



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 21, 2008
WWW.USDOJ.GOV

CRM
(202) 514-2008
TDD (202) 514-1888

TWO INDIVIDUALS PLEAD GUILTY TO TRAFFICKING IN MORE THAN HALF A MILLION TUBES OF COUNTERFEIT TOOTHPASTE

WASHINGTON – Two individuals and two corporations pleaded guilty today in Brooklyn, N.Y., to charges of trafficking in counterfeit Colgate toothpaste, Acting Assistant Attorney General Matthew Friedrich of the Criminal Division and U.S. Attorney Benton J. Campbell for the Eastern District of New York announced.

Saifoulaye Diallo, 51, from the Bronx, N.Y., and Habib Bah, 47, of Queens, N.Y.; and two New York corporations, Mabass Inc. and Vidtape Inc., pleaded guilty before U.S. District Court Judge Brian M. Cogan to trafficking in counterfeit goods in violation of criminal trademark laws. The defendants admitted during the plea hearings to having trafficked in a combined total of 518,028 tubes of counterfeit Colgate toothpaste with an estimated retail value of \$730,419. At sentencing, the individual defendants each face up to ten years in prison, a fine of \$2 million and three years of supervised release following their release from prison. The two corporate defendants face up to a \$5 million fine, restitution and up to five years of organizational probation. Sentencing has been set for Jan. 9, 2009.

According to the criminal informations filed in the case, laboratory tests conducted by the Food and Drug Administration (FDA) and Colgate-Palmolive on samples of the counterfeit toothpaste revealed that the toothpaste lacked fluoride, an ingredient found in genuine Colgate toothpaste, and that some of the toothpaste contained microorganisms, such as bacillus spores and diethylene glycol. Diethylene glycol, commonly used as a coolant for hydraulic and brake fluids, is illegally used in the production of counterfeit health care products to provide lubrication and help products maintain moisture. According to the FDA, the level of diethylene glycol contained in the counterfeit toothpaste can pose health and safety risks to all consumers but primarily to individuals with compromised immune systems, children and infants.

The informations revealed that the packaging on the counterfeit toothpaste was substantially indistinguishable from the legitimate Colgate-Palmolive product except that it contained spelling and grammatical errors as well as erroneously stating that the toothpaste was made in South Africa, even though all of the product was imported from the People's Republic of China. Most of the counterfeit toothpaste at issue was sold by the defendants to secondary distributors and small to medium-sized discount stores throughout several states in the United States.

“These defendants undermined the basic precept that consumers are safe to assume that when they purchase retail health and safety products, they are buying what the label says they are buying. A parent should never have to fear that buying an everyday item like toothpaste could put a family at risk,” said Acting Assistant Attorney General Matthew Friedrich. “This case demonstrates the Department’s continued commitment to prosecute aggressively criminals who seek to profit by importing and distributing counterfeit goods that put our citizens’ health and safety in jeopardy.”

“The defendants lined their own pockets by trafficking in counterfeit goods without concern for the dangers those goods posed to the health and safety of consumers,” said Benton J. Campbell, U.S. Attorney for the Eastern District of New York. “These convictions demonstrate our continuing commitment to protect public safety and manufacturers’ property rights.”

“Something as routine as brushing your teeth should not be dangerous. Consumers should not have to worry that criminals have tampered with the products they use or ingest,” said Julie L. Myers, Homeland Security Assistant Secretary for Immigration and Customs Enforcement (ICE). “The risks that substandard, tainted and counterfeit products pose to the health and safety of consumers are real and a threat we take very seriously. ICE and its federal partners are working together to comprehensively investigate these crimes and to ensure American consumers can have confidence in the products they purchase.”

“Those who deal in counterfeit health products are solely motivated by greed. They prey upon an unsuspecting public with no regard for potentially placing the public’s health at risk. We will continue to work with our law enforcement partners to pursue these counterfeiters to the fullest extent of the law,” said Terry Vermillion, Director, FDA Office of Criminal Investigations.

As explained in court documents, Mabass Inc., incorporated in New York in March 2004, was an importer and wholesale distributor of general merchandise, including detergent and toothpaste. Between approximately May 2006 and March 2007, Mabass imported seven shipments of counterfeit Colgate toothpaste from the People’s Republic of China and admitted during the plea hearing to continuing to import counterfeit toothpaste despite learning in November 2006 that the last three shipments contained 432,000 tubes that were counterfeit.

Defendants Diallo and Bah were principals of Afro Atlantic Corp., incorporated in New York State in March 2005, according to documents filed in court. During the plea hearing, defendants Diallo and Bah admitted that, in August 2006, they knowingly imported a shipment of approximately 82,944 tubes of counterfeit Colgate counterfeit toothpaste from the People’s Republic of China.

Vidtape Inc., incorporated in New York in January 1988, was a reseller of merchandise that operated from Farmingdale, N.Y. According to court documents, between approximately November 2006 and June 2007, Vidtape purchased approximately 3,084 tubes of counterfeit Colgate toothpaste that had been imported by others from the People’s Republic of China and resold it to a buyer in Toronto. Vidtape admitted that although it learned that the toothpaste was counterfeit while it was on route to Canada, Vidtape failed to recall the shipment or notify the

buyer that the product was counterfeit. The counterfeit toothpaste was later seized by Health Canada, the department within the Canadian government charged with responsibility for public health, working in conjunction with the Royal Canadian Mounted Police.

Colgate-Palmolive, a global consumer products company with sales in 2007 of \$13.8 billion, sells toothpaste and toothbrushes in more than 200 countries and territories around the world. In addition to providing assistance to this investigation, Colgate-Palmolive undertook its own national action to inspect several thousand small to medium discount stores to identify and remove any counterfeit toothpaste falsely labeled as Colgate.

The case was prosecuted by Trial Attorney Matthew J. Bassiur of the Criminal Division's Computer Crime and Intellectual Property Section and Assistant U.S. Attorney Lee J. Freedman, Computer Hacking and Intellectual Property Coordinator for the Eastern District of New York. The case was investigated by the New York offices of ICE and the FDA's Office of Criminal Investigations.

###

08-738