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UNDERTAKING TO THE TRADE PRACTICES COMMISSIC SECTION 87B OF THE TRADE PRACTICES



GIVEN BY

NORMANDY POINT PTY LTD, of 1st Floor, 579 Queensberry Street, North Melbourne, in the State of Victoria, (ACN 005 917 331).

BACKGROUND

- (1) Normandy Point Pty Ltd ("the Company") is the registered owner of the Victorian business name "F. AND G. AMORE" (Business Number: 0479762W).
- (2) The Company is a wholesaler of edible nuts and dried fruit which it packages and distributes under the name "Amore". The Company sells its product principally in Victoria, Tasmania and South Australia.
- Following an investigation by the Trade Practices Commission ("the Commission"), the Company was informed that the Commission considered that the Company had made false or misleading representations in regard to the place of origin of imported dried fruit and imported nuts ("the imported goods").
- (4) The following representations, either singularly or in combination, were present on some packaging of the imported goods:
 - (a) The words "AUSTRALIA'S FINEST" appearing across the lower front of the packaging;
 - (b) A logo of an anthropomorphised nut holding a representation of the Australian national flag appearing on the front centre of the packaging. Annexed to this undertaking and marked "Annexure 1" is a true copy of the logo.
- (5) The Commission contends that the representations set out in paragraph (4) when appearing on packaging, the contents of which are not grown in Australia, are false or misleading in contravention of section 52 and/or section 53(eb) of the *Trade Practices Act* 1974.
- (6) The Commission acknowledges that either the word "imported", or a statement as to the country from which the product was imported, is present on the back of the packaging of the imported goods.
- (7) The Commission acknowledges that the Company also uses a variety of other packaging which does not bear either of the representations set but in paragraph (4) or which have the Australian national flag logo covered by a blank sticker.

UNDERTAKINGS

- (8) Normandy Point Pty Ltd gives the following undertakings to the Trade Practices Commission for the purposes of section 87B of the Trade Practices Act 1974:
 - (a) In respect of imported goods sold by the Company, the Company will:
 - i) immediately cease using packaging bearing either singularly or in combination the representations set out in paragraph (4);

- ii) immediately cease making false or misleading misrepresentations as regards the place of origin of goods sold by the Company;
- take all necessary steps to remove from the market place by 1 January 1994 any imported goods visibly bearing the representations set out in paragraph (4);
- (iv) bear the cost of carrying out the undertakings set out in this document.
- (b) The Company acknowledges that the representation of an Australian flag and/or the words "AUSTRALIA'S FINEST" on the packaging of goods not grown in Australia misrepresents the place of origin of those goods;
- (c) The Company acknowledges that the Trade Practices Commission will make the undertaking available for public inspection;
- (d) The Company acknowledges that the Trade Practices Commission will from time to time publicly refer to the undertaking.
- (e) The Company acknowledges and accepts that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS OF THESE UNDERTAKINGS

THE COMMON SEAL OF NORMANDY POINT PTY LTD was hereunto affixed by authority of the Board of Directors previously given in the presence of:

DIRECTOR

This 10th day of November 1993.

ACCEPTED BY THE TRADE PRACTICES COMMISSION PURSUANT TO SECTION 87B OF THE TRADE PRACTICES ACT 1974

CHAIRMAN

This day of

1993.