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AUG 15 2007

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EASTERN DISTRICT OF CALIFORNIA
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ROBERT A. BLEICHER (SBN 111334)
HOLLAND & KNIGHT LLP
50 California Street, 28th Floor
San Francisco, California 94111
Telephone: (415) 743-6900
Facsimile: (415) 743-6910

Attorneys for Plaintiffs
AMEROPA AG and
AMEROPA NORTH AMERICA, INC.

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

AMEROPA AG,

Plaintiff,

v.

MOORE AGRICULTURAL PRODUCTS
COMPANY, INC.,

Defendant.

No.: 1:07-CV-01182-OWW-NEW
**[PROPOSED] EX PARTE EMERGENCY
WRIT OF POSSESSION AND
TEMPORARY RESTRAINING ORDER**

(WMW) AMEROPA AG et al v. Moore Agricultural Products Company, Inc.

Doc. 17

TEMPORARY RESTRAINING ORDER

TO DEFENDANT MOORE AGRICULTURAL PRODUCTS, INC. ("MOORE") AND
ITS OFFICERS, AGENTS, EMPLOYEES, AND ATTORNEYS:

IT BEING SHOWN TO THE SATISFACTION OF THE COURT that immediate and
irreparable loss, injury or damage will result to AMEROPA before MOORE or its counsel can be
heard,

NOW, THEREFORE, pursuant to Rule 65(b), Fed. R. Civ. P., it is further ORDERED,
that:

1 MOORE AGRICULTURAL PRODUCTS, INC. ("MOORE"), its officers, agents,
2 employees and attorneys and all those in active concert or participation with it or them ARE
3 HEREBY RESTRAINED AND ENJOINED, from: *for the reasons stated below at p. 2, l. 22-28*
and the accompanying declaration of
Robert A. Blankenship and Michael Wahl.

4 a) Disposing of, using, processing, dissipating, contaminating, wasting, diverting,
5 removing, or destroying, any of the product (zinc sulphate) shipped by AMEROPA to MOORE's
6 Hanford, California facility, pending the *hearing on the* issuance of a Preliminary Injunction or other relief;

7 b) Disposing of, using, processing, dissipating, contaminating, wasting, diverting,
8 removing, or destroying, any of the product (zinc sulphate) shipped by AMEROPA to MOORE's
9 Humboldt, Tennessee facility, except by specific written agreement with Ameropa.

10 **WRIT OF POSSESSION & ORDER TO TRANSFER POSSESSION**

11 TO DEFENDANT MOORE AGRICULTURAL PRODUCTS, INC. ("MOORE") AND
12 ITS OFFICERS, AGENTS, EMPLOYEES, AND ATTORNEYS:

13 IT BEING SHOWN TO THE SATISFACTION OF THE COURT that immediate and
14 irreparable loss, injury or damage will result to AMEROPA before MOORE or its counsel can be
15 heard, the Court having found that:

16 Defendant has been properly served, or that good cause exists to excuse plaintiffs from
17 service on defendant and issuance of this Order *ex parte*;

18 Plaintiffs have established the probably validity of the plaintiffs' claim to possession of the
19 following property: any quantity of zinc sulphate shipped by AMEROPA to MOORE's
20 Hanford, California facility that has not been used, consumed, destroyed, wasted, or processed
21 by MOORE;

22 There is probable cause to believe this property or some part of it is located at the
23 following private place: 11521 Excelsior Avenue, Hanford, California;

24 The defendant acquired possession of this property in the ordinary course of the
25 defendant's trade or business for commercial purposes, and (1) the property is not necessary for
26 the support of the defendant or the defendant's family; (2) there is an immediate danger that the
27 property will become unavailable to levy by reason of being transferred, *sold,* concealed, *or* removed,
28 *or dissipated*

1 from the state, or will become substantially impaired in value by acts of destruction, or by failure
2 to take care of the property in a reasonable manner, and (3) the *ex parte* issuance of a writ of
3 possession is necessary to protect the property.

4 NOW, THEREFORE, pursuant to Rule 65(b) and Rule 64, Fed. R. Civ. P., it is further
5 ORDERED, that:

6 1. AMEROPA is entitled to and shall have immediate possession of any quantity of
7 zinc sulphate shipped by AMEROPA to MOORE's Hanford, California facility, ~~that has not been~~
8 ~~used, consumed, wasted, or processed by MOORE.~~ *amw*

9 2. MOORE shall transfer physical possession of the property described above to
10 AMEROPA within 24 hours of the issuance of this Order. *If Moore fails to do so, or*
AMEROPA shall have the right to immediately seize such property.
11 NOTICE TO DEFENDANT: Failure to comply with an order of the court to turn
12 over possession of the property to the plaintiff may subject you to being held in contempt of
13 court.

14 The foregoing Writ of Possession and Temporary Restraining Order shall be effective
15 upon plaintiff AMEROPA filing with the Court an undertaking the sum of \$ 10,000.00.

16 NOTICE TO DEFENDANT: You may apply to the Court for
17 modification/dissolution of this *ex parte* Order on 2 days notice or such shorter notice as the
18 court may allow.

19 Dated: August 15, 2007
20 Hour of issuance: 4:05 p. m.

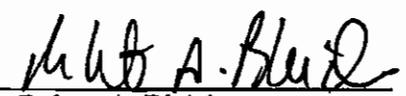
21 *Thomas Meyer*
22 _____
23 UNITED STATES DISTRICT JUDGE

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Presented this 15th of August, 2007, by:

HOLLAND & KNIGHT LLP

By: 
Robert A. Bleicher

Attorneys for Plaintiffs
AMEROPA AG and AMEROPA NORTH AMERICA, INC.

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