

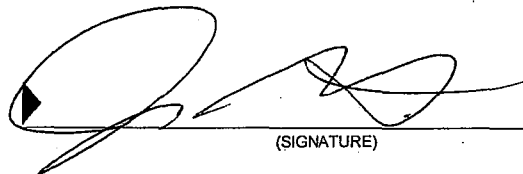
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): James V. Hart, SBN: 278763 Office of the Attorney General 1300 I Street, Ste. 125, Sacramento, CA 95814; P.O. Box 944255, Sacramento, CA 94244-2550 TELEPHONE NO.: 916-323-3705 FAX NO. (Optional) 916-323-0813 E-MAIL ADDRESS (Optional): James.Hart@doj.ca.gov ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE NOV 25 2013 J. Verdugo
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside STREET ADDRESS: 3255 E. Tahquitz Canyon Way MAILING ADDRESS: CITY AND ZIP CODE: Palm Springs, CA 92262 BRANCH NAME: Palm Springs Branch	
PLAINTIFF/PETITIONER: People of State of California, et al. DEFENDANT/RESPONDENT: Road Runner Trading Post, et al.	
NOTICE OF ENTRY OF JUDGMENT OR ORDER (Check one): ☒ UNLIMITED CASE (Amount demanded exceeded \$25,000) ☐ LIMITED CASE (Amount demanded was \$25,000 or less)	CASE NUMBER: INC 1106441

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): October 25, 2013
2. A copy of the judgment, decree, or order is attached to this notice.

Date: 11/21/2013

JAMES V. HART

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)


(SIGNATURE)

PLAINTIFF/PETITIONER: People of State of California, et al.	CASE NUMBER: INC 1106441
DEFENDANT/RESPONDENT: Road Runner Trading Post, et al.	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:
 - a. ☐ deposited the sealed envelope with the United States Postal Service.
 - b. ☐ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:
 - a. on *(date)*:
 - b. from *(city and state)*:

4. The envelope was addressed and mailed as follows:

a. Name of person served: - Street address: - City: - State and zip code: b. Name of person served: - Street address: - City: - State and zip code:	c. Name of person served: - Street address: - City: - State and zip code: d. Name of person served: - Street address: - City: - State and zip code:
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☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

SEE ATTACHED

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN LEAF
Senior Assistant Attorney General
3 JAMES V. HART
Deputy Attorney General
4 State Bar No. 278763
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 323-3705
Fax: (916) 323-2319
7 E-mail: James.Hart@doj.ca.gov
Attorneys for Plaintiff

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

OCT 25 2013

L. REYNA

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF RIVERSIDE
10 PALM SPRINGS BRANCH
11

13 **THE PEOPLE OF THE STATE OF**
14 **CALIFORNIA, ex rel. Kamala D. Harris,**
Attorney General of the State of California,
15 Plaintiff,

16 v.

17 **ROAD RUNNER TRADING POST;**
18 **LARRY SAULT; and DOES 1 through 20,**
19 **inclusive,**

20 Defendants.

Case No. INC 1106441

**~~PROPOSED~~ JUDGMENT BY COURT
AFTER DEFAULT AGAINST ROAD
RUNNER TRADING POST**

Date:
Time:
Dept: PS1
Judge: Hon. John G. Evans
Trial Date: October 28, 2013
Action Filed: August 5, 2011

21 THIS MATTER is before the Court on Plaintiff's Amended Request for Entry of Default
22 Judgment against Defendant Road Runner Trading Post ("Road Runner"). This Court has
23 considered Plaintiff's Amended Request for Entry of Default Judgment and the Case Summary
24 and Declaration of James V. Hart in Support of Request for Entry of Default Judgment Against
25 Road Runner Trading Post, the declarations, papers, and exhibits thereto, as well as the entire
26 record in this matter and hereby finds as follows:
27
28

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, against Road Runner for unlawful business
3 practices including violations of the California Tobacco Directory Statute, Revenue and Taxation
4 Code subsection 30165.1(e), the California Cigarette Fire Safety and Firefighter Protection Act,
5 Health and Safety Code subsection 14952 et seq., and the Contraband Cigarette Trafficking Act,
6 18 U.S.C. section 2341 et seq., under Business and Professions Code 17200 et seq.

7 2. Jurisdiction has been reviewed and is proper over the Road Runner pursuant to Code
8 of Civil Procedure section 410.10.

9 3. Venue has been reviewed and is proper pursuant to Code of Civil Procedure section
10 395(a).

11 4. Road Runner was served the Summons and Complaint on September 12, 2010.
12 Although the Summons served on Road Runner incorrectly states that Road Runner was
13 summoned "as an individual defendant" and "on behalf of Huber Enterprises," rather than "on
14 behalf of Road Runner Trading Post," Road Runner cured any defect in the Summons making a
15 general appearance and filing an Answer to the Complaint. (See Code of Civil Procedure section
16 410.50 ["A general appearance by a party is equivalent to personal service of summons on such
17 party"]; Code of Civil Procedure section 1014 ["A defendant appears in an action when the
18 defendant answers..."].)

19 5. Road Runner was not at the time of service of the Summons and Complaint, and is
20 not now an infant or minor; a financially incapable, incapacitated or incompetent person; or in the
21 military service as defined by Article 1 of the Soldiers' and Sailors' Civil Relief Act of 1940, as
22 amended (50 U.S.C. section 501 et seq.)

23 6. Road Runner filed a Motion to Quash Service of Summons for Lack of Personal
24 Jurisdiction and to Dismiss Road Runner Trading Post for Lack of Subject Matter Jurisdiction on
25 November 18, 2011. After consideration of the motion papers submitted by the parties and having
26 heard oral argument, this Court denied Road Runner's Motion on August 1, 2012.

27 7. Road Runner then filed its Answer on August 29, 2012.
28

8. On May 16, 2013, counsel for Road Runner moved to withdraw. On its own motion, this Court ordered Road Runner to show cause why its pleadings should not be stricken for failure to have legal counsel and set that hearing for June 28, 2013. Proper notice having been given and no representative from Road Runner appearing on the motion, on June 28, 2013, this Court ordered Road Runner's Answer stricken and directed this action to move forward on default.

9. Default was entered as against Road Runner by the clerk on July 18, 2013. Plaintiff timely filed its Request for Entry of Default Judgment against Road Runner (See Rules of Court 3.110(h).), and filed an Amended Request for Entry of Default Judgment against Road Runner in response to this Court's October 1, 2013 Civil Minute Order.

10. Road Runner operates a retail store at 39444 Cary Road in Anza, California. Road Runner has never applied for, and has never possessed, a cigarette and tobacco products distributor's or retailer's license from the State Board of Equalization that would allow Road Runner to legally purchase and sell certain brands of cigarettes in the State.

11. Acting as an unlicensed person, Road Runner has and continues to possess, offer, and sell untaxed, non-Directory, and non-Fire Safe certified cigarettes to California consumers at its retail store.

California Tobacco Directory Statute

12. California's Tobacco Directory Statute, Revenue and Taxation Code section 30165.1(e)(2), prohibits any person from offering for sale or selling cigarettes in California unless both the manufacturer and the cigarette brand meet the conditions for listing on the California Tobacco Directory and are listed on that directory at the time they are offered for sale or sold.

13. Section 30165.1(e)(3)(B) of the California Tobacco Directory Statute prohibits any person from acquiring, holding, owning, possessing, transporting, importing or causing to be imported cigarettes that that person knows or should know are intended to be distributed in violation of section 30165.1(e)(2). Section 30165.1(A) prohibits any person from selling or distributing or distributing cigarettes that the person knows or should know are intended to be distributed in violation of 30165.1(e)(2).

1 14. Road Runner violated the requirements of sections 30165.1(e)(2) and (e)(3) by
2 purchasing, offering for sale, and selling cigarette brands that did not meet the conditions for
3 listing on the California Tobacco Directory and were not in fact on that directory at the time they
4 were offered for sale and/or sold. These included Buffalo, Couture, Heron, Opal, Seneca, Sky
5 Bear and Skydancer brands, which have never been listed on the directory.

6 *California Cigarette Fire Safety and Firefighter Protection Act*

7 15. Health and Safety Code section 14951(a) prohibits any person from selling, offering,
8 or possessing for sale in California cigarettes not in compliance with the testing, certification, and
9 marking requirements of the California Cigarette Fire Safety and Firefighter Protection Act.

10 16. Road Runner violated the requirements of the California Cigarette Fire Safety and
11 Firefighter Protection Act by selling, offering and possessing for sale cigarette brands that have
12 never or do not presently comply with the testing, certification, and marking requirements of the
13 Act.

14 *Contraband Cigarette Trafficking Act*

15 17. The Contraband Cigarette Trafficking Act ("CCTA"), 18 U.S.C. section 2341,
16 defines "contraband cigarettes" as "a quantity in excess of 10,000 cigarettes, which bear no
17 evidence of the payment of applicable State or local cigarettes taxes in the State or locality where
18 such cigarettes are found, if the State or local government requires a stamp, impression, or other
19 indication to be placed on packages or other containers of cigarettes to evidence payment of
20 cigarette taxes" subject to certain exceptions not applicable here.

21 18. The CCTA provides that "[i]t shall be unlawful for any person knowingly to ship,
22 transport, receive, possess, sell, distribute, or purchase contraband cigarettes."

23 19. Road Runner acted in contravention of the CCTA by knowingly purchasing and
24 possessing cigarettes in quantities in excess of 10,000 from Big Sandy Rancheria Distributing, an
25 unlicensed distributor operating in California, when Big Sandy Rancheria did not have the
26 capacity to and did not affix California tax stamps to the cigarettes it sold to Road Runner.
27 Cigarettes sold at Road Runner's retail store also do not bear the required California tax stamp.

28 *California Unfair Competition Law*

1 20. Business and Professions Code section 17200 defines "unfair competition" to "mean
2 and include any unlawful, unfair or fraudulent business practice." Section 17203 provides that
3 "[a]ny person who engages, has engaged, or proposes to engage in unfair competition may be
4 enjoined in any court of competent jurisdiction." Section 17206 provides for cumulative civil
5 penalties "not to exceed two thousand five hundred dollars (\$2,500) for each violation."

6 21. Road Runner has engaged in and continues to engage in acts of unfair competition as
7 defined in California Business and Professions Code section 17200 through its repeated and
8 continuing violations of the California Tobacco Directory statute, California Fire Safety and
9 Firefighter Protection Act, and the federal CCTA. Through its sale of untaxed, non-Directory,
10 non-Fire Safe certified cigarettes, Road Runner has also consistently avoided regulatory and
11 direct costs borne by legal distributors and retailers operating in the State, to the detriment of
12 legally-operating businesses and the general public.

13 THEREFORE, default having been entered by the clerk against Road Runner as requested
14 by Plaintiff, JUDGMENT for civil penalties and a permanent injunction is accordingly entered in
15 favor of the Plaintiff and against Road Runner with respect to all claims, as follows:

16 1. Road Runner, its directors, officers, employees, agents and any persons acting in
17 concert or participation with them are permanently enjoined from engaging in any of the
18 following unlawful business practices:

19 (a) Violating the California Tobacco Directory Statute, Revenue and Taxation
20 Code 30165.1, in any way and specifically from:

21 i. Selling, offering, or possessing for sale in this State cigarettes of a
22 tobacco product manufacturer or brand family not included in the California Tobacco
23 Directory, as prohibited by section 30165.1(e)(2);

24 ii. Selling or distributing cigarettes that Defendant knows or should know
25 are intended to be distributed in violation of section 30165.1(e)(2), as prohibited by
26 section 30165.1(e)(3); and

27 iii. Acquiring, holding, owning, possessing, transporting, importing or
28 causing to be imported cigarettes that Defendant knows or should know are intended

1 to be distributed in violation of section 30165.1(e)(2), as prohibited by section
2 30165.1(e)(3).

3 (b) Violating the California Cigarette Fire Safety and Firefighter Protection Act,
4 Health and Safety Code section 14950 *et seq.*, and specifically from selling, offering, or
5 possessing for sale in this State cigarettes not in compliance with the requirements of the
6 Act, as prohibited by section 14951(a).

7 (c) Trafficking in contraband cigarettes, as defined in the Contraband Cigarette
8 Trafficking Act, 18 U.S.C. section 2341 *et seq.*, and specifically from shipping,
9 transporting, receiving, possessing, selling, distributing, or purchasing more than 10,000
10 cigarettes whose packs do not bear California cigarette excise tax stamps, as prohibited by
11 18 U.S.C. section 2342(a).

12 2. The Defendant shall pay to Plaintiff a \$3,070,000.00 civil penalty, payable in
13 accordance with section 17206(c) and made pursuant to section 17206 of the Business and
14 Professions Code, for Defendant's acts of unfair competition in violation of the California
15 Tobacco Directory Statute, Revenue and Taxation Code section 30165.1(e).

16 3. The Defendant shall pay to Plaintiff a \$1,228,000.00 civil penalty, payable to the
17 Cigarette Fire Safety and Firefighter Protection Fund, pursuant to section 14951(a)(4) of the
18 Health and Safety Code, for Defendant's violations of the California Cigarette Fire Safety and
19 Firefighter Protection Act.

20 4. The Defendant shall pay to Plaintiff a \$48,000.00 civil penalty, payable in accordance
21 with section 17206(c) and made pursuant to section 17206 of the Business and Professions Code,
22 for Defendant's acts of unfair competition in violation of the federal Contraband Cigarette
23 Trafficking Act, title 18 U.S.C. section 2341 *et seq.*

24 5. Plaintiff is entitled to its costs. Plaintiff has submitted a timely Memorandum of Costs
25 identifying \$0.00 in eligible costs. Defendant having neither moved to strike nor moved to tax
26 costs, Defendants shall pay Plaintiff's costs of \$0.00.

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28 IT IS SO ORDERED, ADJUDGED, and DECREED.

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Dated: OCT 25 2013, 2013

Gordon Bunhart

Judge of the Superior Court

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Road Runner Trading Post, et al.**
No.: **INC 1106441**

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 or 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 with postage thereon fully prepaid that same day in the ordinary course of business.

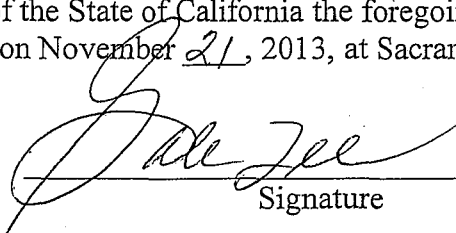
On November 21, 2013, I served the attached **Notice of Entry of Judgment or Order** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Road Runner Trading Post
c/o Antonio Heredia, Owner
39447 Cary Road
Anza, CA 92539

Defendant in Pro Per

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 November 21, 2013, at Sacramento, California.

Gale Lee
Declarant



Signature