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The Who, What, When, Where, Why and How of THAN

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1. Who is THAN?

- Originally a Kansas company known as Thomas-Hayward Chemical Company from 1930-1981
- Thompson-Hayward Chemical Company changed its name to T H Agriculture & Nutrition Company, Inc. in June of 1981 concurrent with an asset sale
- In1998, T H Agriculture & Nutrition Company, Inc. changed its name to T H Agriculture & Nutrition, L.L.C.
- "Specifically retained by T H Agriculture & Nutrition, L.L.C., . . were the liabilities concerning the sale(s) of products by Thompson-Hayward Chemical Company that occurred before June, 1981"

2. Look who else is THAN

- THAN is a subsidiary of :

  Philips Electronics North America Corporation

3. What is THAN?

- Self-described as a "ready-made sales and distribution organization" with 90 salesmen and 18 warehouses (as of 1949) "to meet . . conditions in the Mid-Western market."
- A distributor of asbestos fiber
- A distributor of talc
- A distributor of chemicals
  - e.g. Agent Orange
  - THAN repackaged the chemicals under its name and placed warning labels on the packages

4. When is THAN?

- Represented" Asbestos Corp., Ltd. as early as 1949 probably through 1960
- Distributed chrysotile asbestos fiber mined by Carey-Canadian Mines, Ltd. from April of 1960 until June of 1980
- Distributed talc from the mid-1950's until 1980 or 1981 (United Sierra and Pfizer)

5. **Where is THAN?**

- Alabama
- Arkansas
- California
- Colorado
- Florida
- Georgia
- Illinois
- Indiana
- Iowa
- Missouri
- Nebraska
- Oklahoma
- Oregon
- Tennessee
- Texas
- Virginia
- Washington

6. **Known Major THAN Asbestos Customers**
(Some Famous and Some Not-So Famous Purchasers of 7,500 Tons More)

- Bondex Int'l (1972-79)
- Kelly Moore Paint (1972-74)
- Proko Co. (1970-77)
- Ruco Inc. (1972-74)
- Valentine Sugars (1970-72)
- (Do we really want to know what a sugar company was doing with asbestos?)
- Welco Mfg. Co. (1972-74)

7. **Why THAN?**

Q. Why did they distribute asbestos fiber?

A. The business is "very profitable" and made THAN "approximately 20% profit".

8. **Why THAN? (Or better yet –Why Not?)**

- THAN admits they did not do or participate in any testing to determine or limit the hazards of the asbestos fiber they sold.
- But THAN had "a complete laboratory for the testing of raw materials" and offered these services to their customers.

So Why Not?

9. **Why THAN? (Or better yet –Why Not?)**

- THAN admits they did not employ any medical or industrial hygiene personnel.
- THAN did not even hire a safety director until 1970 in response to the passage of OSHA.

Why Not?

10. **Why THAN? (Or better yet –Why Not?)**

- THAN admits it did not did not re-label or re-brand any of the bags of Carey-Canadian asbestos fiber. Specifically, THAN admits it did not put any warnings on the bags.

Why not? (THAN states it was not feasible – Yeah, right.)

11. What THAN Claims It Does Not Know

- THAN does not know if it ever belonged to any trade organizations.

- THAN states it does not know when it first learned of the hazards of asbestos or its association with asbestosis, lung cancer and mesothelioma.

12. What We Know THAN Knew and When THAN Knew It

- 1971 - Carey-Canadian tells THAN it will place warnings on its bags of asbestos

- 1972 - United Sierra forwards THAN a copy of the 1972 OSHA regulations and goes out of its way to assure THAN that its talc does not contain asbestos

- 1972 - THAN tells its salesmen to push "asbestos-free" talc

- 1973 - Carey-Canadian forwarded to its distributors the AIA Sweetonic letter describing asbestos as a hazard

- 1975 - THAN is cited by OSHA re: handling of asbestos. THAN already has respirator policy in place in its warehouses

- 1975 - Carey-Canadian sends out a newsletter discussing the connection between asbestos and asbestosis, lung cancer and mesothelioma

13. What THAN Did About It

- June, 1979 – Began trying to sell off its "dead stock which [they were] getting due to many customers dropping use of the product [asbestos] from their formulations."

- June, 1979 – Ceased serving as a "stocking distributor" of Carey-Canadian asbestos (so it wouldn't have to worry about those pesky OSHA regulations)

- June, 1979 – Requested to and did continue selling Carey-Canadian asbestos on a "direct sales basis"

- May, 1980 – Ceased selling asbestos after realizing that "the potential product liability [was] far greater than the profits generated"

14. Issues in Presenting the THAN Liability Case

- No documents re: distribution prior to 1960 (i.e. the years it was probably distributing for Asbestos Corp.)

- No early documents showing direct knowledge
  - Not a lot of documents discussing asbestos hazards even after OSHA
  - Lack of documents indicates either complete oblivion or a good job of non-disclosure to date
  - More discovery on THAN needed

15. How to Link THAN to Your Case - Option 1: THAN's Records

- THAN has records showing sales/distribution of asbestos starting in the early 1970's through the 1980's