

I have a photographic copy of a letter: Defense Supply Agency, Battle Creek, Mich., July 27, 1967, addressed to Dean D. Becharis, Becharis Bros., Coffee Co., Hamilton Avenue, Hyland Park, Mich., which says that the contract contains no restriction with respect to the resale of the coffee and neither does the contract require the obliteration of markings presently appearing on the container.

General LEE. I have a copy of the sealed bid, a copy of the sale of the coffee.

I submit on page 7, article Y, certification:

The purchaser hereby warrants he will not represent that the coffee meets Government specifications.

Mr. ROSENTHAL. I believe that is in the regulation but here you have a contracting officer—

General LEE. This is in the contract sales. This is in the sale of the contract between the Government and the purchaser. This is not in the Government regulation. It is one of our regulations but this is a specific clause in his contract.

Mr. ROSENTHAL. But he has a letter signed by the sales contracting officer that seems to waive those regulations. Presumably he acted without authority, this—

General LEE. I am not familiar with that letter.

Mr. WYDLER. He is interpreting the sales agreement to say that he can leave on this package the words "Procured under U.S. Government specifications, Defense Subsistence Supply Center," which indicates just the opposite of what the fact is and also which says, "For military issuance. Sale to authorized commissary patrons only," which also indicates it was acceptable to the military.

Mr. ROSENTHAL. Mrs. Antonelli in Lockport, N.Y., last Saturday bought a can just like this. She didn't even know it was 6 or 7 years old.

General LEE. I am not familiar with the letter.

The item description described that there was some robusta coffee. I would like to emphasize this was the contractor's coffee we were selling and not the Government's—

Mr. ROSENTHAL. Here we have another letter from Defense Supply Agency, also Battle Creek, Mich., signed "Harold G. Rottica" that says, "The invitation for bids for sale of the coffee doesn't require the purchaser to repackage the coffee, leaving implicit the fact he can sell it in this can."

General LEE. Leaving on the other side the legal question, I guess you could say by silence he leaves the spec number on there, he doesn't break the law.

Mr. ROSENTHAL. That is what happened.

General LEE. That is what happened. We no longer mark our cans like this. But it certainly did happen and we notified these people as soon as we found out they were not reblending it.

Mr. WYDLER. This is what you call, of course, a misleading answer. Clearly it is misleading to say it doesn't require you to repackage the coffee because the question really is from the purchaser's point of view. The seller wants to make some money out of it, and he wants those key words on there because they are a plus instead of a minus. The key here is, what does the package say? What does the label or the words on the package say, not repackaging it.