

2075. Adulteration and misbranding of prophylactics. U. S. v. The Perfection Rubber Co. and William B. Augustine. Pleas of guilty. Fines of \$80 and costs imposed upon each defendant; payment of fine against corporation suspended. (F. D. C. No. 20936. Sample Nos. 10958-H, 13987-21445-H, 22380-H.)

INFORMATION FILED: October 17, 1946, Northern District of Ohio, against the Perfection Rubber Co., a corporation, Akron, Ohio, and William B. Augustine president of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of July 10 and August 1945, from the State of Ohio into the States of Pennsylvania, Indiana, Kansas and Illinois.

PRODUCT: Samples of the product were found to contain holes in amounts varying from 7.4 percent to 33 percent.

LABEL, IN PART: "Blow Perfection Tested," "Perfection Latex Gold Bar Supreme Quality Prophylactics," or "Safe-Tex Prophylactics."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess, in that the article purported to be and was represented as a prophylactic, whereas it was not a prophylactic since it was ineffective for prophylaxis because of the presence of holes.

Misbranding, Section 502 (a), the following statements appearing variously on the labeling were false and misleading: "Perfection Blow Tested Quality Supreme 100% * * * for the prevention of disease only," "Perfection Supreme Quality Prophylactics," "Safe-Tex Prophylactics * * * An Aid for Prevention of Disease," "Sold for Prevention of Disease," or "Safe-Tex. These statements represented and suggested that the article was a prophylactic and that it would be effective for the prevention of disease, whereas it would not be effective for such purposes because of the presence of holes.

DISPOSITION: December 2, 1946. Pleas of guilty having been entered, fines of \$800 and costs were imposed upon each defendant. Payment of fine and cost imposed upon the corporation was suspended.

2076. Adulteration and misbranding of prophylactics. U. S. v. Killashun Sales Division, a partnership, and James L. Tyrrell and Maurice Gusman. Pleas of nolo contendere. Fine of \$5.500 against partnership; fine of \$1,375 against each individual. (F. D. C. No. 17819. Sample Nos. 68748-197657-F, 10225-H, 18826-H, 22115-H, 24184-H.)

INDICTMENT RETURNED: May 15, 1946, Northern District of Ohio, against the Killashun Sales Division, a partnership, Akron, Ohio, and James L. Tyrrell and Maurice Gusman, members of the partnership.

ALLEGED SHIPMENT: Between the approximate dates of August 22, 1944, and January 13, 1945, from the State of Ohio into the States of Indiana, Minnesota, Pennsylvania, Missouri, and Louisiana.

PRODUCT: Examination of samples showed that the proportion of the product containing holes varied from 4.9 percent to 8.3 percent.

LABEL, IN PART: "Texide Rubber Sheaths * * * Manufactured By L. E. Shunk Latex Products, Inc. Akron, Ohio," "X Cello's [or "Silver-Tex"] Prophylactics Manufactured By The Killian Mfg. Company Akron, Ohio."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess, in that the article purported to be and was represented as a prophylactic, whereas it was not a prophylactic since it was ineffective for prophylaxis because of the presence of holes.

Misbranding, Section 502 (a), the statement "Prophylactics" borne on the labels of portions of the article was false and misleading.

DISPOSITION: October 18, 1946. Pleas of nolo contendere having been entered the court imposed a fine against the partnership of \$500 on each of the 11 counts of the indictment and a fine against each individual of \$125 on each of the 11 counts.

2077. Adulteration and misbranding of prophylactics. U. S. v. 150 Gross of Prophylactics (and 1 other seizure action against prophylactics). Default decrees of condemnation and destruction. (F. D. C. Nos. 19815, 19791 Sample Nos. 43745-H, 48876-H.)

LIBELS FILED: March 11 and May 8, 1946, Southern Districts of California and Texas.