

containers identical with those which had been used by the claimant subsequent to July 1940, such repackaging to be done under the supervision of the Food and Drug Administration.

On June 19, 1942, the claimant having failed to repackage the seized goods, which amounted to 13 gross, an amended decree was entered providing for their delivery to a United States Army Post, but on July 29, 1942, the decree was again amended to provide for delivery to a Federal penal institution on condition that the cartons be destroyed.

**93. Misbranding of Pepsodent Tooth Paste. U. S. v. 66½ Dozen Packages of Pepsodent Brand Tooth Paste. Consent decree of destruction. (F. D. C. No. 636. Sample No. 82412-D.)**

Examination of this product showed that the tube occupied less than one-fifth, namely, 16.4 percent, of the capacity of the carton and that the carton was of sufficient size to hold two tubes.

On or about September 25, 1939, the United States attorney for the Northern District of Georgia filed a libel against 66½ dozen packages of the above-named product at Atlanta, Ga., alleging that it had been shipped in interstate commerce on or about August 1, 1939, by the Pepsodent Co. from Chicago, Ill.; and charging that it was misbranded in that its container was so made, formed, and filled as to be misleading.

On October 24, 1939, an order was entered extending the time for filing claims and defensive pleadings until November 13, 1939, and on November 14, 1939, the time was again extended until November 21, 1939. On November 21, 1939, on motion of the claimant, the Pepsodent Co., the case was ordered removed from the Northern District of Georgia to the Eastern District of Wisconsin.

On June 24, 1942, the case having been set for trial and the court having heard the statements of counsel, and the United States attorney having sought an adjournment but the court having determined that the case should proceed to trial and that the libel would be either dismissed or a decree entered in accordance with the stipulation proffered by the claimant prior to trial, and the United States attorney having opposed the dismissal of the libel, it was ordered by the court, upon the claimant's admission that the containers of the article were larger than was required for insertion of the tubes of tooth paste contained therein, but without finding that the containers were misleading within the meaning of the law, and with the consent of the counsel for the claimant, that the United States marshal destroy the product or to deliver it to any charitable institution.

**94. Misbranding of shaving cream. U. S. v. 10% Gross Packages of Shapleigh's Lily of the Valley Shaving Cream. Consent decree of condemnation. Product ordered released under bond to be repackaged. (F. D. C. No. 5111. Sample Nos. 57883-E to 57885-E, incl.)**

The cartons in which this product was packed were 6¼ inches in length while the tubes contained therein were but 5 inches in length.

On July 8, 1941, the United States attorney for the Eastern District of Missouri filed a libel against 10% gross packages of the above-named product at St. Louis, Mo., alleging that it had been shipped in interstate commerce on or about April 11, 22, and 24, 1941, by the Wm. A. Webster Co. from Memphis, Tenn.; and charging that it was misbranded in that its containers were so made or formed as to be misleading.

On November 7, 1941, the Shapleigh Hardware Co., St. Louis, Mo., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be repackaged under the supervision of the Food and Drug Administration so as to comply with the law.

**95. Misbranding of Arrid. U. S. v. 119½ Dozen Jars of Arrid. Consent decree of condemnation and destruction. (F. D. C. No. 338. Sample No. 45575-E.)**

This product was contained in jars which, because of the thickness of the glass and the manner in which they were formed, contained about one-third the amount indicated by their outward appearance.

On or about August 2, 1939, the United States attorney for the Northern District of Georgia filed a libel against 119½ dozen jars of Arrid at Atlanta, Ga., alleging that the article had been shipped in interstate commerce on or about July 8, 1939, by the Feminine Products Co. from Jersey City, N. J.; and charging that its containers were so made, formed, and filled as to be mislead-

ing. The article was labeled in part: "Arrid \* \* \* Carter Products Inc. Distributors, New York, N. Y."

On August 12, 1939, upon application of the claimant, Carter Products, Inc., the court for the Northern District of Georgia ordered the case transferred to the District of New Jersey and also ordered all records and papers transmitted to that jurisdiction. On March 17, 1940, the claimant having represented to the court that it had changed its containers and having consented to the entry of a decree, judgment of condemnation was entered. The decree contained the following provision: "Ordered, Adjudged, and Decreed that this is a proceeding in rem and that this decree is to be without prejudice to the rights of the United States of America or the said claimant, Carter Products, Inc., a Maryland corporation, having its principal office and place of business in the Borough of Manhattan, City, County, and State of New York, in any other litigation, and without prejudice to the right of the claimant to deny in any other or future litigation that the libeled product herein is misbranded or otherwise violates the provisions of the Federal Food, Drug and Cosmetic Act, the court having taken no proof in support of the allegations of the libel and answer." The United States attorney entered an objection to the form of the decree.

On November 19, 1941, the court ordered the product destroyed.

### INDEX TO NOTICES OF JUDGMENT C. N. J. NOS. 71-95

#### PRODUCTS

	N. J. No.		N. J. No.
Ambrosia Tightener-----	84	Paulette Bay Rum-----	82
Arrid-----	95	Hair Dressing-----	82
Bay rum-----	82	Pepsodent Tooth Paste-----	93
Camelline-----	85	Roux Lash and Brow Tint-----	176
Caroid Dental Powder-----	91	Shapleigh's Lily of the Valley Shaving	
Chin-Firm-----	87	Cream-----	94
Chin-Up-----	88	Shaving cream-----	82, 94
Eyelash and eyebrow dyes-----	176-78	Spark'l Shaving Cream-----	82
Hair and scalp preparations-----	82, 89, 90	S-T-D "The" Hair Tonic-----	90
Ipana Tooth Paste-----	92	Tartaroff-----	80
Kix Kinks Hair Straiter-----	79	Tooth paste-----	92, 93
La Bonita Hollywood Skin Stimulant-----	86	powder-----	91
Hollywood Texture Oil-----	86	Willat Method of Heatless Permanent	
Louise Norris Lash & Brow Coloring-----	77	Waving-----	71-75
Mary Luckie Original Hair Tints-----	78	Sulfolene Curling Solution No. 2-----	73
Miscellaneous cosmetics-----	83	Witch hazel-----	81
Natone Natural Oil for the Hair-----	89		

#### SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
American Ferment Co., Inc.:		House of Hollywood:	
Caroid Dental Powder-----	91	LaBonita Hollywood Skin Stimulant	
Ashford Distributing Co.:		and LaBonita Hollywood Texture	
Willat Method of Heatless Permanent		Oil-----	86
Waving-----	74, 75	Kallman, L. R., & Co.:	
Bentley, J. D.:		Chin-Up-----	88
Natone Natural Oil for the Hair-----	89	Louise Norris Co.:	
Bristol-Myers Co.:		Louise Norris Lash & Brow Coloring--	77
Ipana Tooth Paste-----	92	Marlu Co.:	
Burtley Co.:		Mary Luckie Original Hair Tints-----	78
Chin-Firm-----	87	Norris, Louise. See Louise Norris Co.	
Carter Products Co.:		Pepsodent Co.:	
Arrid-----	95	Pepsodent Tooth Paste-----	93
Curtis & Travis:		Roux Distributing Co.:	
miscellaneous cosmetics-----	83	Roux Lash and Brow Tint-----	176
Dorsey, Inc.:		Sophia Co., Inc.:	
Kix Kinks Hair Straiter-----	79	Willat Sulfolene Curling Solution	
Dustin, G. A.:		No. 2-----	73
S-T-D "The" Hair Tonic-----	90	Spark'l Co.:	
Edlis, Inc.:		shaving cream, hair dressing, and	
witch hazel-----	81	bay rum-----	82
Feminine Products Co.:		Spark'l Paulette Co., Inc. See Spark'l	
Arrid-----	95	Co.	
Heatless Permanent Wave Co.:		Tartaroff Co.:	
Willat Method of Heatless Permanent		Tartaroff-----	80
Waving-----	71-74	Webster, Wm. A., Co.:	
Hinze Ambrosia, Inc.:		Shapleigh's Shaving Cream-----	94
Ambrosia Tightener-----	84	Willett, W. M.:	
		Camelline-----	85

<sup>1</sup> Contains instructions to the jury.

# FEDERAL SECURITY AGENCY

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

96-112

#### COSMETICS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., November 13, 1944.

#### CONTENTS

	Page		Page
Cosmetics actionable because of adulteration with poisonous or deleterious substances.....	51	Cosmetics charged to be actionable because of false and misleading statements in the labeling.....	54
Cosmetics actionable because of contamination with filth.....	52	Cosmetics in deceptive containers.....	59
Cosmetics actionable because of adulteration with uncertified coal-tar colors.....	53	Cosmetics, subject to the drug provisions of the Act.....	60

#### COSMETICS ACTIONABLE BECAUSE OF ADULTERATION WITH POISONOUS OR DELETERIOUS SUBSTANCES

Notices of judgment Nos. 96 to 98 report actions against cosmetics which contained lacquer. Numerous reports had been received of injuries resulting from these or a similar product, and, in each case of seizure, complaints had been received of injuries resulting from the particular shipment of the goods seized.

**96. Adulteration of Hubere Hair Lacquer and Hair Lacquer Pads. U. S. v. 68 Bottles of Hubere Hair Lacquer and 8 Jars of Hubere Hair Lacquer Pads (and 4 other seizure actions against Hubere Hair Lacquer Pads). Default decrees of condemnation and destruction.** (F. D. C. Nos. 10864, 10868, 10902, 10912, 10927. Sample Nos. 44253-F, 47275-F, 47276-F, 51389-F, 51390-F, 53174-F, 53178-F.)

Between October 1 and 11, 1943, the United States attorneys for the District of Maryland, Southern District of New York, Eastern District of Virginia, Western District of Tennessee, and the District of Massachusetts filed libels against 68 bottles of Hubere Hair Lacquer at Brookline, Mass., and against the following quantities of Hubere Hair Lacquer Pads: 30 packages at Baltimore, Md., 18 packages at Poughkeepsie, N. Y., 14 packages at Richmond, Va., 689 packages at Memphis, Tenn., and 8 jars at Brookline, Mass.; alleging that the articles had been shipped within the period from on or about July 28 to August 18, 1943, by Hubere Cosmetics from Chicago, Ill.; and charging that they were adulterated.

The Massachusetts lot of the Hair Lacquer Pads was alleged to be adulterated in that the article contained a poisonous and deleterious substance which might have rendered it injurious to users under the conditions of use prescribed in its labeling, "Hair Lacquer Pads," and under the conditions of use that are customary and usual, the application of the article directly to loose strands of hair. The remaining lots of the Hair Lacquer Pads were alleged to be adulterated in that the article contained a poisonous or deleterious chemical substance which