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ENDORSED
FILED
San Francisco County Superior Court

MAR 12 2008

GORDON PARK-LI, Clerk
BY: FELICIA M. GREEN
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

Coordination Proceeding Special Title (Rule 1550(b)))	J.C.C.P. Nos. 4250, 4258, 4259 & 4262
SMOKELESS TOBACCO CASES I – IV)	Hon. Richard A. Kramer Coordination Trial Judge
<u>Consolidated with:</u>)	CLASS ACTION
<i>Kelly v. U.S. Smokeless Tobacco, Co, et al.,</i> SFSC Case No. CGC-02-412861)	[PROPOSED] ORDER GRANTING FINAL APPROVAL OF SETTLEMENTS, MODIFYING CLASS, DISMISSING ACTION AGAINST SETTLING DEFENDANTS WITH PREJUDICE, AND DIRECTING JUDGMENT TO BE ENTERED
THIS DOCUMENT RELATES TO:)	Dept: 304 Date: March 12, 2008 Time: 9:30 a.m.
ALL ACTIONS)	

1 This matter came before the Court for hearing pursuant to the Order of this Court dated
2 November 5, 2007, (the "Order") and upon the application of the parties for final approval of the
3 Settlement Agreement entered into by Plaintiffs and Defendants U.S. Smokeless Tobacco
4 Company, f/k/a United States Tobacco Company, and the U.S. Smokeless Tobacco corporate
5 parent, subsidiaries, and affiliates that have been or may be named in any of the complaints in the
6 Litigation, including but not limited to U.S. Smokeless Tobacco Brands Inc., U.S. Smokeless
7 Tobacco Manufacturing Company, and UST Inc. (collectively "Defendants").

8 Due and adequate notice has been given to the Class as required by the Order. Any
9 individuals or entities that have requested exclusion from the Class are listed in Exhibit A hereto.

10 The Court having considered all papers filed and proceedings herein and good cause
11 appearing therefore,

12 IT IS HEREBY ORDERED that:

- 13 1. This Order incorporates by reference the definitions in the Settlement
14 Agreement, and all terms used herein shall have the same meanings set forth therein.
- 15 2. This Court has exclusive jurisdiction over the subject matter of these actions
16 and over all parties thereto, including all Class Members.
- 17 3. For settlement purposes, this Court modifies the class certification order
18 entered on January 29, 2004 to include all purchasers of snuff products through October 17, 2007.
19 The Modified Class (as defined in the Settlement Agreement as the "Class"), for settlement
20 purposes only, is defined as follows:

21
22 All persons who purchased moist snuff products, indirectly from
23 Defendants, in the State of California from January 1, 1990, through
24 October 17, 2007, for their own use and not for resale. Specifically
25 excluded from the Class are the defendants herein; officers,
26 directors, or employees of any defendants; any entity in which any
27 defendant has a controlling interest; the affiliates, legal
28 representatives, attorneys, heirs or assigns of any defendant. Also
excluded are any federal, state or local governmental entity, and any
judge, justice, or judicial officer presiding over this matter and the
members of their immediate families and judicial staffs. *The individuals
listed in Exhibit A hereto are also excluded from the class.*

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2 4. This Court hereby approves the settlement set forth in the Settlement
3 Agreement and finds that said settlement and the releases given therein have been entered and
4 given in good faith and are, in all respects, fair, reasonable and adequate to the Class.

5 5. This Court hereby approves of the Plan of Distribution, attached hereto as
6 Exhibit B, and finds that it is fair, reasonable and adequate to the Class, *and all objections are
overruled for the reasons stated on the record.*

7 6. The Litigation and all claims contained therein are dismissed with prejudice.
8 The parties are to bear their own costs, except as otherwise provided in the Settlement Agreement.

9 7. The Settlement Agreement is hereby finally approved in all respects, and the
10 parties thereto are hereby directed to perform according to its terms.

11 8. Upon the Effective Date as defined in the Settlement Agreement, the
12 Releasers, on behalf of themselves, their successors and assigns, and any other Person claiming
13 (now or in the future) through or on behalf of them, and regardless of whether any such Plaintiff or
14 Class Member ever seeks or obtains by any means, including, without limitation, by submitting a
15 proof of claim, any distribution from the Settlement Fund, shall be deemed to have, and by
16 operation of the Judgment shall fully, finally, and forever release, relinquish, and discharge all
17 Released Claims against the Releasees and shall not sue the Releasees with respect to all such
18 Released Claims, and are permanently barred and enjoined from instituting, commencing, or
19 prosecuting any such Released Claim against the Releasees.

20 9. The notice of the settlement given to the settlement class pursuant to this
21 Court's Order, and described in the Declaration of Daniel Rosenthal was *reasonable*
~~practicable under the circumstances~~ *the best notice*. Said notice satisfies the requirements of California law and
22 the requirements of due process.

23 10. The Plan of Distribution submitted by the parties, attached hereto as Exhibit
24 B, or any order entered regarding the attorneys' fees and costs, shall in no way disturb or affect the
25 finality of this Order and related judgments and shall be considered separate from this Order and
26 related judgments.
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2 11. Without affecting the finality of this Order and related judgment in any way,
3 this Court hereby retains exclusive jurisdiction over: (a) the Settlement Agreement, the Plan of
4 Distribution, and any distribution or award from the Settlement Fund; (b) matters relating to
5 attorneys' fees, costs, interest and expenses in these actions; and (c) all parties hereto for the
6 purpose of construing, enforcing and administering the Settlement Agreement.

7 12. In the event that the settlement does not become effective in accordance
8 with the terms of the Settlement Agreement, this Judgment shall be rendered null and void to the
9 extent provided by and in accordance with the Settlement Agreement and shall be vacated and, in
10 such event, all orders entered and releases delivered in connection herewith shall be null and void
11 to the extent provided by and in accordance with the Settlement Agreement. In such event, within
12 ten (10) business days after written notification is sent by Counsel for Defendants to the Escrow
13 Agent, the Settlement Fund, including the Settlement Amount and all interest earned on the
14 Settlement Fund while held in escrow, as then held by the Escrow Agent, will be refunded,
15 reimbursed, and repaid by the Escrow Agent to Defendants, excluding only Notice and
16 Administrative Costs that are due and owing, Taxes and Tax Expenses that have accrued and will
17 be payable at some later date, and accrued and unpaid fees and expenses of the Escrow Agent.
18 Class Counsel shall also repay any amounts that have been withdrawn from the Escrow Account
19 pursuant to the Settlement Agreement.

20 13. The Court directs that a judgment shall be entered in accordance with the
21 terms of this Order.

22 IT IS SO ORDERED.

23 Dated: 3-12, 2008

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RICHARD A. KRAMER

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24 RICHARD A. KRAMER
25 Coordination Trial Judge
26 Superior Court of the State of California
27 City and County of San Francisco
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Exhibit A

Rosenthal & Company, LLC
 Smokeless Tobacco Cases
 Exclusions Received
 Date: 2/13/2008

Total: 64

Control Number	First	Last	Address	City	State	Zip
1003549701	Wayne	Ambrosini	396 Port Kenyon Rd	Ferndale	CA	95536-9557
1004062801	Erik	Anderson	1237 Ne Perkins Way	Shoreline	WA	98155-2265
1006430001	Mounir	Askar	14275 Hesperia Rd	Victorville	CA	92395-4544
1013690101	Jacob	Benz	801 Pacific Ave	Alameda	CA	94501-2253
1014245401	Yvonne	Berry	PO Box 1998	Murphys	CA	95247-1998
1016370701	Michael	Blickle	1118 Silverado Dr	Woodland	CA	95695-6848
1016757701	David	Bock	39 Mesa Vista Ct	San Ramon	CA	94583-2135
1023178001	Dean	Buckley	295 Whitley Gardens Dr	Paso Robles	CA	93446-9393
1028662001	Mike	Caruso	1916 Mathews Ave Apt F	Redondo Beach	CA	90278-2960
1029672901	John	Cauthen	320 Locust Ave	Annapolis	MD	21401-3329
1032849401	M L	Clary	19654 Clover Rd	Redding	CA	96002-4661
1035155101	Madeline	Conlin	1620 Racquet Club Dr	Los Banos	CA	936353842
1040871901	Buck C	Daniel	PO Box 166	Keyes	CA	95328-0166
1042729901	Claudio	Deandrade	PO Box 1074	Windsor	CA	95492-1074
1044384001	Vincent	Derilo	242 Margarita Ave	Palo Alto	CA	94306-2822
1045212001	Steven	Dick	19 Edith Ct	Napa	CA	94558-4527
1049380601	Sean	Dwyer	225 Grand View Ave	San Francisco	CA	94114-3131
900023401	Kevin Michael	Ferguson	171 Wallace Glen #B4	Clarksville	TN	37042
1056175701	Eric	Fisher	5544 Balboa Arms Dr Apt C19	San Diego	CA	92117-5065
1059205201	Kevin	Frazier	3120 Grape St Apt 3	San Diego	CA	921021240
1062608701	Jaime	Garza	13884 E Buck Way	Sanger	CA	93657-9512
1064347601	J	Gilden	2278 Elizabeth Dr	Ventura	CA	930036709
1067726001	Rudolph	Graham	12415 Imperial Hwy Unit 10	Norwalk	CA	90650-8300
1073151501	Marwan	Hanoun	14275 Hesperia Rd	Victorville	CA	92395-4544
1075366201	Robert	Hatakeyama	3531 W 224th St	Torrance	CA	90505-2617
1076273901	Bill	Haze	35 E Highway 12	Lodi	CA	95242-9237
1080108601	James M	Hinkley	1354 Granada Ave	Long Beach	CA	90804-3220
1080199101	Todd	Hirasuna	4222 Avenue 424	Reedley	CA	93654-9102
1083900701	Scott	Hughes	PO Box 336	Glendora	CA	91740-0336
1088295901	Kelly	Joel	620 State St Unit 417	San Diego	CA	92101-6725
1092554901	Tim	Keegan	426 Poppy Hill Dr	Healdsburg	CA	95448-3021
1097003201	Steve	Koszalka	252 Mockingbird Ln Apt 1	S Pasadena	CA	91030-2016
1103865401	Stewrt	Little	1951 Deerfield Dr	Yuba City	CA	95993-9276
1106105701	Heath	Lubojasky	13423 Wyngate Pt	San Diego	CA	92130-1347
1108753801	Rodrigo	Malonado	16637 Sheffield St	Delhi	CA	95315-9486
1111101501	Andrew	Martinez	1190 Murrieta Rd	Perris	CA	925714945
1112737501	Philip	Maxwell	521 Hacienda Dr	Monrovia	CA	91016-3711
1113059101	Sandra	Mays	PO Box 4304	Oroville	CA	959650700
1114416201	Buck	Modaniel	PO Box 166	Keyes	CA	95328-0166
1115826001	Greg	Mckurtis	PO Box 41	Sattley	CA	96124-0041
1117840101	Ernesto	Mendoza	880 Sonoma Vista Dr	Sonoma	CA	95476-4058
1118306601	Marie	Merwin	1005 Mockingbird Ln	Lakeport	CA	95453-9484
1127228501	Leslie J	Nelson	PO Box 192	Selma	CA	93662-0192
1127815001	Harry	Newman	2445 Knollwood Dr	Cameron Park	CA	95682-7718
1129129401	Wes	Norman	PO Box 634	Garden Valley	CA	95633-0634
1130506401	S H	Oglesby	32109 Us Highway 287	Livermore	CO	80536-8927
1131520001	Jody	Only	2329 Ruffedge Way	Stockton	CA	95207-3318
1134759101	Kent	Pascoe	PO Box 588	Grass Valley	CA	95945-0588
1135727001	James T	Peacock	48 Castle Wood Ave	Atwater	CA	95301-4871
1138852901	Thomas A	Piceno	1746 S Sulfana Ave	Ontario	CA	91761-4242
1139203101	John	Pietsch	1351 Louisiana St	Vallejo	CA	94590-4617
1145020601	Ben	Raymond	530 Cherry St # B	Chico	CA	95928-5139
1145552501	Ken A	Reed	356 N Milton Ave	Campbell	CA	95008-1025
1149980001	Byron	Robles	4918 Usona Rd	Mariposa	CA	95338-9360
1154999801	Nicholas	Salotti	42335 Washington St Apt F150	Palm Desert	CA	92211-8031
1158272101	Kevin D	Schulte	5092 Chateau Cir	Irvine	CA	926043118
1161614101	Dave	Shill	3400 Smith St	Panama City	FL	32403-1268
1162360001	Daniel I	Siebert	488 Custer Rd	Hayward	CA	945442936
1166131501	Ryan	Smith	1521 Coats Dr	Yuba City	CA	95993-1701
1166854201	Ray G	Snyder	9161 Grossmont Blvd	La Mesa	CA	91941-4141
1173600401	Anthony	Swetala	2080 E Ash Ave	Tulare	CA	93274-6088
1181876001	Garry	Vance	24249 Million Rd	Coming	CA	96021-9644
1187526101	Otto	Weatherford	24626 Road 15 1/2	Chowchilla	CA	93610-9347
1187598201	Larry	Weaver	4231 Marshall Ave	Carmichael	CA	95608-1934

Exhibit B

PLAN OF DISTRIBUTION

This constitutes the Plan of Distribution for the proposed Settlement Agreement in *Smokeless Tobacco Cases I-IV*, J.C.C.P. Nos. 4350, 4258, 4259 and 4262, dated as of September 10, 2007. As used in this Plan of Distribution, the capitalized terms not otherwise defined herein have the meanings set forth in the Settlement Agreement.

A. Class Member Claims and Claims Procedure:

1. **Claims Period:** Within forty-five (45) days after entry of the preliminary approval order, referenced in paragraphs 26 and 27 of the Agreement, the Settlement Administrator shall cause the Notice of Settlement and Claim Form, referenced therein, to be mailed to each of the Persons on the UST List. "UST List" means the list that U.S. Smokeless will compile from a database that contains the name, date of birth, and address of adult tobacco consumers who have provided an address located in California. U.S. Smokeless will cause the UST List to be provided to the Settlement Administrator under a mutually agreeable Confidentiality Agreement. The Claims Period shall begin on the date that Notice of Settlement is first published and shall end one-hundred and twenty (120) days after the date that both the Notice of Settlement is last published, and Notice of Settlement and Claim Form have been mailed to the UST List, or as soon thereafter as is practicable.

2. Claims Form and Submission of Claims:

a) During the Claims Period, any Class Member who was over the age of 18 at the time of making a purchase of Moist Smokeless Tobacco Products and who purchased at least 30 cans indirectly from defendants in the State of California during any of the Purchase Periods identified below, for their own use and not for resale may make a claim, by submitting a single Claim Form, which shall be substantially in the

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form attached hereto as Exhibit 1 (provided, however, that the Settlement Administrator, in consultation and by agreement with Class Counsel and Counsel for Defendants, shall have the authority to make reasonable modifications to the Claim Form to facilitate the processing of claims and to effectuate the terms of this Settlement Agreement).

b). Class Members submitting Claim Forms must substantially comply with the instructions on the Claim Form, including providing the information requested therein. Class Members submitting Claim Forms must also cooperate with and provide any other information that the Settlement Administrator deems necessary or appropriate and in the form or format required by the Settlement Administrator.

3. Purchase Periods:

a) There are three Purchase Periods, defined as follows:

- i) Any time from January 1, 1990 through December 31, 1995.
- ii) Any time from January 1, 1996 through December 31, 2001.
- iii) Any time from January 1, 2002 through October 17, 2007.

b) A Class Member may request compensation for one or more Purchase Periods during which both (a) he or she was over the age of 18 at the time of making a purchase of Moist Smokeless Tobacco Products, and (b) purchased at least 30 cans of Moist Smokeless Tobacco Products indirectly from Defendants in the State of California for their own use and not for resale. Such Purchase Periods need not be consecutive.

4. Approval of Claims:

a) The Settlement Administrator shall examine each Claim Form submitted by a Class Member within the Claims Period and approve or disapprove the

Class Member's claims based upon the information provided, including verification that the Class Member was at least 18 years of age at the time of purchase, and upon such further information, examination or investigation as the Settlement Administrator deems necessary or appropriate. If the Settlement Administrator disapproves a claim, the Settlement Administrator shall notify the Person who submitted the Claim Form, in writing, stating the grounds for disapproval, within thirty (30) days of receiving the Claim Form. This notice shall advise those Persons of the procedures for requesting a review of the determination as provided herein. With respect to each Claim Form reviewed, the Settlement Administrator shall record, and maintain for inspection, on a list of claim numbers, next to the claim number corresponding to the claim reviewed, either: (1) its approval of the Claim Form; or (2) its disapproval of such submission and the reason(s) for the disapproval. If any Person who submitted a Claim Form disagrees with all or any part of any notice of disapproval, such Person shall notify the Settlement Administrator of his/her disagreement in writing (a "Protest"), within thirty (30) days after receipt of the notice of disapproval and in the manner specified by the Settlement Administrator in the notice, and shall submit such supporting information as the Settlement Administrator may have specified or as the Person believes would support his/her claim. The Settlement Administrator shall, within ten business (10) days after receipt of such Protest, review any new information or other matter submitted in support of the claim, and shall provide written notice of the Settlement Administrator's decision thereon, and if the decision is a disapproval, shall give the reasons for the disapproval.

b) Claims approved by the Settlement Administrator are referred to herein as "Approved Claims"; a claim submitted as to multiple Purchase Periods that is approved in part and disapproved in part is an Approved Claim to the extent approved.

B. Distribution of the Settlement Fund: Except as otherwise directed or approved by the Court, upon the Effective Date, the Settlement Administrator shall distribute funds from the Settlement Fund in the following order:

1. all third-party costs and expenses reasonably and actually incurred in connection with locating Class Members and providing notice to them in connection with administering and distributing the Settlement Fund to authorized claimants, and in connection with paying escrow fees and costs, if any;

2. all third-party costs and expenses, if any, reasonably and actually incurred in soliciting Class Members' claims and assisting with the filing and processing of such claims;

3. Taxes and Tax Expenses, if any, as provided in the Settlement Agreement;

4. any attorneys' fees and expenses that are awarded by the Court;

5. the First Cy Pres;

a) For purposes of this Plan of Distribution, "First Cy Pres" means \$5 Million (Five Million Dollars) from the Settlement Fund that shall be distributed *cy pres* in satisfaction of the claims of Class Members who purchased fewer than thirty (30) cans of Moist Smokeless Tobacco Products indirectly from Defendants in the State of California during any of the Purchase Periods for their own use and not for resale.

6. Approved Claims as follows;