOBACCO** shall, within fifteen (15) days of this Order, provide Plaintiff
21 with a list of the names of all cigarette brands manufactured by **GRAND TOBACCO**, as well as
22 unit sales information and supporting documentation for sales in California in 2000 and 2001.

23 C. **GRAND TOBACCO** shall, within fifteen (15) days of this Order, pay civil penalties
24 in the amount of 300% of the escrow amounts improperly withheld, for a total of **\$276,645.90** for
25 knowingly violating California Health and Safety Code section 104557(a)(2), (c), by failing to
26 certify to the Attorney General for the State of California that it is in compliance with
27 California's reserve fund statute and for knowingly failing to establish a qualified escrow fund
28 as defined under California Health and Safety Code section 104556(f) and knowingly failing to
deposit sufficient escrow funds into a qualified escrow fund as required under California Health

1 & Safety Code section 104557.

2 D. Pursuant to California Health and Safety section 104557(c)(3), **GRAND TOBACCO**
3 is hereby enjoined and otherwise prohibited from selling *any* cigarettes in California for a two-
4 year period commencing from the date of this Order, either directly or through a distributor,
5 retailer or other intermediary, *including but not limited to*, the following brands: “Garni” and
6 Akhtamar.”

7 E. Pursuant to Business and Professions Code section 17206, **GRAND TOBACCO**
8 shall, within fifteen (15) days from the date of this Order, pay a penalty of \$2,500.00 for each
9 violation of Business and Professions Code section 17200 alleged in the Third Cause of Action,
10 for a total assessed penalty of **\$5,000.00** in addition to the penalty specified in Paragraph C of
11 this judgment.

12 F. **GRAND TOBACCO** shall, within fifteen (15) days from the date of this Order, shall
13 appoint an agent for service of process in California for enforcement of this judgment and order
14 until this judgment is satisfied, the order is obeyed and the injunction is dissolved.

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

16 H. **GRAND TOBACCO** shall within fifteen (15) days of this Order, pay all Plaintiff’s
17 reasonable costs, including but not limited to filing fees in the amount of **\$241.50** pursuant to
18 Government Code section 6103.5 and subject to modification and/or further relief as this Court
19 deems just and proper.

20 I. The Court further orders, as just and appropriate, the following:

21 1) Name/Address of Judgment Creditors:
22 State of California
23 c/o Department of Justice–Office of the Attorney General
24 1300 I. Street
25 P.O. Box 944255
26 Sacramento, CA 94244-2550

27 2) Name/Address/Phone-Judgment Creditor’s Attorney:
28 Peter M. Williams, Deputy Attorney General
Department of Justice–Office of the Attorney General
1300 I. Street
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 323-3795

3) Name/Address-Judgment Debtor:

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GRAND TOBACCO

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Yerevan 375061 Armenia

- 4) Principal Amount of Judgment for Escrow: **\$ 92,215.30**
- 5) Principal Amount of Judgment for Penalties: **\$281,645.90**
- 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.

Feb - 7 2004
Dated: _____, 2004

DAVID W. ABBOTT
Judge of the Superior Court

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