

On December 20, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

COSMETICS IN DECEPTIVE CONTAINERS

112. Misbranding of Lady Esther Face Powder. U. S. v. 528 Boxes of Lady Esther Face Powder. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 12126. Sample Nos. 55164-F to 55168-F, incl.)

Examination of this product showed that space had been left between the top of the powder and the cover equivalent to approximately 47 percent of the total capacity of the box; that the label did not bear the address of the manufacturer; and that the statement of net weight had been placed on the box in small type of a noncontrasting color.

On March 31, 1944, the United States attorney for the Eastern District of Michigan filed a libel against 528 boxes of Lady Esther Face Powder at Detroit, Mich., alleging that the article had been shipped by Lady Esther, Limited, Chicago, Ill., on or about July 20 and December 29, 1943, and February 16, 1944; and charging that it was misbranded.

The article was alleged to be misbranded in that the label did not bear the place of business of the manufacturer, packer, or distributor; in that an accurate statement of the quantity of the contents was not prominently placed on the label with such conspicuousness, as compared with other words, statements, or designs in the labeling, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and in that its container was so made as to be misleading.

On May 26, 1944, Lady Esther, Limited, claimant, having admitted the facts alleged in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Food and Drug Administration, so as to bear the address of the manufacturer and set forth prominently upon the label an accurate statement of the quantity of contents and a statement, "Space allowed in cover for your puff," or other words of like tenor.

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PRODUCTS

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		Wave set	¹ 105

¹ Seizure contested.

² Seizure contested. Contains opinion of the court.

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]

113-130

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., April 18, 1946.

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

113. Adulteration of Nu-Charme Perfected Brow Tint. U. S. v. 26 Cartons of Nu-Charme Perfected Brow Tint (and 1 seizure action against another lot of the same product). Motion to dismiss denied. Judgment of district court ordering product condemned and destroyed appealed to circuit court of appeals. Judgment of district court affirmed. (F. D. C. Nos. 12833, 13790. Sample Nos. 61272-F., 61335-F.)

LIBELS FILED: July 6 and September 16, 1944, Western District of Louisiana; amended January 16, 1945.

ALLEGED SHIPMENT: Between the approximate dates of April 14 and May 5, 1944, by James B. Byrd, trading as the Nu-Charme Laboratories, Texarkana, Ark.-Tex.

PRODUCT: 26 cartons and 37/12 dozen packages, each containing, among other items, 4 bottles of solutions labeled "Nu-Charme No. 1," "Nu-Charme No. 2," "Nu-Charme No. 4," and "Nu-Charme No. 5," and a package of powder labeled "Nu-Charme No. 3," at Shreveport, La.

Examination showed that Nu-Charme No. 1 consisted essentially of 4 percent paraphenylenediamine dissolved in water; that Nu-Charme No. 2 was a solution of hydrogen peroxide; that Nu-Charme No. 3 consisted of magnesium oxide; that Nu-Charme No. 4 was a solution of boric acid; and that Nu-Charme No. 5 was light mineral oil.