## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA MIAMI DIVISION

Case No. 99-2082 Civ.-Jordan/Mag. Bandestra

MONSANTO COMPANY AND THE NUTRASWEET COMPANY,

Plaintiffs,

-against-

FAUSTO J. CAMPUZANO, MARIA CAMPUZANO, F. GARCIA WHOLESALE & EXPORT, INC., MARK SIEGEL, KATHLEEN M. SIEGEL, TRIO INTERNATIONAL TRADING, INC. SARI EXPRESS, INC., COUNTYWIDE OF MIAMI, INC. JOSE I. ARGUELLES, SYLVIA B. ARGUELLES, TRAPEZA OVERSEAS, INC. **INTRANSIT SERVICES, INC., CARLOS** CASANOVA D/B/A CASANOVA TRUCKING. SUN CONTAINER, INC., ALVARO BUENDIA, AND JOHN DOES X, Y & Z, BEING ANY OTHER PERSONS OR ENTITIES PARTICIPATING IN THE MANUFACTURE AND/OR DISTRIBUTION OF THE COUNTERFEIT PRODUCT AT ISSUE.

Defendants.

AFFIDAVIT OF RODNEY A. BROWN IN FURTHER SUPPORT OF PLAINTIFFS' MOTION TO COMPEL COMPLETE ANSWERS TO INTERROGATORIES FROM DEFENDANTS MARK SIEGEL, KATHLEEN M. SIEGEL AND TRIO INTERNATIONAL TRADING, INC. AND FOR SANCTIONS

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STATE OF NEW YORK	)
	.ss:
COUNTY OF NEW YORK	)

RODNEY A. BROWN, being duly sworn, deposes and says:

- I am a member of Brown & Fox, P.C., attorneys for plaintiffs Monsanto Company and The NutraSweet Company (collectively, "Plaintiffs") herein. As such, I am fully familiar with the facts set forth herein. Unless otherwise stated, I have personal knowledge of the facts alleged herein.
- 2. This Affidavit is respectfully submitted in further support of Plaintiffs' motion, pursuant to Rule 37(b) of the Federal Rule of Civil Procedure and Local Rule 26.1H, to compel complete answers to Interrogatories from defendants Mark Siegel, Kathleen Siegel and Trio International Trading, Inc. These defendants are collectively referred to herein as the "Trio Defendants." Plaintiffs are also moving for sanctions against the Trio Defendants pursuant to Fed. R. Civ. Pro. 37(b) as a result of the Trio Defendants' dilatory and bad faith conduct in discovery in this action.
- 3. The Trio Defendants produced over 6,000 sheets of paper in discovery in this action. However, to date, the Trio Defendants have not produced their general ledger or other vital financial information contained on Trio's computer system.
- 4. On July 13, 2000, on behalf of Plaintiffs, I began the deposition of defendant Mark Siegel. Mr. Siegel testified that he fabricated substantial numbers of documents in

<sup>&</sup>lt;sup>1</sup>Plaintiffs use defined or shortened terms for clarity purposes only and do not use the term the "Trio Defendants" to suggest or imply that the corporate veil of Trio has already been pierced.

connection with the transactions in dispute at bar.<sup>2</sup> Mr. Siegel's testimony also revealed that he spoke with numerous persons concerning Trio's purchase and/or sale of the Equal product. Parenthetically, it should be noted that Plaintiffs have not yet concluded Mr. Siegel's deposition. To the extent that Mr. Siegel refuses to appear for the continuation of his deposition, Plaintiffs, unfortunately, will be forced to seek an order granting a continuance of same.

5. The attorneys' fees incurred by Plaintiffs in connection with the preparation of the instant Reply are no less than \$900.00. The costs incurred, for postage and photocopying, are approximately \$20.00<sup>3</sup>.

<sup>&</sup>lt;sup>2</sup>Given the fact that Mr. Siegel's deposition was held on July 13, 2000, at the time of the service of the instant Reply, Plaintiffs do not have a copy of the transcript. However, Plaintiffs will provide same to the Court at the Court's request.

<sup>&</sup>lt;sup>3</sup>At this time, a copy of the bill for the month of July, which includes the time expended in connection with the instant Reply, has not yet been prepared, but we have tallied herein the fees and costs incurred in connection with the preparation of this Reply.

6. For the reasons set forth herein, Plaintiffs' motion should be granted in its entirety.

RODNEÝ A. BROWN

Sworn to before me this

/7<sup>th</sup> day of July, 2000

Notary Public

CORI SHERMAN
Notary Public, State of New York
No 02SH5052671
Qualified in Nassau County
Certificate Filed in Nassau County
Commission Expires November 27, 1999
2007