

DISPOSITION: November 16, 1950. The Meer Corp., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the products be released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency. The segregation operations resulted in the destruction of 187 pounds of orrisroot and 372 pounds of chamomile flowers.

DEVICES ACTIONABLE BECAUSE OF DEVIATION FROM OFFICIAL OR OWN STANDARDS*

3349. Adulteration and misbranding of clinical thermometers. U. S. v. 25 Cartons * * *. (F. D. C. No. 30238. Sample No. 85788-K.)

LIBEL FILED: November 13, 1950, Southern District of Texas.

ALLEGED SHIPMENT: On or about October 4, 1950, by the Arvesen Thermometer Corp., from Brooklyn, N. Y.

PRODUCT: 25 cartons each containing 2 dozen *clinical thermometers* at Galveston, Tex. Examination of 23 thermometers showed that 2 failed to meet the requirement in the United States Department of Commerce Standard C. S. 1-42 for clinical thermometers for accuracy of readings, and that 13 additional thermometers failed to meet the test for entrapped gas, required by the above standard.

LABEL, IN PART: (Carton) "Fahrenheit Clinical Thermometers."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported or was represented to possess, namely, "Clinical Thermometers."

Misbranding, Section 502 (a), the following statements in the labeling of the article were false and misleading since the article did not comply with the United States Department of Commerce Standard C. S. 1-42 for clinical thermometers: "We, the undersigned Manufacturers, hereby certify that our registering clinical thermometer marked No. has been examined and tested and found to meet all the requirements and tests specified in the United States Department of Commerce, Commercial Standard C. S. 1-42 for Clinical Thermometers * * *."

DISPOSITION: December 20, 1950. Default decree of condemnation and destruction.

3350. Adulteration and misbranding of clinical thermometers. U. S. v. 4 Gross * * *. (F. D. C. No. 30239. Sample No. 81877-K.)

LIBEL FILED: November 10, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about October 13, 1950, by the Cardinal Thermometer Co., from Brooklyn, N. Y.

PRODUCT: 4 gross of *clinical thermometers* at Miami, Fla. Examination of 24 thermometers showed that 6 failed to give readings of the claimed accuracy; that 1 was a retreater; and that 1 failed to meet the hard shaker test. The normal temperature arrow on 1 thermometer pointed to the 99° mark.

LABEL, IN PART: "Cardinal Oral."

NATURE OF CHARGE: Adulteration, section 501 (c), the quality of the article fell below that which it purported and was represented to possess, namely, "Clinical Thermometer" and "correct within plus or minus 2/10 F." at 98°, 102°, and 106°.

*See also No. 3342.

Misbranding, Section 502 (a), the normal temperature arrow pointing to the 99° mark was misleading since it should point to the 98.6° mark; and the following statements in the labeling of the article were false and misleading as applied to the article, which would not give accurate readings: "This certifies that the enclosed thermometers have been tested on the above date at 98°, 102°, and 106° F. and are correct within plus or minus 2/10 F. at any of these test points. This test is governed by a Standard Thermometer which has been tested and approved by the Bureau of Standards, Washington, D. C. All our thermometers are manufactured in accord with their specifications. (C. S. 1-32 Department of Commerce). The enclosed thermometers are guaranteed to be of absolute accuracy."

DISPOSITION: January 12, 1951 Default decree of forfeiture and destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

3351. Misbranding of *To-Ne-Ka* herbs, *Black Eagle* medicine, and *Toneka* tonic tablets. U. S. v. 27 Packages, etc. (F. D. C. No. 30366. Sample Nos. 43385-K to 43388-K, incl.)

LABEL FILED: January 24, 1951, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 5 and October 13 and 16, 1950, from Cincinnati, Ohio.

PRODUCT: 27 2-ounce packages and 29 1-ounce packages of *To-Ne-Ka* herbs, 23 8-ounce bottles of *Black Eagle* medicine, and 31 30-tablet packages of *Toneka* tonic tablets at Chicago, Ill., in possession of George H. Davis, together with a number of leaflets entitled "Nature's Way To Health and Relief," "To Get Back To Daily Habit Time," and "When You Feel The Symptoms."

RESULTS OF INVESTIGATION: The leaflets were designed by Mr. Davis and were printed upon his instructions. They were sent to prospective customers and were distributed with each article sold.

LABEL, IN PART: (Package) "*To-Ne-Ka* Brand Herbs * * * Active Laxative Ingredients: Buckthorn, Aloe and Senna Leaves. Active Stomachic and Stimulant to the Appetite Ingredients: Gentian, Ginger, Calamus, Quassia and Burdock Root"; (bottle) "*Black Eagle* Brand Medicine * * * Active Laxative Ingredients: Sodium Phosphate, Senna, Cascara Sagrada and Buckthorn. Active Carminative Ingredients: Cinnamic Aldehyde, Fennel, Ginger, Oil Peppermint and Oil Cassia"; and (package) "*Toneka* Brand Tonic Tablets * * * Active Ingredients: Iron (Ferrous) Sulphate, and Gentian Root."

NATURE OF CHARGE: Misbranding, Section 502 (a), the following statements in the leaflets were false and misleading since the articles were not capable of fulfilling the promises of benefits, stated and implied: (*To-Ne-Ka* Herbs) "Good Health * * * When the intestines are not functioning properly, the residue remains in the large intestines, distends them and weakens their muscles, fermenting waste matter may accumulate and release poisonous gases. Old Folks and young folks, too, who are troubled with biliousness * * * sick, sour stomach, belching, bloating, gas on stomach, poor ap-

*See also Nos. 3342, 3344, 3346, 3347, 3349, 3350.