



NEWS RELEASE

OFFICE OF THE UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF CALIFORNIA
San Diego, California

United States Attorney Alan D. Bersin

San Diego, California

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For further information, call:

Assistant U.S. Attorney Phillip L.B. Halpern
(619) 557-5165

or

Assistant U.S. Attorney Melanie K. Pierson
(619) 557-5685

or

Assistant U.S. Attorney Stephen J. Segreto
(619) 557-5682

News Summary

**GOVERNMENT'S INVESTIGATION INTO SHIPMENT OF
CONTAMINATED STRAWBERRIES CAUSING HEPATITIS A OUTBREAK
AMONG MICHIGAN SCHOOL CHILDREN CULMINATES IN CUSTODIAL SENTENCES
AND OVER \$1 MILLION IN FINES AND CIVIL SETTLEMENT**

San Diego, CA: A San Diego based food broker, Andrew and Williamson Sales Co., Inc. ("A&W"), and its president, Frederick L. Williamson, were sentenced today admitting their role in the fraudulent sale of 1,742,280 pounds of Mexican grown strawberries to the USDA's school lunch program.

Judge Leland C. Nielsen sentenced Mr. Williamson to ten months in custody and fined him approximately \$13,000 for his role in the case. In addition to a \$1.3 million civil settlement with the United States, Judge Nielsen also placed A&W on three years probation, imposed a \$200,000 criminal fine, \$150,000 in restitution, and \$1,200 in criminal penalties.

Today's sentencing along with the June 29, 1998 sentencing of coconspirator Richard H. Kershaw, the sales representative in

charge of A&W's frozen strawberry business, ends the government's criminal probe into the sale of frozen strawberries to the school lunch program that resulted in the nationally reported Hepatitis A outbreak in hundreds of school children and teachers in Michigan.

According to U.S. Attorney Charles G. La Bella, today's sentencing is the culmination of an intensive two-month investigation into the outbreak of Hepatitis A that involved 198 school children and teachers in Michigan (as well as a small number of school children in Maine and Wisconsin). Based on epidemiological studies performed by the Center for Disease Control, the government was able to trace the outbreak to strawberry desserts served by schools as part of the USDA school lunch program. This, in turn, led to the government immediately suspending the use of, and quarantining, millions of pounds of frozen strawberries associated with the contaminated lots. In addition, school children in a number of states were vaccinated as a preventive measure because they had been found to have consumed strawberries linked to the Hepatitis A outbreak.

As detailed in the Indictment, the USDA administers and operates the National School Lunch Program. This program is designed to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities. It is administered by the USDA Food and Consumer Service, which provides both cash and commodities to assist State and local governments in providing meals for children in public and nonprofit schools, child care institutions and summer recreation programs. Some of the commodities distributed to the states pursuant to this program are purchased

by the USDA Agricultural Marketing Service (hereinafter referred to as ~~AMS~~) using funds appropriated to the Secretary of Agriculture to encourage, in part, domestic consumption of agricultural products.

In 1996, AMS received approximately \$460 million pursuant to Congressional action directed at the purchase of domestic products to ensure the orderly marketing and stable pricing of United States commodities. These funds are authorized to be used for the purchase of domestic agricultural commodities specifically for use in the National School Lunch and School Breakfast Programs.

Prior to purchasing commodities for these programs, the AMS Fruit and Vegetable Division, Economic Analysis Branch, performs an analysis to determine whether it would benefit the nation's farmers for the USDA to remove surplus food products from the domestic market. Among other things, this analysis recommends the volume of a particular food product that must be purchased by AMS in order to reduce its supply -- thereby stabilizing its price on the markets.

The AMS notifies the public of its intent to purchase surplus domestic products by issuing announcements pertaining to the purchase of specified commodities. In these contract announcements, the USDA requires the seller to certify that the commodities are grown domestically in order to ensure that it will be removing surplus domestic commodities from the marketplace and encouraging domestic consumption of American products. In September 1996, AMS issued an amended announcement inviting contractors to bid on the purchase of approximately 12

million pounds of frozen strawberries destined for the School Lunch Program. This invitation specifically required contractors to supply strawberries that were "100% grown and processed from the 1996 or later United States Crop."

The Indictment charges A&W with attempting to disguise the fact that the strawberries it was supplying to the USDA were not grown domestically as required by the invitation by utilizing three unwitting food brokers (JSO Associates of Great Neck, NY; Kendall Frozen Foods of Encino, CA; and PacWest Foods Inc. of Newbury Park, California). In addition, A&W admitted in its plea to attempting to conceal the true origin of its strawberries by submitting false certificates of origin to the USDA -- falsely stating that A&W's strawberries were 100% grown in the United States.

According to Assistant U.S. Attorneys Phillip L.B. Halpern and Melanie K. Pierson, who directed the government's prosecution, both defendants were sentenced on Count One, Two and Five of the Indictment which charges them with Conspiracy to Defraud the United States, Making a False Statement, and Making a False Claim.

Due to the scientific limitations inherent in the testing of strawberries for Hepatitis A, the government did not bring charges related to the contamination of the strawberries (which would, in any event, be misdemeanor charges in the present case). As noted in a letter sent from the Department of Health and Human Services (HHS) to Senator Richard Lugar, Chairman of the Senate Agriculture Committee, scientific limitations prevent the identification of the source of the contamination. Due to these

limitations, the source of the contamination may, in fact, never be determined.

According to HHS, the epidemiological investigation conducted by CDC found that consumption of the frozen strawberries was associated with the illness in Michigan, Wisconsin and Maine. The investigation did not identify a single event, food handler or contaminated water source to explain the source of the contamination. The CDC analysis suggests only that the contamination occurred prior to the arrival of the frozen strawberries in Michigan.

United States Attorney La Bella underlined the fact that the Republic of Mexico cooperated fully with the investigation into this tragedy which befell the strawberry industry in both countries. In the letter to Senator Lugar, HHS echoed La Bella's observation and emphasized that it is important to note that this investigation does not raise any concerns about this year's harvest of strawberries nor is there any concern regarding fresh or frozen strawberries now appearing in grocery stores.

Remarking upon today's sentence, Inspector General of the United States Department of Agriculture Roger C. Viadero noted that his Office was dedicated to ensuring that the children participating in the National School Lunch Program continue to be fed wholesome, nutritious agricultural products originating in our nation's farms. Mr. Viadero also emphasized that, "The Inspector General's Office is committed to maintaining the integrity of the domestic commodity purchasing program that last year expended over \$400 million to purchase agricultural commodities from domestic farmers in order to remove surplus

commodities from the marketplace and encourage domestic consumption of American products.❏

INDICTMENT NO. 97-1737-N

DEFENDANTS:

Andrew and Williamson Sales Co., Inc.
9940 Marconi Drive
San Diego, CA

Frederick L. Williamson
2216 Ivy Road
Oceanside, CA

Age: 61

SUMMARY OF CHARGES AND MAXIMUM PENALTIES:

- Count 1: Conspiracy to Defraud the United States in violation of 18 U.S.C. § 371. Maximum penalty is five years and/or \$250,000 per count (\$500,000 for a corporation).
- Count 2: Making False Statement in violation of 18 U.S.C. § 1001. Maximum penalty is five years and/or \$250,000 per count (\$500,000 for a corporation).
- Count 5: Making False Claim in violation of 18 U.S.C. § 287. Maximum penalty is five years and/or \$250,000 per count (\$500,000 for a corporation).

INFORMATION NO. 97-1573-N

DEFENDANT:

Richard H. Kershaw
14072 Chestnut Hill Lane
San Diego, CA

Age: 41

SUMMARY OF CHARGES AND MAXIMUM PENALTIES:

- Count 1: Conspiracy to Defraud the United States by Making False Claims in violation of 18 U.S.C. § 286. Maximum penalty is ten years and/or \$250,000 per count.
- Count 2: False Statements in violation of 15 U.S.C. § 714. Maximum penalty is five years and/or \$250,000 per count.
- Count 3: Introducing Misbranded Food into Interstate Commerce in violation of 21 U.S.C. § 331. Maximum penalty is three years and/or \$250,000 per count.

AGENCIES:

U.S. Department of Agriculture, Office of Inspector General
Food and Drug Administration, Office of Criminal Investigation
Federal Bureau of Investigation

Michigan Department of Education, School Management, Food and
Nutrition Division

California Department of Health Services, Food and Drug Branch

United States Customs Service, Office of Enforcement