

Misbranding, Section 502 (a), the following statements appearing in a circular contained in a package of 2 dozen thermometers were false and misleading since the article did not conform to the specifications set forth in CS1-42 Bureau of Standards' Commercial Standard: "This certificate guarantees you that the manufacturer hereby certifies that the enclosed registering clinical thermometer will meet all the requirements and tests as specified in Clinical Thermometer Commercial Standard No. CS-1-42."

**DISPOSITION:** March 18, 1952. Ideal Thermometer Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the article be released under bond, conditioned that it be salvaged by segregation of the good thermometers from the defective. Approximately 944 thermometers were found defective and were destroyed.

## DRUGS ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

### DRUGS FOR HUMAN USE \*

**3837. Misbranding of Alpha Formula and Tone physiological salt tablets. U. S. v. Frank J. Unger (Van Raye Laboratories). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 32724. Sample Nos. 11549-L, 11550-L.)**

**INFORMATION FILED:** October 10, 1952, Northern District of Ohio, against Frank J. Unger, trading as the Van Raye Laboratories, Cleveland, Ohio.

**ALLEGED SHIPMENT:** On or about October 2, 1951, from the State of Ohio into the State of Tennessee.

**PRODUCT:** Analysis disclosed that the *Alpha Formula* was a black, aromatic aqueous liquid containing chiefly epsom salt, sulfur, and plant extractives, including emodin bearing drugs and a trace of alcohol, and that the *Tone physiological salt tablets* contained chiefly sodium chloride and small amounts of the chlorides of potassium, calcium, and magnesium, with reducing sugar and a small amount of phosphate.

**NATURE OF CHARGE:** *Alpha Formula.* Misbranding, Section 502 (a), certain statements in a circular entitled "The Alpha and Tone Course," which accompanied the article, were false and misleading. The statements represented and suggested that the article was an adequate and effective treatment for ailments associated with toxemia, alimentary or otherwise, which show symptoms of incidental, habitual, or secondary constipation, and blood salt deficiencies; that it was an adequate and effective treatment for anemia, arthritis, sciatica, neuritis, headache, nervousness, and high blood pressure; and that it was an adequate and effective treatment for stomach, liver, kidney, intestine, skin, and blood troubles, and many other ailments. The article was not an adequate and effective treatment for the purposes and conditions represented.

*Tone physiological salt tablets.* Misbranding, Section 502 (a), certain statements in the circular entitled "The Alpha and Tone Course," which accompanied the article, were false and misleading. The statements represented and suggested that the article was an adequate and effective treatment in reducing blood salt deficiencies due to colds and fevers; that it was an adequate and effective treatment for sinus, perverted or ravenous appetite, overweight, impairment of sense of taste, Addison's and other adrenal cortex deficiencies, lobar pneumonia, pernicious vomiting, severe burns, diabetic acidosis, and other

\*See also Nos. 3829-3836.

conditions in which blood salt is deficient; that it was an adequate and effective treatment for fatigue, weakness, depression, twitching, cramps, convulsions, stroke, poor blood circulation, and difficult breathing due to exposure to excessive heat and excessive perspiration; that it would enable the user to stop the tobacco habit; that it was an adequate and effective treatment for ailments associated with toxemia, alimentary or otherwise, which show symptoms of incidental, habitual, or secondary constipation, and blood salt deficiencies; that it was an adequate and effective treatment for anemia, arthritis, sciatica, neuritis, headache, nervousness, and high blood pressure; and that it was an adequate and effective treatment for stomach, liver, kidney, intestine, skin, and blood troubles, and many other ailments. The article was not an adequate and effective treatment for the purposes and conditions represented.

DISPOSITION: October 31, 1952. A plea of nolo contendere having been entered, the court imposed a fine of \$1,000.

3838. Misbranding of Somaca. U. S. v. 75 Bottles, etc. (F. D. C. No. 31774. Sample Nos. 23640-L, 37576-L.)

LIBEL FILED: On or about October 22, 1951, Southern District of New York.

ALLEGED SHIPMENT: On or about August 31, 1951, by Garrett Laboratories, Inc., from Clifton, N. J.

PRODUCT: 75 3-ounce bottles of *Somaca*, 1,500 copies of a leaflet entitled "This Can Happen To You," 700 copies of a letter entitled "My Dear Friend," and 200 copies of a letter entitled "Dear Friend" at New York, N. Y.

LABEL, IN PART: "Net Wgt. 3 ounces SOMACA \* \* \* Active Ingredients Belladonna Extract Powder Each level teaspoonful of Somaca contains about 0.1 mg. Belladonna alkaloids. Sodium Bicarbonate Calcium Carbonate Magnesium Oxide John Peck Laboratories, Inc."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in the labeling of the product, namely, in the leaflets entitled "This Can Happen To You" and in the letters entitled "My Dear Friend" and "Dear Friend," were false and misleading since the article would not be effective in the treatment of ulcers of the digestive tract, as claimed in the labeling.

DISPOSITION: November 21, 1951. Default decree of condemnation and destruction.

3839. Misbranding of Foley Quit-Its throat lozenges. U. S. v. 243 Vials \* \* \*. (F. D. C. No. 32577. Sample No. 10628-L.)

LIBEL FILED: March 6, 1952, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about January 11 and February 6, 1952, by Foley & Co., from Chicago, Ill.

PRODUCT: 243 vials of *Foley Quit-Its throat lozenges* at Milwaukee, Wis.

LABEL, IN PART: (Vial) "Fifteen Foley Quit-Its Antibiotic-Anesthetic Throat Lozenges \* \* \* Each lozenge contains 1 mg. of tyrothricin, 7.5 mg. of benzocaine and ½ grain of ammonium chloride."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in a leaflet entitled "Is Your Face Ever Red," which was enclosed in the carton with each vial, were false and misleading. These statements represented and suggested that the product would be effective in checking, combating, helping to overcome, and preventing throat infections, in protecting against reinfection, and in getting at the cause most often responsible for the condition; that