

"For the prevention of disease"; (Seal-Tex brand) "Prophylactics," "The Pink of Perfection," "Made from the Highest Quality of Pure Milk of Rubber," "An Aid for the Prevention of Disease," and "For Prevention of Disease Only."

Further misbranding, Section 502 (b) (1) (2), a portion of the Red-Pak brand failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor and (2) an accurate statement of the quantity of the contents.

DISPOSITION: Between March 28 and June 4, 1945, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

DRUGS FOR HUMAN USE

1578. Misbranding of Kurex. U. S. v. Kurex Hillgrove Laboratories, Inc., Richard F. Hillgrove and Walter P. Weihe. Pleas of not guilty. Tried to the jury; verdict of guilty. Corporation given total fine of \$10,000, of which \$7,500 was suspended. Hillgrove sentenced to 2 years in jail and placed on probation for 3 years; Weihe sentenced to 30 days in jail and placed on probation for 1 year and 1 day. (F. D. C. No. 14312. Sample Nos. 904-H, 2535-H, 22014-H, 22016-H.)

INDICTMENT RETURNED: February 20, 1945, Southern District of Ohio, against the Kurex Hillgrove Laboratories, Inc., Cincinnati, Ohio, and Richard F. Hillgrove and Walter P. Weihe, officers of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of January 18 and February 5, 1945, from the State of Ohio into the States of Missouri, West Virginia, and Florida.

PRODUCT: Analyses of samples disclosed that the product was a dark brown liquid consisting chiefly of water, alcohol, and plant extractives, including an emodin-bearing drug.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article and in an accompanying typewritten letter bearing the heading "Kurex" and an accompanying circular entitled "New Treatment For Diabetes" were false and misleading since they represented and suggested that the article would be efficacious in the cure, mitigation, and treatment of diabetes and such symptoms resulting from diabetes as a weakened, run-down condition, numb and cold legs and feet, and weak eyesight; and that the article would be effective to reduce excess blood sugar and to enable the diabetic to reduce the amount of insulin used and eventually eliminate the use of insulin. The article would not be efficacious for the purposes claimed.

It was also alleged that the defendants had been previously convicted under the Federal Food, Drug, and Cosmetic Act.

DISPOSITION: A motion to quash and a demurrer to the indictment were filed on behalf of the defendants, on the ground that the previous conviction of the defendants, to which reference was made in the indictment, was based upon a plea of nolo contendere. After a hearing in the matter, the court, on or about March 6, 1945, overruled the demurrer and denied the motion to quash. Thereafter, a plea of not guilty was entered for the defendants and the case came on for trial before a jury on March 14, 1945. At the conclusion of the trial on March 20, 1945, the jury returned a verdict of guilty, and on March 26, 1945, the following sentences were imposed: The corporation was fined \$2,500 on each of 4 counts of the indictment, with payment of the fine on all counts except count 1 being suspended; Richard F. Hillgrove was sentenced to serve 2 years in jail on count 1 and 15 months on count 2, the time to be served under those counts to run concurrently, and he also was given a suspended sentence of 3 years in jail on counts 3 and 4 and placed on probation for 3 years; Walter Weihe was sentenced to 30 days in jail on count 1, given a suspended sentence of 1 year and 1 day on each of the remaining 3 counts, and placed on probation for 1 year and 1 day.

1579. Misbranding of Prescription 1-VV-1 and Extract of Cod Liver. U. S. v. Sophia Strboya Sikoparija (Mrs. Stanley Sikoparija). Plea of not guilty. Tried to the jury; verdict of guilty. Fine, \$1,000. (F. D. C. No. 11380. Sample Nos. 29822-F, 33710-F.)

INFORMATION FILED: May 8, 1944, Eastern District of Texas, against Sophia Strboya Sikoparija, trading as Mrs. Stanley Sikoparija, Orange, Tex.

*See also Nos. 1551-1555, 1557, 1559-1566, 1572, 1574, 1576, 1577.

ALLEGED SHIPMENT: On or about January 20 and March 10, 1943, from the State of Texas into the States of California and Pennsylvania.

PRODUCT: Examination disclosed that the *Prescription 1-VV-1* contained sodium bicarbonate flavored with anise. The *Extract of Cod Liver* was a thick malt extract containing a small amount of fish oil or extractive and a small quantity of mineral matter including iron and phosphorus; it contained less than 1 U. S. P. unit of vitamin B₁ per gram and 4.6 micrograms of riboflavin (vitamin G) per milliliter.

NATURE OF CHARGE: *Prescription 1-VV-1*, misbranding, Section 502 (a), certain label statements were false and misleading since they represented and suggested that the article would be efficacious in the cure, mitigation, treatment, or prevention of chest colds, coughs, croup, influenza, grippe, flu, pain in the chest, difficult breathing, short, oppressed breathing, stitches in the side, pain in the back between the shoulder blades, hoarseness, loss of voice, sore throat, and bronchitis, with rattling in the windpipe and soreness of the chest, whereas the article would not be efficacious for such purposes; and, Section 502 (e) (2), the label of the article did not bear the common or usual name of the active ingredients.

Extract of Cod Liver, misbranding, Section 502 (a), certain label statements were false and misleading since they represented and suggested that the article contained nux vomica; that it was rich in vitamins B and G; that it would be a beneficial tonic for normal growth in the young and normal health in all ages; that it would help to restore low vitality and build up the resistance in the body against infections and colds; that it would give the necessary elements to bone and body building; that it would be efficacious in the treatment of anemic conditions and in the treatment of people affected with lung ailments; and that it would improve the appetite and give strength and tone to the system. The article did not contain nux vomica; it was not rich in vitamins B and G, but contained inconsequential amounts of those vitamins; and it would not be efficacious for the purposes represented.

DISPOSITION: On October 24, 1944, the defendant having entered a plea of not guilty, the case came on for trial before a jury. At the conclusion of the trial, the jury returned a verdict of guilty, and on October 25, 1944, the court imposed a fine of \$1,000.

1580. Misbranding of Todd's Capsules. U. S. v. J. E. Todd, Inc. Plea of nolo contendere. Fine, \$250. (F. D. C. No. 12537. Sample Nos. 21830-F, 34113-F.)

INFORMATION FILED: August 21, 1944, Western District of New York, against J. E. Todd, Inc., Kenmore (Buffalo), N. Y.

ALLEGED SHIPMENT: On or about March 26 and June 11, 1943, from the State of New York into the State of Pennsylvania.

PRODUCT: Analyses of samples disclosed that the product consisted essentially of sand, carbonates or bicarbonates of calcium, magnesium and sodium, and an odorous resinous material.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in an accompanying circular entitled "This Folder May Prove a Message of Joy" were false and misleading since they represented and suggested that the article would be efficacious in the cure, mitigation, treatment, and prevention of rheumatism, arthritis, and neuritis, whereas the article would not be efficacious for those purposes.

DISPOSITION: June 11, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$125 on each of the two counts in the information.

1581. Misbranding of Munyon's Paw Paw Tonic. U. S. v. Phoenix Preparations and Clarence P. Wynne. Plea of guilty on behalf of the firm; plea of nolo contendere by the individual. Fine of \$250 against the firm; individual defendant given 6 months' suspended sentence and placed on probation for 1 year. (F. D. C. No. 14223. Sample No. 52843-F.)

INFORMATION FILED: April 11, 1945, Middle District of Pennsylvania, against Phoenix Preparations, a business association, Scranton, Pa., and Clarence P. Wynne, secretary-treasurer of the association.

ALLEGED SHIPMENT: On or about July 30, 1943, from the State of Pennsylvania into the State of Virginia.