

Department of Agriculture, Fisheries and Forestry

Australian Quarantine and Inspection Service

**Question: AQIS 14**

**Topic: Citrus Canker Eradication**

**Hansard Page: 47**

Senator Heffernan asked:

Would it be possible to get a copy of the record of interview for this committee?

Answer:

AQIS Investigators took a statement from the informant (Mr Gillies). Mr Watson (an AQIS investigator at that time) also provided a statement on his interview with Mr Gillies in the form of a Federal Court affidavit. Both documents are attached.

PACIFIC CENTURY PRODUCTIONS  
PTY LTD

Applicant

STEPHEN RONALD WATSON

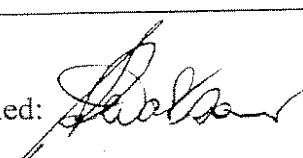
Respondent

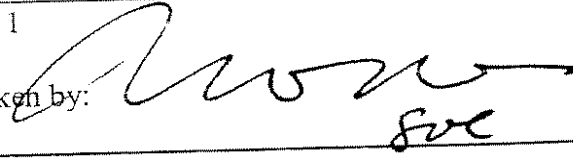
AFFIDAVIT

On 7 August 2001, I **STEPHEN RONALD WATSON** of c/- 42-44 Qantas Drive, Eagle Farm, Senior Compliance Office in the Australian Quarantine Investigation Services (AQIS) say on oath:

1. I am a Senior Compliance Officer with the AQIS Compliance and Investigation Unit. AQIS is a division of the Australian Department of Agriculture, Fisheries and Forestry.
2. I am an authorised officer for the purpose of the *Quarantine Act 1908 (Cth)* (the Act) and a part of my duties includes the investigation of alleged breaches of the Act and it's subordinate legislation. I commenced employment with AQIS on 14 May, 1970 and have been involved with Compliance and Investigations since 1994
3. AQIS maintains a 1800 number which AQIS describes as the 'AQIS Redline'. It is a free call available to citizens to alert AQIS of possible breaches of quarantine legislation. The Redline number connects to the Compliance and Investigation Office in Canberra.

Page 1

Signed: 

Taken by:   
SRL

Filed on behalf of the Respondent

**MINTER ELLISON**  
Lawyers  
Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000

DX 102 BRISBANE  
Telephone (07) 3226 6333  
Facsimile (07) 3229 1066  
Reference DGT 26-2847697

4. On 12 June 2001, I was informed by Tony Young, Senior Compliance Officer of AQIS, that a Redline call had been received on that day relating to alleged importation of budwood in Emerald. At the time, an electronic mail was sent from the AQIS Canberra office to the AQIS Brisbane office providing details of the Redline call.
5. On 25 June 2001, I assumed responsibility for the investigation which followed the Redline call. I arranged for the appropriate preliminary entry to be made into our Compliance Information System ('CIS') and for a search to be made of travel movements in and out of Australia for
- (a) Phillip Cea;
  - (b) Michelle King; and
  - (c) Darwin King.

From the information on file, I was aware that Michelle King and Darwin King are the children of Phillip Cea.

I also arranged for company searches to be undertaken.

6. On 13 July 2001, I spoke with the informant, Mr Wayne Donald Gillies and I obtained a statement from him which I prepared and forwarded to him for signature. At about that time Mr Gillies forwarded to AQIS a rough sketch plan setting out, he said, the locations of some of the various crops, buildings, and dwellings at the Applicant's farm. Exhibited hereto and marked SRW1 is the sketch plan called 'The Sketch Plan'.
7. On 16 July 2001, I contacted Mr G Foord from the Western Australian Agricultural Department, who informed me and I believed it to be true that the variety of mandarin known as ponkan (the variety identified by Mr Gillies as having been imported illegally by the Applicant) was not known to be in Western Australia.

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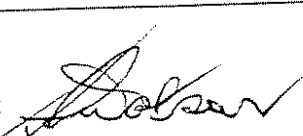
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PC

8. On 17 July 2001, I contacted Mr G Sanderson from the NSW Department of Agriculture, who informed me and I believed it to be true that to his knowledge there was only one tree of the variety of mandarin known as ponkan which was growing under control in a Government Arboretum. I also contacted Mr P Gallasch from the South Australian Department of Agriculture. On 23 July, 2001 Mr Gallasch informed me and I believed it to be true that he had no knowledge of any commercial plantings of the ponkan mandarin variety.
9. On 20 July 2001, I sought advice from Dr Vanessa Mary Brake who is a Quarantine Plant Pathologist within AQIS.
10. On 20 July, 2001 Dr Brake provided to me a Statement of Disease Risk in the matter of Evergreen Farm. Exhibited hereto and marked **SRW2** is a true copy of that Statement of Disease Risk in the matter of Evergreen Farm ('the Disease Risk Statement').
11. The Disease Risk Statement contains information relating to exotic pathogens which could be introduced on cuttings of mandarin, grape and lychee.
12. As a result of receiving the information from Mr Gillies and receiving advice from Dr Vanessa Brake and from the enquiries which I had made, I formed the opinion that there may have been prohibited plants at the Applicant's Farm at Emerald and, furthermore, that the presence of these plants meant there was a high risk that exotic disease may also be present which would potentially threaten Australia's agricultural industry.
13. As a result, I applied for, and obtained an Offence Related Warrant. I filed an Application for Offence Related Warrant to Search Premises on 23 July 2001. Exhibited hereto and marked **SRW3** is Application for Offence Related Warrant to Search Premises Exhibited hereto and marked **SRW4** is Offence Related Warrant.
14. In the presence of AQIS Senior Compliance Officer Tony Young, AQIS Senior Plant Pathologist Dr Vanessa Brake, AQIS Senior Entomologist Mr Bill Crowe,

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Signed: 

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AQIS Senior Quarantine Officer Bill Harper, AQIS Senior Quarantine Officer Shane Richardson, Mr Dan Smith, an Entomologist from the Queensland Department of Primary Industries, and Mr Wayne Gillies, I attended at Evergreen Farm, owned by Pacific Century Production Pty Ltd, at Emerald on 26 July 2001.

15. We arrived at Evergreen Farm at 7.05am and met a person who identified herself as Michelle King. Tony Young said "Is the Owner of the property here?". Ms King replied "I am a Director of the Company".
16. I then handed to Ms King a copy of the Search Warrant and explained the purpose of our attendance on the farm. At the same time, I handed to Ms King a 'Notice to Occupier'.
17. Mr Young and I waited in the office while Ms King took the opportunity to obtain legal advice.
18. At about 7.30am the group met in the Boardroom with Ms King and Mrs Cea, a person Ms King identified as her mother. Mr Tony Young and I further explained the activities we would be undertaking during the day, and offered Ms King the opportunity to accompany us.
19. We first inspected the nursery and associated structures. We took some photographs, but did not take any specimens.
20. Guided by Mr Gillies, we travelled to a citrus block, later identified on a colour coded farm map as Citrus Block 182, where 53 mandarin cuttings and whole plants, were taken for further inspection. Plants from which cuttings were taken were marked with yellow 'Quarantine Hold' tape and seals.
21. Once again, guided by Mr Gillies, we proceeded to a section of the grape growing area, later identified on a colour coded farm map as Grape Block 179. On route to that area he handed Senior Compliance Officer Tony Young a piece of paper with handwritten details relating to rows and numbers of plants, which he said were the cuttings that had been illegally imported and grafted onto existing root stock.

Exhibited hereto and marked **SRW5** is a true copy of that piece of paper ('the Handwritten Note').

22. At this section of the grape growing area of Evergreen Farm, we proceeded to rows numbered 1, 10 and 20, with the intention of inspecting the plants which, according to the information supplied by Mr Gillies were the grapevines which had been imported into Australia from California, contrary to the provisions of the *Quarantine Act*.
23. On arriving at that area, I noticed that the soil had been disturbed around the plants in the following rows:

| Row | Plant  |
|-----|--------|
| 1   | 4 - 5  |
| 10  | 1 - 18 |
| 20  | 1 - 20 |

24. Those plants corresponded (except for positions 1-3 in row number 1) with the locations of the grapevines which were said to have been imported contrary to the provisions of the *Quarantine Act*, as described by Mr Gillies in the Handwritten Note.
25. The area had the appearance as if plants had been removed from those locations and replaced with different plants. It had this appearance because there was newly turned soil around the base of each of these plants. Exhibited hereto and marked **SW6** are copies of various photographs, taken at the time, showing the disturbed soil.
26. For plants numbered 1-3 in row number, 1 it appeared as if the stay post at the end of this row had, at some time recently in the past, been relocated to a position between plants number 3 and 4. The first three plants appeared to be in their original positions between the previous position of the stay post and the new

position of the stay post. For the purpose of testing and inspection, we took possession of the three plants outside the new position of the stay post. Of the three plants taken, only one was living.

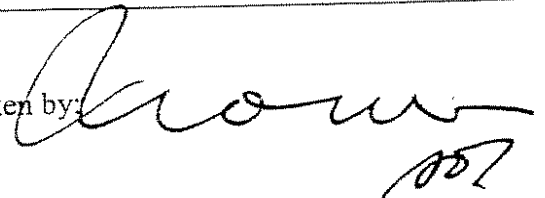
27. As a result of my observations, I was concerned that the prohibited vines had been removed and replaced by other grape plants. I returned the Applicant's vehicle where a person who introduced herself as Leonie, told me she had been asked to supervise the search. I asked her to contact Ms King and arrange for the nursery manager and the grape manager to attend the grape lot where we were situated. Some 15 minutes later, we were joined by Ms King, Mrs Cea, Mr Robin Price (the Nursery Manager) and Mr Marco Cornejo. I asked Mr Price about his knowledge of the disturbance to the grape plants to which both he and Ms King said he had no knowledge of the planting as his field of expertise was solely within the nursery area.
28. I then spoke to Mr Cornejo. I said to him "Are you Marco" to which he replied "yes". I then said "Are you the grape manager" to which he also responded "Yes". I then asked Mr Cornejo about his knowledge of the plantings, to which he replied "January". Mr Cornejo then displayed difficulty in understanding further questions. I was then informed by Ms King that Mr Cornejo had difficulties understanding English. I requested that Mrs Cea inform Mr Cornejo that I wished to see him at the company office upon our return to that area. I then asked Ms King about her knowledge of the recently disturbed soil, to which she responded "We have had some weed problems".
29. I was not satisfied with the explanation for the apparently disturbed soil around the base of the grapevines which were planted in the locations which were set out in the Handwritten Notes. As a result, I was not aware of what happened with the vines which were originally planted in those locations. I was concerned that those vines may have been replanted or moved to other locations in Evergreen Farm.
30. At the time Dr Brake expressed grave concern to me as to the whereabouts of the plants which had apparently been removed. She also expressed concern (as did Quarantine Officer Crowe) as to the whereabouts of the plants and the cuttings as

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Signed:



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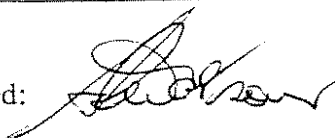
a consequence of pruning which had taken place at an earlier time. Both Dr Brake and Quarantine Officer Crowe said that without knowledge of the whereabouts of these plants and cuttings it would not be possible to prevent the spread of any exotic diseases and pests which may have been present.

31. At approximately 11.45 am, we reconvened at the company boardroom. At that time, we arranged for Mr Cornejo to speak by telephone with an AQIS officer from Brisbane who speaks Spanish. I understood he asked Mr Cornejo a number of questions regarding Mr Cornejo's knowledge of the disturbance of the grape plants in question in rows 1, 10 and 20. I understood that Mr Cornejo replied that he did not have any knowledge of disturbance of the soil or the replanting of those particular vines.
32. At that time, at the conference room, I completed the Order into Quarantine numbered 025035 and handed it to Ms King. Ms King asked me how long would the tests take, and I responded "It could be weeks". I responded in this way because I had heard discussions taking place between Dr Brake and Mr Crowe regarding the testing procedures which would be undertaken which, I understood these tests would include DNA testing, ELIZA antibody tests, and the growing out of the whole plants for a period of time. Therefore, I was of the belief that the tests would take some weeks at least. I did not mention a specific number of weeks.
33. Ms King asked if the company could be represented during the tests. I explained that I did not believe this would be possible because of the technical nature of the tests under controlled laboratory procedures and the time which would be taken to conduct those tests.
34. We then proceeded to the lychee plantation. At that location, Tony Young asked Ms King about the location of lot 183. I heard Ms King reply and say "we do not have lot numbers". As we proceeded along the roadway beside the lychee plantation, it became obvious that there were numbered growing areas and we located lot 183. The Handwritten Note indicated that the grafted plants began at row 13 south in Lot 183. Mr Gillies had previously informed me and I believed it

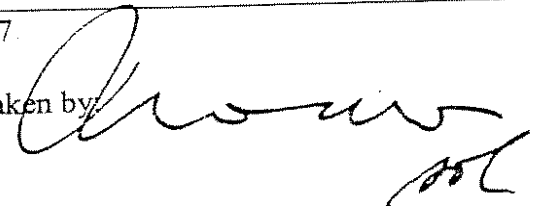
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Page 7.

Signed:



Taken by:





to be true, that the lychee graftings had all failed. An inspection of this lot revealed that the graftings had all failed and there were no live grafts to be found. However, we took five plant samples which contained live root stock, but dead grafts.

35. Tony Young and I then proceeded to the 'White House' which Ms King informed us was the residence in which she and her mother lived. Because of information which had been provided by Mr Gillies we wished to speak to the housekeeper who, I understood, had made a number of visits to the Philippines. We wished to obtain her passport details. Upon entering the dwelling we met Mrs Cea. We asked to see the housekeeper. After Mrs Cea returned with Ida Suarez, the housekeeper, Tony Young asked to see Suarez's passport. As she was handing the passport to Tony Young, Mrs Cea attempted to grasp the passport from both Ms Suarez and Tony Young, insisting that Tony Young not be allowed to see the passport. It was necessary for Tony Young to remind her that she was verging on hindering and obstructing him in the exercise of his duty. At that time, Ms King entered and asked what was going on. Mr Young relayed to her that he needed to see Ida's passport and Ms King objected to the intrusion into her personal dwelling. I reminded her that the warrant provisions allowed the search to take place in all areas within the confines of Evergreen Farm.
36. After viewing the passport, and noting details contained therein, we left the residence to return shortly after for an inspection of a downstairs room adjacent to the laundry. The door to this room was behind a full length mirror. This door was found to be locked and Ms King stated that it had never been opened and they did not have a key from the builder. We indicated that if necessary, we would force entry under the provisions of the warrant to inspect the contents of the room. However, we did not gain entry to that room. We did not conduct any further search of the residence.
37. We returned to the office area when we decided to inspect the packing shed. We inspected the packing shed but took no samples.

Signed:

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Taken by:

38. Upon returning to the office I was approached by Ms King who insisted that at this time we return to the residence with a maintenance person who had in his possession a large crowbar. I declined the offer to return to the residence, however upon her continued insistence, I returned with Quarantine Officer Richardson. Upon arriving at the room it became apparent that to force entry would cause a large amount of damage to the door, mirror and door jamb. I indicated that I wished to take no further part in the destruction of the door and returned to the office where I rejoined Tony Young and the remainder of the search team.
39. Prior to leaving the farm, Tony Young produced a notice on computer, relating to the quarantine. This notice was placed on a post at the boomgate on our departure from the farm.
40. On 27 July 2001 at approximately 2.00pm Quarantine Officers Young, Brakes, Crewe and myself returned to the farm and met with Ms King. At that meeting, I handed Order into Quarantine number 025037 to Ms King and informed her that we would be posting additional signage. Prior to leaving the farm, we had a general conversation in the boardroom with Ms King. We reinforced the need for quarantine and that the signs were not to be interfered with. She indicated concern about work continuing on the farm and I told her that they could go about their daily business provided they did not interfere with the plants on citrus lot 182 nor contravene the requirements of the Orders into Quarantine. She asked about planting citrus plants that were being held at the nursery and I informed her that there was no impediment upon doing this.
41. After that meeting, we placed a quarantine sign on an area described on a company farm plan as Citrus Block 182. A further sign was placed on a log wall at the front of the company office. Another was placed on a fence adjacent to the boomgate and a fourth sign was placed at the entrance to the property.
42. Since 27 July 2001, I have contacted the persons, known as 'budders', Mr Greg Richards and Mr Gerrard Miller who had worked for the company. These people are responsible for the grafting of budwood onto root stock. They undertook the

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Signed:

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Taken by:

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grafting of the budwood at the applicant's farm between June and November 2000. Gerrard Miller told me that he had collected bundles of budwood from the White House where they had been stored in a domestic refrigerator. Gerrard Miller told me the bundles were wrapped in damp tea towels and he said there appeared to be some type of black leaf material amongst the cuttings. I asked Gerrard Miller whether the cuttings had a particular smell like tea and he responded by saying "yes, there was a peculiar smell – it seemed to come from the leaf material". One of the budders said it may have been like tea. I asked this question because the statement obtained from Mr Gillies said he had been told that the cuttings had been smuggled into the country in bags of tea.

43. Gerrard Miller said that the cuttings appeared unusually short in comparison with the normal grafting budwood. I had previously been told by Mr Gillies that the budwood had to be shorter than normal to allow it to fit into the tea containers.
44. I have also spoken with Wayne Gillies. During the conversation with Mr Gillies I read to him the contents of paragraph 7, 8 and 9 of the affidavit of Phillip Cea sworn in these proceedings and also the section of the affidavit of Michelle King sworn in these proceedings under the heading of 'Motives of Gillies' (paragraphs 24 to 30).
45. After having heard that information, Mr Gillies informed me that information which he had provided to me was true and correct in every respect.
46. Having regard to:
- (a) the observations which I made whilst at the Applicant's farm;
  - (b) the investigations which I have undertaken;
  - (c) the advice which I received from Dr Brake;
  - (d) the affidavit of William Phillip Roberts;

I have the view that the citrus and grape plants at the Applicant's Farm at Emerald are likely to be infected by a quarantinable disease or diseases, namely:

Signed:

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Taken by:

*[Handwritten signature]*

- (i) Citrus Greening
- (ii) Citrus canker
- (iii) Satsuma dwarf virus
- (iv) Tristeza virus
- (v) Pierce's disease


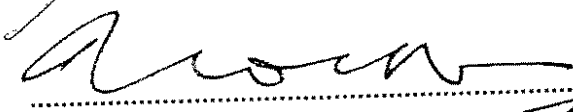
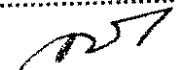
In forming this view I have read, and taken into account, the evidence which has been delivered in the Applicant's material:

- Affidavit of Phillip Cea
- Affidavit of Darwin King
- Affidavit of Dr Jenny Saleeba
- Affidavit of Jonathon George Webber
- Affidavit of Michelle King
- Further Affidavit of Michelle King
- Affidavit of Roger Lindemen

47. All the facts and circumstances deposed to in this affidavit are within my own knowledge except where they have been deposed to from information only and my means of knowledge and sources of information appear in my affidavit.

SWORN at Brisbane  
in Queensland on 7 August 2001

before me

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IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

PACIFIC CENTURY PRODUCTIONS  
PTY LTD


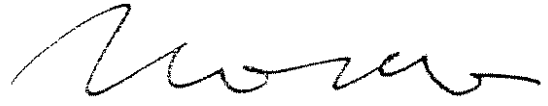
Applicant

STEPHEN RONALD WATSON

Respondent

CERTIFICATE OF EXHIBIT

Exhibit **SRW1**. to the Affidavit of **STEPHEN RONALD WATSON** sworn on 7 August  
2001 at Brisbane

  
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Deponent  
-----  
Solicitor/Commissioner for  
Declarations/Justice of the Peace

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CERTIFICATE OF EXHIBIT

Filed on behalf of the Respondent

**MINTER ELLISON**  
Lawyers  
Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000

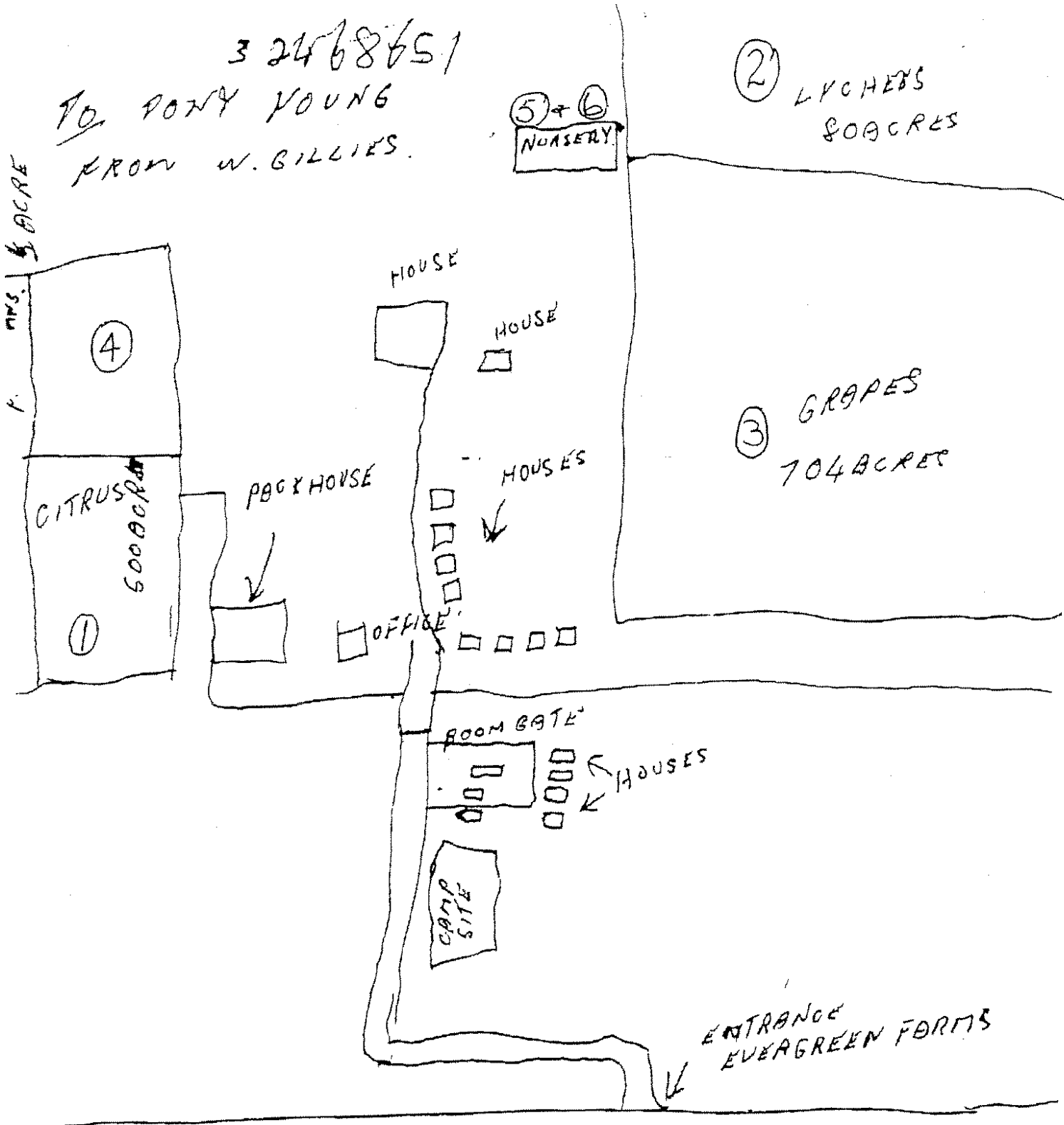
DX 102 BRISBANE  
Telephone (07) 3226 6333  
Facsimile (07) 3229 1066  
Reference DGT 26-2847697

SRW-1

'A'

32468651  
TO PONY YOUNG  
FROM W. GILLIES.

1. Mrs. 1/2 ACRE



CITRUS  
600 ACRES

①

④

PACK HOUSE

HOUSE

HOUSE

HOUSES

OFFICE

ROOM BATH

HOUSES

CAMP SITE

ENTRANCE  
EVERGREEN FARMS

← SPINOSURE

GREGORY HIGHWAY EMERALD →

②

LYCHEES  
800 ACRES

③

GRAPES  
704 ACRES

⑤ + ⑥  
NURSERY

IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

PACIFIC CENTURY PRODUCTIONS  
PTY LTD


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Exhibit SRW2. to the Affidavit of STEPHEN RONALD WATSON sworn on 7 August  
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Deponent



Solicitor/Commissioner for  
Declarations/Justice of the Peace

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CERTIFICATE OF EXHIBIT

Filed on behalf of the Respondent

**MINTER ELLISON**  
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Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000

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Telephone (07) 3226 6333  
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IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

PACIFIC CENTURY PRODUCTIONS  
PTY LTD

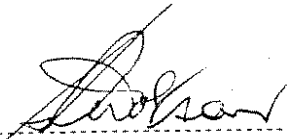
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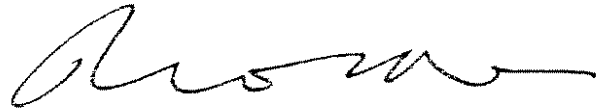
STEPHEN RONALD WATSON

Respondent

CERTIFICATE OF EXHIBIT

Exhibit SRW3. to the Affidavit of STEPHEN RONALD WATSON sworn on 7 August  
2001 at Brisbane

  
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Deponent

  
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Solicitor/Commissioner for  
Declarations/Justice of the Peace

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CERTIFICATE OF EXHIBIT

Filed on behalf of the Respondent

**MINTER ELLISON**  
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Facsimile (07) 3229 1066  
Reference DGT 26-2847697



## COMMONWEALTH OF AUSTRALIA

## QUARANTINE ACT 1908: Section 66AF

## APPLICATION FOR OFFENCE RELATED WARRANT TO SEARCH PREMISES

I, Stephen Ronald Watson of the Australian Quarantine and Inspection Service in the State of Queensland, being duly sworn make oath and say as follows:

1. I am a "Quarantine Officer" appointed under Sections 9 (2) and 9AA (3) of the Quarantine Act 1908 to perform the functions of a Quarantine Officer (human), (animals) (plants) and for the purposes of Section 8A (6) and 8B (6) of the said Act.
2. I am the applicant for an offence related warrant under section 66AF of the Quarantine Act 1908 in respect of the following premises:

'Evergreen Farms' Gregory Highway, Emerald Queensland 4720

Being a rural property with assorted sheds, dwelling houses, nursery sheds, packing sheds, storage areas and paddocks of propagated plants.

The information set out below has been obtained by me in the course of my quarantine duties from my own inquiries and from inquiries made by other AQIS officers. The sources of the information are set out below. I believe that the information is true and correct.

4. By reason of the matters set out below a Magistrate may properly be satisfied that there are reasonable grounds for suspecting that there are at the premises specified above, any evidential material which satisfy the following three conditions:

## FIRST CONDITION:

Evidential material described as:

- Grape budwood of the variety Melissa, Autumn royal and Camellia grafted to existing rootstock on the property
- Mandarin citrus cuttings of the variety Ponkan grafted to existing rootstock on the property
- Lychee cuttings of the variety Fuzie-shu grafted to existing rootstock on the property
- Melon seeds
- Paw paw seeds
- Any other varieties or types of plant material for which a valid Import Permit has not been issued by the Director of Quarantine.

Originals or copies of any one or more of the following including any of them which are stored on magnetic or electronic storage medium:

- Planting records
- Travel documents

- Contracts
- Purchase Orders
- Shipping Instructions
- Delivery Orders
- Invoices
- Inventories
- Packing Lists
- Facsimile transmissions
- E-mail traffic
- Diaries
- Working papers
- Correspondence
- Invoices
- Internal Memoranda

**SECOND CONDITION:**

Evidential materials, which relate to any one or more of the following:

- Mr Phillip Medina CEA
- Mrs Catherine CEA
- Mr Darwin KING
- Ms Michelle Garcia KING
- Mr Wayne Donald GILLIES
- Pacific Century Marketing Pty Ltd
- Pacific Century Productions Pty Ltd
- Pacific Century Packaging Pty Ltd
- Pacific Exchange Holdings Pty Ltd
- Pacific Exchange Corporation Pty Ltd
- Pacific Exchange Investments Pty Ltd
- Pacific Exchange Corporate Investments Pty Ltd
- Australian Customs Service [ACS]
- Australian Quarantine and Inspection Service [AQIS]

**THIRD CONDITION**

Evidential material (things) with respect to which the following offence(s) against the Quarantine Act 1908 has been committed or is suspected, on reasonable grounds, to have been committed:

*Namely, it will be alleged that Phillip Medina CEA did alone or with others introduce, import or bring into Australia plant material being; grape budwood, citrus cuttings, lychee cuttings, melon seeds and paw paw seeds contrary to Section 67(1) of the Quarantine Act 1908.*

- 5(a) The Australian Quarantine and Inspection Service (AQIS) which is a Division of the Department of Agriculture Fisheries and Forestry Australia (the Department) is

responsible for administration of the Quarantine Act 1908, (the Act), and subordinate legislation. This includes the Quarantine Regulations 2000 and Quarantine Proclamation 1998 as amended.

Section 13. (1) of the Act has provision for the Governor General to make, by Proclamation, certain declarations, appointments and prohibitions, not inconsistent with the Regulations. This allows provisions of the Act to be rapidly aligned with current community practices. Quarantine Proclamation Part 7, Division 3 Section 62, vide sect. 13. (1) (f) of the Act prohibits the importation into Australia of any animals or plants or any parts of animals or plants.

Section 13 (2A) of the Act states;

A Proclamation under subsection (1)

- (a) prohibiting the introduction into Australia or the Cocos Islands of any thing; or
- (b) prohibiting the importation into Australia or the Cocos Islands, of anything; or
- (c) prohibiting the bringing into a port or other place in Australia or the Cocos Islands of anything;

may provide that the introduction, importation, bringing or removal is prohibited unless a permit to introduce, import, bring or remove the thing is granted by a Director of Quarantine.

5(b) The AQIS Compliance & Investigation Unit (C&I) seeks to warrant the integrity of AQIS export and quarantine surveillance systems by delivering an investigation and monitoring service designed to encourage industry compliance with the legislative requirements for the movement of goods into or out of Australia.

5(c) On the 12 June 2001, Mr Wayne Donald Gillies, contacted AQIS. Mr Gillies has been employed by Mr Cea at the above premises, as the production manager, since 31 May, 1999. It is alleged in a signed statement from Mr Gillies that the property owner, Mr Philip Cea, told him in conversations between September and November 2000, that he (Cea) had illegally imported 500 citrus and 1500 lychee cuttings from China. Further, that Mr Cea also told Mr Gillies that he (Cea) had imported 600 grape cuttings from California, approximately 6000 paw paw seeds from the Philippines and a quantity of melon seeds from China. Mr Cea told Mr Gillies that the cuttings and seeds had been imported during the months of September to November, 2000.

A sketch plan drawn by Mr Gillies of the property, is attached to this application and marked with the letter 'A'. The location of the cuttings, plantings and seeds are marked on the sketch as follows:

- 1) Citrus cuttings
- 2) Lychee cuttings
- 3) Grape cuttings
- 4) Paw paw plants

- 5) Paw paw seeds
- 6) Melon seeds -

Mr Gillies states that Mr Cea told him during conversations between September and November 2000, that the cuttings were brought into Australia in packets of tea wrapped in plastic bags.

Mr Gillies also states that Mr Cea told him during conversations between September and November 2000, that if the items were found by AQIS, he was prepared to pay fines and then have the plants grown out under quarantine conditions until AQIS was satisfied that there was no disease problem.

- 5(d) Under Section 46A (1)(a) of the Quarantine Act 1908, the Director of Quarantine "...may approve the place as a place where goods of a specified class that are subject to quarantine may be treated or otherwise dealt with".

Checks made by Senior Compliance Officer Steve Watson of AQIS records did not indicate that the premises have been approved under this section.

- 5(e) Under Section 66B(1) of the Quarantine Act 1908, the Director of Quarantine may, on behalf of the Commonwealth, enter into an agreement (a *compliance agreement*) with a person in connection with:
- (a) the application of particular procedures in respect of goods; and
  - (b) the supervision, monitoring and testing of a person's compliance with those procedures.

A check made by Senior Compliance Officer Watson of the AQIS database did not show any compliance agreement with this premises.

- 5(f) A check of the AQIS Permit Management System does not indicate that any permits have been issued to Mr Cea or his companies for the importation of budwood or seeds.

- 5(g) A Risk Statement relative to the importation of plant goods which have bypassed quarantine is appended and marked "B"

- 5(h) Checks with the Australian Securities and Investments Commission data base indicate that Philip Medina Cea is a current Director of Pacific Century Production Pty Ltd (trading as Evergreen Farms, Emerald, Qld). The company was registered on 10 May 1999, with a current registered office at Holden Place, Bundall, Qld. It is believed that records [and other evidential material] in relation to the alleged illegal importation will be held at the property known as Evergreen Farms, Gregory Hwy, Emerald, Qld.

- 5(i) The suspect entities in this matter are:

- Mr Phillip Medina CEA
- Mrs Catherine CEA (wife)
- Mr Darwin KING (son)
- Ms Michelle Garcia KING (daughter)
- Evergreen Farms

6. I suspect that the things described above will provide evidence of illegal importation of quarantinable plant material.
7. The following additional matters are relevant to the question of whether a search warrant should be issued: The informant has offered the information whilst employed on the property as the Farm Production Manager. He has expressed dismay that Australia's horticultural industry may be placed at risk by the propagation of illegally imported plant material and seeds. He is prepared to assist in the search of the property by identifying on site where the cuttings have been grafted and seeds stored.

And I hereby apply for an offence related warrant under section 66AF Quarantine Act 1908, acting under the authority of 66AK Quarantine Act 1908, authorising me, as executing officer with such assistance as is necessary and reasonable in the circumstances and by such force against persons and things as is necessary and reasonable in the circumstances to -

- enter the premises mentioned above between the hours of 7.00am and 5.00pm
- exercise the powers set out in section 66AA of the Quarantine Act;
- search the premises and any thing on the premises for the kinds of evidential material specified in the warrant, and to seize things of those kinds found at the premises;
- seize other things found at the premises in the course of the search that the executing officer or an officer assisting believes on reasonable grounds to be:
  - (i) evidential material in relation to an offence to which the warrant relates; or
  - (ii) evidential material in relation to another offence against this Act; if the executing officer or an officer assisting believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence against this Act.

The powers set out in section 66AA of the Quarantine Act 1908, in so far as they are relevant, are -

- (1)
  - (a) to search the premises and any thing on the premises;
  - (b) to examine any thing on the premises;
  - (c) to take photographs (including video or audio recordings) or to make sketches of the premises or any thing on the premises;
  - (d) to take extracts from, or make copies of, any document on the premises;
  - (e) to secure the premises or any thing on the premises;
  - (f) if tests are to be carried out on samples taken of any thing on the premises and the quarantine officer thinks it is necessary to do so, to remove the samples from the premises for the purpose of conducting the tests;
  - (g) to order into quarantine any infected goods found on the premises;
  - (h) if the quarantine officer has reasonable grounds to suspect that infected goods have been or are on the premises—to carry out prescribed measures for regulating or preventing people, vehicles or goods from entering or leaving the premises, or prescribed measures of quarantine on or relating to the premises, during:
    - (i) the search referred to in paragraph (a) and the examination referred to in paragraph (b); and

- (ii) the taking of samples of goods found on the premises or the conducting of tests on such samples; and
  - (iii) any period for which infected goods found on the premises remain on the premises, whether because of an approval of the premises under section 46A or otherwise; and
  - (iv) such period after the treatment of infected goods found on the premises as the quarantine officer considers, on reasonable grounds, to be a period during which there is a danger of the spread of diseases or pests because of those goods having been on the premises;
- (i) to affix on or near the premises notices in relation to quarantine that have been approved by a Director of Quarantine;
  - (j) to trap or destroy animals on the premises;
  - (k) to exercise any other powers that the quarantine officer has under this Act in respect of the premises or infected goods found on the premises.
- (2) If, while a quarantine officer is entitled to exercise powers referred to in subsection (1) in relation to premises, any vehicle leaves the premises without the permission of the quarantine officer, the quarantine officer may exercise those powers, so far as relevant, in relation to the vehicle as if it were part of the premises
- (3) For the purposes of this section, but without affecting the operation of section 5B:
- (a) a plant is taken to have been exposed to any plant of which it is the progeny, including any plant of which it was a cutting or from which it was otherwise derived.
- (4) For the purposes of paragraph (1)(h):
- (a) each of the following is a prescribed measure for regulating or preventing people, vehicles or goods from entering or leaving the premises:
    - (i) stopping a person or vehicle;
    - (ii) prohibiting a person from proceeding, moving goods, or driving or moving a vehicle, beyond a specified point or outside a specified area;
    - (iii) prohibiting a person from entering, moving goods, or driving or moving a vehicle, into a specified area;
    - (iv) requiring a person to proceed, move goods, or drive or move a vehicle, along a specified route or to a specified area;
    - (v) removing a person, a vehicle or goods from any area; and
  - (b) each of the following is a prescribed measure of quarantine:
    - (i) treating any person, premises or goods;
    - (ii) requiring a person to treat himself or herself or any clothes that he or she is wearing or has in his or her possession;
    - (iii) isolating people, premises or goods;
    - (iv) examining an animal for the purpose of determining whether it is infected with a disease or pest;
    - (v) detaining an animal for the purpose of examining it as mentioned in subparagraph (iv);
    - (vi) detaining any goods for the purpose of carrying out any treatment in relation to a disease or pest.

**(5) In this section**

**Infected goods means any of the following goods:**

- (a) goods infected with a quarantinable disease or quarantinable pest;
- (b) goods that a quarantine officer suspects, on reasonable grounds, are likely to be infected with a quarantinable disease or a quarantinable pest;
- (c) goods that have been exposed to infection with a quarantinable disease or quarantinable pest;
- (d) goods that have been:
  - (i) imported into Australia or the Cocos Islands; or
  - (ii) brought into, or landed at, any port or other place in Australia or the Cocos Islands;
  - or
  - (iii) removed from a part of Australia to another part of Australia; or
  - (iv) removed from a part of the Cocos Islands to another part of the Cocos Islands; or
  - (v) removed from Australia to the Cocos Islands; or
  - (vi) removed from the Cocos Islands to Australia;
 in contravention of this Act;
- (e) goods that have been exposed to, or that a quarantine officer suspects, on reasonable grounds, have been exposed to, goods referred to in paragraph (a), (b), (c) or (d).

Note - evidential material means any of the following things, including such a thing in electronic form:

- (a) a thing with respect to which an offence against this Act has been committed or is suspected, on reasonable grounds, to have been committed;
- (b) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against this Act;
- (c) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of committing an offence against this Act.

Note that the powers set out in section 66AK of the Quarantine Act 1908, in executing a warrant are:

- (a) the executing officer may obtain such assistance as is necessary and reasonable in the circumstances; and
- (b) the executing officer, or a quarantine officer who is assisting in executing the warrant, may use such force against persons and things as is necessary and reasonable in the circumstances; and
- (c) a person who is not a quarantine officer, but has been authorised to assist in executing the warrant, may use such force against things as is necessary and reasonable in the circumstances.

And I ask that the warrant remain in force for 7 days.

Sworn at Brisbane in the

State of Queensland

This Twenty third day of July 2001

[Signature]  
Deponent

before me:

[Signature]  
A Magistrate in and for the State of Queensland

IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

PACIFIC CENTURY PRODUCTIONS  
PTY LTD


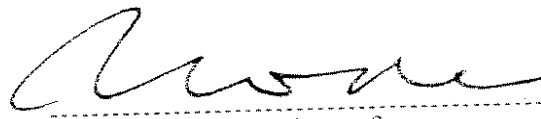
Applicant

STEPHEN RONALD WATSON

Respondent

CERTIFICATE OF EXHIBIT

Exhibit SRW4. to the Affidavit of STEPHEN RONALD WATSON sworn on 7 August  
2001 at Brisbane

  
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Deponent  
-----  
Solicitor/Commissioner for  
Declarations/Justice of the Peace

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CERTIFICATE OF EXHIBIT

Filed on behalf of the Respondent

**MINTER ELLISON**  
Lawyers  
Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000

DX 102 BRISBANE  
Telephone (07) 3226 6333  
Facsimile (07) 3229 1066  
Reference DGT 26-2847697



COMMONWEALTH OF AUSTRALIA  
 QUARANTINE ACT 1908: Section 66AF  
 OFFENCE RELATED WARRANT

TO: Stephen Ronald Watson

A Quarantine Officer with the Australian Quarantine and Inspection Service, appointed under Sections 9 (2) and 9AA (3) of the *Quarantine Act 1908* to perform the functions of a Quarantine Officer (human), (animals), (plants) and for the purposes of Section 8A (6) & 8B (6) of the said Act.

WHEREAS information on oath has been laid before me this day by you, a Quarantine Officer within the meaning of Section 5 of the *Quarantine Act 1908*;

AND WHEREAS I am satisfied by the said information that there are reasonable grounds for suspecting that there is on the premises specified in this offence related warrant evidential material of the kind specified in this offence related warrant;

AND WHEREAS I have been given any further information I required orally on oath about the grounds on which the issue of this warrant is sought;

I, *Jacqueline Rayne*, a magistrate within the meaning of the *Quarantine Act 1908*, hereby authorise you, Stephen Ronald Watson, the quarantine officer responsible for executing the warrant, with such assistance as is necessary and reasonable in the circumstances and by such force against persons and things as is necessary and reasonable in the circumstance:

- to enter the premises of **Evergreen Farms** located at Gregory Highway, Emerald, Qld
- to search the premises and any thing on the premises for evidential material which satisfies all of the following **THREE** conditions, namely:

**FIRST CONDITION**

Evidential material which is described as:

- Grape budwood of the variety Melissa, Autumn royal and Camellia grafted to existing rootstock on the property
- Mandarin citrus cuttings of the variety Ponkan grafted to existing rootstock on the property
- Lychee cuttings of the variety Fuzie-shu grafted to existing rootstock on the property
- Melon seeds
- Paw paw seeds
- Any other varieties or types of plant material for which a valid Import Permit has not been issued by the Director of Quarantine.

## SECOND CONDITION

Evidential material which relate to any one or more of the following:

- Mr Phillip Medina CEA
- Mrs Catherine CEA
- Mr Darwin KING
- Ms Michelle Garcia KING
- Mr Wayne Donald GILLIES
- Pacific Century Marketing Pty Ltd
- Pacific Century Productions Pty Ltd
- Pacific Century Packaging Pty Ltd
- Pacific Exchange Holdings Pty Ltd
- Pacific Exchange Corporation Pty Ltd
- Pacific Exchange Investments Pty Ltd
- Pacific Exchange Corporate Investments Pty Ltd
- Australian Customs Service [ACS]
- Australian Quarantine and Inspection Service [AQIS]

## THIRD CONDITION

Evidential material (things) with respect to which the following offence(s) against the Quarantine Act 1908 has been committed or is suspected, on reasonable grounds, to have been committed:

*Namely, it will be alleged that Phillip Medina CEA did alone or with others introduce, import or bring into Australia plant material being; grape budwood, citrus cuttings, lychee cuttings, melon seeds and paw paw seeds contrary to Section 67(1) of the Quarantine Act 1908.*

- to seize such evidential material that may be found at the premises;
- to seize other things found at the premises in the course of the search that the executing officer or an officer assisting believes on reasonable grounds to be:
  - (i) evidential material in relation to an offence to which the warrant relates; or
  - (ii) evidential material in relation to another offence against this Act; if the executing officer or an officer assisting believes on reasonable grounds that seizure of the thing is necessary to prevent its concealment, loss or destruction or its use in committing an offence against this Act
- to exercise the powers set out in section 66AA of the Quarantine Act 1908, namely:
  - (1)(a) to search the premises and any thing on the premises;
  - (b) to examine any thing on the premises;
  - (c) to take photographs (including video or audio recordings) or to make sketches of the premises or any thing on the premises;
  - (d) to take extracts from, or make copies of, any document on the premises;
  - (e) to secure the premises or any thing on the premises;

- (f) if tests are to be carried out on samples taken of any thing on the premises and the quarantine officer thinks it is necessary to do so, to remove the samples from the premises for the purpose of conducting the tests;
  - (g) to order into quarantine any infected goods found on the premises;
  - (h) if the quarantine officer has reasonable grounds to suspect that infected goods have been or are on the premises—to carry out prescribed measures for regulating or preventing people, vehicles or goods from entering or leaving the premises, or prescribed measures of quarantine on or relating to the premises, during:
    - (i) the search referred to in paragraph (a) and the examination referred to in paragraph (b); and
    - (ii) the taking of samples of goods found on the premises or the conducting of tests on such samples; and
    - (iii) any period for which infected goods found on the premises remain on the premises, whether because of an approval of the premises under section 46A or otherwise; and
    - (iv) such period after the treatment of infected goods found on the premises as the quarantine officer considers, on reasonable grounds, to be a period during which there is a danger of the spread of diseases or pests because of those goods having been on the premises;
  - (i) to affix on or near the premises notices in relation to quarantine that have been approved by a Director of Quarantine;
  - (j) to trap or destroy animals on the premises;
  - (k) to exercise any other powers that the quarantine officer has under this Act in respect of the premises or infected goods found on the premises.
- (2) If, while a quarantine officer is entitled to exercise powers referred to in subsection (1) in relation to premises, any vehicle leaves the premises without the permission of the quarantine officer, the quarantine officer may exercise those powers, so far as relevant, in relation to the vehicle as if it were part of the premises
- (3) For the purposes of this section, but without affecting the operation of section 5B:
- (a) an animal is taken to have been exposed to any animal of which it is the progeny; and
  - (b) a plant is taken to have been exposed to any plant of which it is the progeny, including any plant of which it was a cutting or from which it was otherwise derived.
- (4) For the purposes of paragraph (1)(h):
- (a) each of the following is a prescribed measure for regulating or preventing people, vehicles or goods from entering or leaving the premises:
    - (i) stopping a person or vehicle;
    - (ii) prohibiting a person from proceeding, moving goods, or driving or moving a vehicle, beyond a specified point or outside a specified area;
    - (iii) prohibiting a person from entering, moving goods, or driving or moving a vehicle, into a specified area;
    - (iv) requiring a person to proceed, move goods, or drive or move a vehicle, along a specified route or to a specified area;
    - (v) removing a person, a vehicle or goods from any area; and
  - (b) each of the following is a prescribed measure of quarantine:
    - (i) treating any person, premises or goods;
    - (ii) requiring a person to treat himself or herself or any clothes that he or she is wearing or has in his or her possession;
    - (iii) isolating people, premises or goods;

- (iv) examining an animal for the purpose of determining whether it is infected with a disease or pest;
- (v) detaining an animal for the purpose of examining it as mentioned in subparagraph (iv);
- (vi) detaining any goods for the purpose of carrying out any treatment in relation to a disease or pest.

(5) In this section "*Infected Goods*" means any of the following goods:

- (a) goods infected with a quarantinable disease or quarantinable pest;
- (b) goods that a quarantine officer suspects, on reasonable grounds, are likely to be infected with a quarantinable disease or a quarantinable pest;
- (c) goods that have been exposed to infection with a quarantinable disease or quarantinable pest;
- (d) goods that have been:
  - (i) imported into Australia or the Cocos Islands; or
  - (ii) brought into, or landed at, any port or other place in Australia or the Cocos Islands; or
  - (iii) removed from a part of Australia to another part of Australia; or
  - (iv) removed from a part of the Cocos Islands to another part of the Cocos Islands; or
  - (v) removed from Australia to the Cocos Islands; or
  - (vi) removed from the Cocos Islands to Australia;
 in contravention of this Act;
- (e) goods that have been exposed to, or that a quarantine officer suspects, on reasonable grounds, have been exposed to, goods referred to in paragraph (a), (b), (c) or (d).

Note - evidential material means any of the following things, including such a thing in electronic form:

- (a) a thing with respect to which an offence against this Act has been committed or is suspected, on reasonable grounds, to have been committed;
- (b) a thing that there are reasonable grounds for suspecting will afford evidence as to the commission of an offence against this Act;
- (c) a thing that there are reasonable grounds for suspecting is intended to be used for the purpose of committing an offence against this Act.

AND, by virtue of section 66AG(1)(3) of the Quarantine Act 1908, you (as executing officer) are authorised to make things seized available to officers of other agencies if it is necessary to do so for the purpose of investigating or prosecuting an offence to which the things relate.

The offence(s) to which this warrant relates is/are that/those specified above in the third condition.

This warrant may be executed between the hours of 7.00am and 5.00pm.

This warrant remains in force for a period of seven days.

A copy of sections 66AF to 66AX of the Quarantine Act 1908 is attached to this warrant.

Issued by me at Brisbane in the State of Queensland

on the 23 day of July 2001

J. J. Payne  
A Magistrate in and for the State of Queensland

IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

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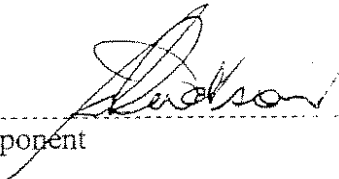
Applicant

STEPHEN RONALD WATSON

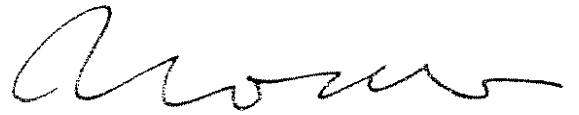
Respondent

CERTIFICATE OF EXHIBIT

Exhibit SRW5. to the Affidavit of STEPHEN RONALD WATSON sworn on 7 August  
2001 at Brisbane



Deponent



Solicitor/Commissioner for  
Declarations/Justice of the Peace

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CERTIFICATE OF EXHIBIT

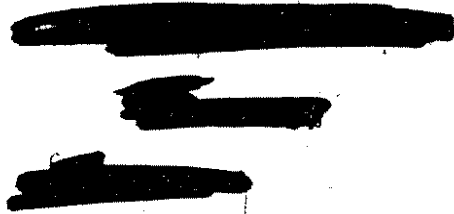
Filed on behalf of the Respondent

**MINTER ELLISON**  
Lawyers  
Waterfront Place  
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BRISBANE QLD 4000

DX 102 BRISBANE  
Telephone (07) 3226 6333  
Facsimile (07) 3229 1066  
Reference DGT 26-2847697

SRW-5

1ST - S EAST  
10TH - 18  
20TH - 20  
LYCHBE 183 13TH ROW SOUTH



DEC 88

IN THE FEDERAL COURT OF AUSTRALIA  
QUEENSLAND DISTRICT REGISTRY

No. 169 of 2001

PACIFIC CENTURY PRODUCTIONS  
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Applicant

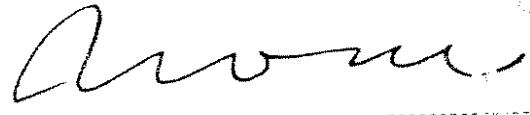
STEPHEN RONALD WATSON

Respondent

CERTIFICATE OF EXHIBIT

Exhibit **SRW6**. to the Affidavit of **STEPHEN RONALD WATSON** sworn on 7 August  
2001 at Brisbane

  
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Deponer.

  
-----  
~~Solicitor/Commissioner for  
Declarations/Justice of the Peace~~

---

CERTIFICATE OF EXHIBIT

Filed on behalf of the Respondent

**MINTER ELLISON**  
Lawyers  
Waterfront Place  
1 Eagle Street  
BRISBANE QLD 4000

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Facsimile (07) 3229 1066  
Reference DGT 26-2847697

SRW-6

