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CHONG'S PRODUCE, INC.  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN JOSE DIVISION

11 CHONG'S PRODUCE, INC.

Case No. C 09 00659 JW

12 Plaintiff,

*Jeanette*  
~~PROPOSED~~ AMENDED JUDGMENT  
UNDER THE PERISHABLE  
AGRICULTURAL COMMODITIES ACT  
(7 U.S.C. §499e)

13 v.

14 ANO SAMIKO, INC. dba SOUTH VALLEY  
15 PRODUCE, a California Corporation; FOTIS  
DIONISOPOULOS, individually, and DOES 1  
16 to 10,

17 Defendants.  
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19 A Complaint was filed by Plaintiff CHONG'S PRODUCE, INC. against ANO SAMIKO,  
20 INC. dba SOUTH VALLEY PRODUCE, a California Corporation; and FOTIS  
21 DIONISOPOULOS, individually, on February 13, 2009. On February 13, 2009, this Court issued a  
22 Temporary Restraining Order against ANO SAMIKO, INC.

23 A hearing on Plaintiff's motion for Preliminary Injunction and Motion to Consolidate the  
24 Trial on the Merits was heard on February 23, 2009 at 9:00 a.m. Susan E. Bishop appeared as  
25 counsel for Plaintiff. Defendant did not appear.

26 Accordingly, **IT IS HEREBY ORDERED:**

27 A. Chong's Produce is a valid trust beneficiary of ANO SAMIKO, INC. pursuant to  
28

1 Section 5(c) of the PACA, 7 U.S.C. §499e(c), in the aggregate amount of \$24,734.12, exclusive of  
2 interest and attorneys' fees and costs for violation of PACA by failing to maintain PACA trust  
3 assets and failing to pay CHONG'S PRODUCE, INC. promptly under 7 U.S.C. §§499b(4) and  
4 (e)(c)(2).

5 B. Starting in 1999, Plaintiff CHONG'S PRODUCE, INC. began selling Produce to  
6 ANO SAMIKO, INC. in interstate commerce. In 2008, ANO SAMIKO, INC. purchased from  
7 Plaintiff produce in the amount of \$24,734.12. Plaintiff CHONG'S PRODUCE, INC. delivered the  
8 Produce to ANO SAMIKO, INC. and ANO SAMIKO, INC. accepted the Produce from Plaintiff  
9 but ANO SAMIKO, INC. failed to pay the invoices related to those orders. As of February 13,  
10 2009, ANO SAMIKO, INC. has failed to pay the principal balance due of \$24,734.12.

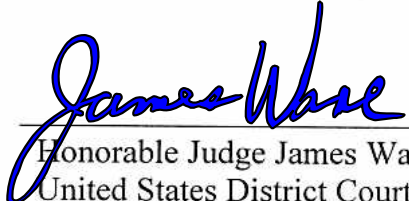
11 C. FOTIS DIONISOPOULOS, as the President of ANO SAMIKO, INC. had a duty to  
12 ensure that ANO SAMIKO, INC. fulfilled its duties as a PACA trustee, and maintained PACA  
13 Trust Assets in such a manner so as to ensure there were, at all times, sufficient Trust Assets  
14 available to satisfy all outstanding PACA trust obligations, such as that owed to Plaintiff, as they  
15 became due. FOTIS DIONISOPOULOS breached his fiduciary duty to direct ANO SAMIKO,  
16 INC. to fulfill its duty as a PACA trustee to preserve and maintain sufficient PACA Trust Assets to  
17 pay Plaintiff for the Produce supplied by it to ANO SAMIKO, INC.. As a direct result of FOTIS  
18 DIONISOPOULOS' breach of fiduciary duty, Plaintiff has incurred damages in the amount of  
19 \$24,734.12, plus interest from the date each invoice became past due, costs and attorneys' fees.  
20 FOTIS DIONISOPOULOS is personally liable to Plaintiff for the breach of their fiduciary duty in  
21 dissipating the PACA trust.

22 D. After this Court issued its initial judgment, Plaintiff filed a motion for attorneys' fees  
23 and costs. On May 12, 2009, the Court granted Plaintiff's motion and ordered Defendants to pay  
24 attorneys' fees and costs in total amount of \$6,035.00 within 30 days

25 E. An Amended Judgment is hereby entered in favor of Plaintiff CHONG'S  
26 PRODUCE, INC. and against ANO SAMIKO, INC. and FOTIS DIONISOPOULOS, jointly and  
27 severally in the amount of \$30,769.12.  
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**IT IS SO ORDERED** in Chambers at San Jose, California this 26 day of May 2009.

  
Honorable Judge James Ware  
United States District Court Judge

1 **CASE NAME:** Chong's Produce v. Ano Samiko, Inc et al. - **Case Number:** CV09-00659 JW

2 **PROOF OF SERVICE**

3 I am a citizen of the United States. My business address is The PruneYard Tower I, 1901  
4 South Bascom Avenue, Ste. 350, Campbell, CA 95008. I am employed in the county of Santa  
Clara where this service occurs. I am over the age of 18 years and not a party to the within cause.

5 On May 13, 2009, I served the following document described as:

6 **(PROPOSED) AMENDED JUDGMENT UNDER THE PERISHABLE AGRICULTURAL  
7 COMMODITIES ACT (7 U.S.C. §499e)**

- 8  **BY MAIL:** I am readily familiar with my employer's normal business practice  
9 of collection and processing of correspondence for mailing. Under that practice,  
10 correspondence is deposited with the U.S. Postal Service that same day in a  
11 sealed envelope(s) with postage thereon fully prepaid at Campbell, California, in  
12 the ordinary course of business.
- 13  **BY FAX:** I served said document(s) by transmitting via facsimile from facsimile  
14 number (408) 297-2774 to the facsimile number(s) set forth below, or as stated on  
15 the attached service list, on this date after 5:00 p.m. A statement that this  
16 document was successfully transmitted without error is hereby attached to the  
Proof of Service.
- 17  **BY PERSONAL SERVICE:** I caused such documents to be delivered by hand  
to the offices of
- 18  **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on  
19 the same day to an authorized courier or driver or to a regular box or other facility  
20 regularly maintained by **FEDERAL EXPRESS** with delivery fees provided for,  
21 addressed to the person(s) on whom it is to be served.

22 on the interested party(ies) in this action addressed as follows:

<p>23 FOTIS DIONISOPOULOS 24 1005 5<sup>th</sup> Street 25 San Jose, CA 95112 26 27 6306 Snell Avenue 28 San Jose, CA 95123</p>	<p>Authorized Agent for Defendants ANO SAMIKO, INC. dba SOUTH VALLEY PRODUCE, a California Corporation.</p>
<p>PROVANTA CORPORATION 1798 Technology Drive, Suite 200 San Jose, CA 95110</p>	<p>Power-of-Attorney</p>

- 29  **STATE:** I declare under penalty of perjury under the laws of the State of  
California that the above is true and correct.
- 30  **FEDERAL:** I declare that I am employed in the office of a member of the bar of  
this Court whose direction of the service was made. I declare under penalty of  
perjury under the laws of the United States of America that the foregoing is true  
and correct.

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Executed on May 13, 2009 at Campbell, California.

/s/ Emily A. Khasin  
Emily A. Khasin