



REGISTERED

Tuck's Organic Farm & Sanctuary
P.O. Box 20106
Belleville, Ontario
K8N 5V1
Canada

Attn: Trueman Tuck

June 25, 2010

Subject: Request for a Ministerial Decision CS – 60194/95927

Your letter, dated May 10, 2010, has been accepted as a written request for a review of the above-mentioned enforcement action. This review will be done by the Recourse Directorate of the Canada Border Services Agency (CBSA), which has the mandate to conduct a full and impartial review of the decision taken by the official who made the enforcement action. The Recourse Directorate is committed to making the Customs redress process as transparent and as timely as possible.

Please accept this correspondence as the written Notice of Reasons for Action.

According to the report prepared by the issuing office, the enforcement action was taken because person failed to provide require certificate, licence, permit or information before the goods are released.

The report indicates that on February 18, 2010, a driver for your company presented PARS EDI entry at the Prescott Office under bar code 22UTPARS003935. Upon scanning the bar code, the officer discovered that this shipment (of vitamins and natural health products) had been referred for a secondary examination. At this point, the shipment was examined by Customs and the officer notified the driver that Customs would be holding the boxes in order to get a Health Canada determination.

On February 22, 2010, Health Canada advised Customs officials that they would be refusing entry for this shipment since the products fell under schedule F of the *Food and Drugs Act*. Based on this information, a Notice of Penalty Assessment was issued to your company demanding \$100.00, as a first assessment of this contravention since the shipment in question required permits, certificates or licenses as required by another government department (in this case Health Canada).

Under the provisions of section 4 of the *Accounting for Imported Goods and Payment of Duties Regulations* and other Federal Acts and Regulations, every person who accounts

for goods under subsection 32(1), (3) or (5) of the Act or who makes an interim accounting in respect of goods under subsection 32(2) of the Act shall provide, at the time of accounting and before the goods are released, if the goods have not been released before that time, every certificate, licence, permit or other document and any information that is required to be provided under the Act or these Regulations or under any other Act of Parliament or regulations made pursuant thereto that prohibits, controls or regulates the importation of goods.

The contents of your letter have been noted and are appreciated. You appeal this enforcement action stating that you believe that the penalty assessment was applied inappropriately and you request a decision of the Minister. You have included a cheque in the amount of \$100.00.

Based on an initial review of this penalty, it appears that the issuance of contravention code C071 was justified as your company failed to provide a permit/certificate or licence from Health Canada for the shipment in question.


You may, within 30 days from the date of mailing of this notice, provide any additional information or documentation that you believe will assist in making the decision in this case. Any material provided needs to quote our file number and be sent to the address below:

Canada Border Services Agency
Recourse Directorate
Ottawa, Ontario K1A 0L8

I can assure you that all documents and information received will be duly considered at the time of final decision. You will be notified by registered mail as soon as a decision is rendered.

I trust that the foregoing is satisfactory.

Regards,


Anabelle Allain
Adjudicator,
Recourse Directorate
For the President of the Canada Border Services Agency
Tel. No.: (613) 960-5046
Fax No.: (613) 960-5129



ISSUING OFFICER REPORT

PROTECTED when completed

Issue Date 2010-02-24	Penalty Assessment Number 95927	Penalty Amount \$100.00	Office Code 0439
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Narrative

At approximately 15:55, on Thursday February 18, 2010, I was presented a PARS EDI entry by the Missmer Transport driver with bar code 22UTPARS003935. I scanned the bar code and found that the shipment had been referred for a secondary examination as the importer a TUCK'S DISCOUNT VITAMINS was a first time importer and the ACROSS system refers all first time importers for a random examination. Transaction number 13003062475059, business number 835904343RM0002.

At approximately 16:00, I asked the driver to bring the 2 boxes into the office so I could examine them.

At approximately 16:02 the driver returned with 2 cardboard boxes which contained various sizes of bottles of suspected vitamins and natural health products. I reviewed the invoice and the name of the importer TRUEMAN TUCK C/O TUCK'S DISCOUNT VITAMINS was familiar to me. I did a TRTITLE search in ACROSS and found that a company with a similar name was the subject of a target for importing goods through the port of Prescott, that upon review by Health Canada had been refused entry to Canada.

At approximately 16:07 I notified the driver that I would be holding the boxes and that I would be sending all the information to Health Canada for a determination.

At approximately 16:10 I opened the boxes and took photocopies of the labels and faxed all the information to Health Canada for determination.

At approximately 16:15 I notified acting commercial superintendent [redacted] that I was holding two boxes of suspected vitamins and natural health products for admissibility determination from Health Canada.

I checked the files to see if I could find any information on TUCK'S DISCOUNT VITAMINS or TRUEMAN TUCK as the names still sounded familiar to me. I found that on October 13, 2006 I held a shipment of natural health products for a TRUEMAN TUCK business number 888911039RM0001, which Health Canada refused entry on October 18, 2006. The United States shipper was TUCK'S DISCOUNT VITAMINS USA LTD. I checked the business number for TRUEMAN TUCK and found that on December 16, 2009 a shipment of natural health products was examined and referred to Health Canada for determination at the port of Fort Erie. On December 17, 2009 the shipment was refused entry by Health Canada and returned to the United States. On February 18, 2010 a new importer number was issued to TUCK'S DISCOUNT VITAMINS, the same day the shipment was shipped to Canada.

At approximately 8:45, on February 22, 2010, I received a phone call from [redacted], the duty officer for Health Canada advising me that she would be refusing the shipment because the products fell under schedule F of the FOOD AND DRUGS ACT. She further advised me that she would be faxing me her decision sometime later in the day.

At approximately 09:00 I checked the ACROSS system and found that there were 5 importer numbers issued to either a TRUEMAN TUCK, TUCK'S DISCOUNT VITAMINS or TUCK'S PROFESSIONAL SERVICES all in the Belleville area.

At approximately 10:30 I received a fax from [redacted] which outlined the reasoning for the refusal of the shipment.

At approximately 9:00 I advised acting commercial superintendent [redacted] that the shipment had been refused by Health Canada and that I would be issuing an amps penalty under C071 because the importer was aware of the requirements of Health Canada and tried to import the shipment without the required permits, certificates or licenses as required by another government department (Health Canada).

At approximately 16:15 I notified the acting traffic superintendent [redacted] that the shipment in the QUEENS warehouse for TUCK'S DISCOUNT VITAMINS carried by MISSMER TRANSPORT had been refused entry to Canada and would have to be exported.

At approximately 09:25, on February 23, 2010 I received a call from [redacted] of FEDEX TRADE



ISSUING OFFICER REPORT

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Narrative (continued)

NETWORKS TRANSPORT AND BROKERAGE asking for any details about the shipment as they were the presenting customs broker. I advised him that the shipment had been refused by Health Canada and it would have to be exported. asked for a copy of the Health Canada refusal which I faxed to him at .

Name/Signature/Identification of officer 16203	Date prepared 2010-02-24
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SUPPLEMENTARY REPORT

PROTECTED when completed

Issue Date 2010-02-24	Penalty Assessment Number 95927	Penalty Amount \$100.00	Office Code 0439
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Narrative

PAYMENT RECEIVED BY MAIL - CHEQUE #002965 IN THE AMOUNT OF \$100.00
APPEAL LETTER INCLUDED WITH CHEQUE - FORWARDED TO RECOURSE DIRECTORATE ON MAY 18, 2010
K21 # 304C

Name/Signature/Identification of officer

16187

Date prepared

2010-05-17