

AUG 4-1967

LAW OFFICES OF
RICE, HANNIS, RICE & WAGNER
THE OLD NATIONAL BANK BUILDING
MARTINSBURG, WEST VIRGINIA 25401

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Replied to by local from Rouch
TELEPHONE 263-0836
AREA CODE 304

August 1, 1967

Dr. Robert A. Kehoe
Kettering Laboratory
University of Cincinnati
Cincinnati, Ohio 45219

Dear Dr. Kehoe:

We represent National Fruit Product Company, Inc., whose general offices are located in Winchester, Virginia, and have been referred to you by Dr. Harold H. Golz, Corporate Medical Director for American Cyanamid Company of Wayne, N. J.

Our problem is this. The widow of one of National Fruit's former employees has filed a claim for death benefits with the West Virginia Workmen's Compensation Commission on the basis that her husband's insanity, which resulted in his shooting himself, was the direct result of poisons in sprays that fell on him while he was working in National Fruit's orchards in West Virginia.

At a hearing before a trial examiner for the West Virginia Compensation Commissioner, held in Martinsburg on May 22, 1967, the claimant testified that her husband had come home from work on many occasions and his clothes would be wet from spray. The deceased operated a tractor which pulled a sprayer through the orchards. He never came in contact with or mixed the chemicals.

The deceased quit working for National Fruit on August 30, 1965, and between that time and February 16, 1966 he was admitted twice to the Weston State Hospital, Weston, West Virginia, where his condition was diagnosed as "acute toxic psychosis which seemed to be due to sensitivity to and poisoning by sprays which he used in his work with the National Fruit Product Company".

On February 16, 1966, while at home, the deceased took his life with a shotgun. His widow stated that many times while he was working for National Fruit he would come home with headaches, but never consulted a doctor. After he quit working at National Fruit, he developed many peculiar habits, which obviously indicated he was mentally unbalanced and which resulted in his commitment to Weston State Hospital.

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It was brought out during the hearing that during the period of time that the decedent pulled the sprayer through the orchards, the Company used the following chemicals: cyprex, parathion (one time), guthion (one-half dosage four times), tedion, sevin, zenib, ferban, glyodin, sulphur and lead.

This claim obviously has developed because of the opinion rendered by the doctors at Weston State Hospital that the decedent suffered from acute brain syndrome associated with drug or poison intoxication. The hearing before the Compensation Commissioner was adjourned to permit the claimant to present the testimony of the doctors at the Weston State Hospital, who I do not think are experts on chemicals and who made no chemical analysis of the decedent's blood but merely observed him and based their findings on what he told them.

The Company has not yet presented any evidence, but when we do, we want to be fully prepared.

If the Compensation Commissioner would grant this claim, then anyone who had any spray fall on him around a fruit orchard could possibly claim that he had been poisoned and was entitled to compensation benefits or other medical treatment. Therefore, we consider this to be an important case and believe you may think so from the standpoint of the chemical industry.

Dr. Golz suggested that we contact you since you are an authority on lead poisoning and perhaps have been involved in similar cases. The Company's spray schedule for 1965 shows that lead was used only on one date, May 8, 1965, and the amounts were three pounds to each 100 gallons of water. The type of lead used was Lead Arsenate, manufactured by Niagara Chemical Division, FMC Corporation, Middleport, N. Y. A photocopy of the label of the type lead used is enclosed herewith.

I would like to know if you would be available to testify in behalf of National Fruit Product Company as to the affects of lead, particularly since the claimant bases her case on the fact that the decedent's mental condition resulted from poisoning from the sprays. I am advised that of all the substances used by our clients, lead is the only one that is known to produce encephalopathies.

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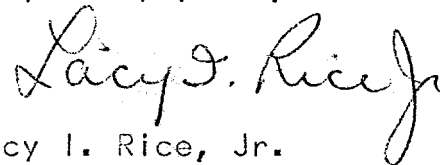
We do not know the date for the next hearing before the Compensation Commissioner, but will give you as much advance notice as possible and will try to arrange the hearing at a time that will meet with your schedule.

Also, I would like to know what charge you make for your services.

Any assistance you can give us in this matter will be greatly appreciated.

Thank you very much for your attention to this matter.

Very truly yours,



Lacy I. Rice, Jr.

LIR, JR:rsm

Encl.

Cc: Mr. Frank Armstrong, III
Mr. Harold L. Dawson
Mr. Paul Ayres

Code
366



NET WEIGHT
50 LBS.

SUSPENSO® LEAD ARSENATE

ACTIVE INGREDIENT:

Lead Arsenate 94.00%
INERT INGREDIENTS: 6.00%

100.00%

Arsenic expressed as metallic 20.30%

Arsenic in water soluble forms expressed as metallic 0.50%

Lead expressed as metallic 56.00%



ANTIDOTE: Give a tablespoonful of salt in a glass of warm water and repeat until vomit fluid is clear. Then give two tablespoonfuls of epsom salt or milk of magnesia in water, and plenty of milk and water. Have victim lie down and keep quiet. Call a Physician immediately!

WARNING: Avoid contact with skin, eyes and clothing. Wash thoroughly. Do not breathe dust or spray mist.

MANUFACTURED IN U. S. A. BY

NIAGARA CHEMICAL DIVISION

FMC CORPORATION

MIDDLEPORT, NEW YORK

Home Office — Middleport, N. Y.



NOTICE: Niagara and Seller warrant, to the extent of the purchase price, that the product will conform to the ingredient statement set forth on the label but they make no other warranty, express or implied covering the product. Neither Niagara nor Seller shall be held responsible in any manner for personal injury, property damage or other loss of any kind resulting from the handling storage or use of the product, whether or not in accordance with directions, regardless of the negligence or fault of Niagara or Seller. Buyer assumes all risk and liability therefrom and accepts and uses the product on these conditions. No person is authorized to vary or waive anything contained in this notice.

DIRECTIONS FOR USE

For control of such insects as Codling Moth and Plum Curculio apply at petal fall and every 10-11 days thereafter, as long as local conditions warrant.

On apples and pears, for the control of codling moth, leaf-rollers and certain other chewing insects, use 3 pounds in 100 gallons of water. Do not apply within 30 days of harvest. Remove excess residues at harvest by washing, wiping, brushing or other effective means.

On peaches, cherries, plumes and prunes, for the control of curculio, use 2 pounds in 100 gallons of water. When using on stone fruits, always add from 8 to 10 pounds of chemically Hydrated Lime to each 100 gallons of dilute spray. Do not apply within 30 days of harvest on peaches, plums, prunes or on cherries for the fresh market (14 days on cherries intended for processing.)

On potatoes, to control Colorado beetle and fleabeetles, use from 4 to 6 pounds either alone or with about 6 pounds of chemically Hydrated Lime in 100 gallons of water. Apply 100 to 150 gallons per acre.

For dusting tobacco to control hornworms, an application of about 5 pounds per acre is commonly used. Heavy and late season applications should be avoided to prevent objectionable residues.

Suspensio Lead Arsenate may be used in treating lawns and golf greens for the control of Japanese, Asiatic and Oriental beetle larvae and earthworms in the soil. The usual method of application is to apply 10 lbs. per 1000 square feet of ground, working it into the soil in the preparation of the seed bed. Also, for the control of earthworms on established turf, it may be applied at the same rate as indicated above with thorough watering of the soil after the application is made.

When desired, this material may be used in combination with DDT Dry Wettable formulations used for spraying.

CAUTION: When using on plants having tender foliage, always add from 6 to 10 pounds of chemically Hydrated Lime to each 100 gallons of dilute spray. When used alone on plants with hardy, or reasonably hardy foliage, the addition of chemically Hydrated Lime in this way is a good practice also.

WARNING — POISON

This package contains ARSENIC or combinations thereof for agricultural purposes only. Must not be kept or used in a room where food is being manufactured or prepared or where powdered food is stored.

CAUTION: USE OF THIS MATERIAL IN A MANNER OR AT A TIME OTHER THAN IN ACCORDANCE WITH THE DIRECTIONS MAY PRODUCE PLANT INJURY, EXCESSIVE RESIDUES OR OTHER UNDESIRABLE RESULTS.