

VIOLATIVE SALES OF PRESCRIPTION DRUGS

4161. Misbranding of dextro-amphetamine sulfate tablets, thyroid tablets, and pentobarbital sodium capsules. U. S. v. Myron B. Deepe (Gillmer Park Cut Rate Store). Plea of nolo contendere. Sentence of 1 year in jail on count 1 suspended and fine of \$200, plus costs, on count 2; imposition of sentence on remaining 4 counts of information suspended and individual placed on probation for 2 years. (F. D. C. No. 34319. Sample Nos. 9667-L, 9668-L, 9673-L to 9676-L, incl.)

INFORMATION FILED: March 23, 1953, Northern District of Indiana, against Myron B. Deepe, trading as the Gillmer Park Cut Rate Store, at South Bend, Ind.

NATURE OF CHARGE: On or about April 11, 1952, while a number of *dextro-amphetamine sulfate tablets* and *thyroid tablets* were being held for sale at the Gillmer Park Cut Rate Store, after shipment in interstate commerce, the defendant caused a number of tablets of such drugs to be repacked and dispensed without a physician's prescription, which acts resulted in the repackaged drugs being misbranded as follows: Section 502 (b) (1) and (2), the repackaged drugs failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use; and, Section 502 (f) (2), the labeling of the repackaged *dextro-amphetamine sulfate tablets* failed to bear adequate warnings against use in those pathological conditions where their use may be dangerous to health, and against unsafe dosage and methods and duration of administration, in such manner and form, as are necessary for the protection of users.

On or about May 5 and 8, 1952, while a number of *dextro-amphetamine sulfate tablets*, *thyroid tablets*, and *pentobarbital sodium capsules* were being held for sale at the Gillmer Park Cut Rate Store, after shipment in interstate commerce, the defendant caused certain quantities of the drugs to be dispensed without a prescription from a practitioner licensed by law to administer the drugs. Such acts of dispensing were contrary to the provisions of Section 503 (b) (1), and resulted in the dispensed drugs being misbranded.

DISPOSITION: June 8, 1953. The defendant having entered a plea of nolo contendere, the court sentenced the defendant to 1 year in jail on count 1, suspended this sentence, and placed the defendant on probation for 2 years, and imposed a fine of \$200, plus costs, on count 2. The court suspended the imposition of sentence on the remaining 4 counts of the information and placed the defendant on probation for 2 years, which period was to run concurrently with the probation imposed on count 1.

4162. Misbranding of dextro-amphetamine sulfate tablets and capsules containing a mixture of Seconal Sodium and Amytal Sodium. U. S. v. Samuel Ross (Baldwin Harbor Pharmacy). Plea of guilty. Defendant fined \$100 and placed on probation for 1 year. (F. D. C. No. 35103. Sample Nos. 37242-L, 37394-L.)

INFORMATION FILED: June 24, 1953, Eastern District of New York, against Samuel Ross, trading as the Baldwin Harbor Pharmacy, Baldwin, Long Island, N. Y.

NATURE OF CHARGE: On October 17 and November 14, 1952, while a number of *dextro-amphetamine sulfate tablets* and *capsules containing a mixture of Seconal Sodium and Amytal Sodium* were being held for sale at the Baldwin Harbor Pharmacy, after shipment in interstate commerce, the defendant caused a number of the capsules and tablets to be dispensed upon requests for refills of written prescriptions without obtaining authorization by the prescribers. Such acts of dispensing were contrary to the provisions of Section 503 (b) (1), and resulted in the dispensed drugs being misbranded.

DISPOSITION: July 23, 1953. The defendant having entered a plea of guilty, the court fined him \$100 and placed him on probation for 1 year.

**DRUGS AND DEVICES ACTIONABLE BECAUSE OF FAILURE TO BEAR
ADEQUATE DIRECTIONS OR WARNING STATEMENTS***

4163. Misbranding of Seconal Sodium capsules. U. S. v. J. George Moore (Moore's Pharmacy), and Edgar H. Holiman. Plea of nolo contendere by Defendant Holiman and plea of not guilty by Defendant Moore. Defendant Holiman fined \$400 and placed on probation for 4 years. Case against Defendant Moore tried to a jury; verdict of guilty. Defendant Moore fined \$1,000 and placed on probation for 4 years. (F. D. C. No. 34808. Sample Nos. 26884-L, 26885-L, 26887-L.)

INFORMATION FILED: June 26, 1953, Northern District of California, against J. George Moore, trading as Moore's Pharmacy, El Cerrito, Calif., and Edgar H. Holiman, an employee of the pharmacy.

ALLEGED VIOLATION: On or about August 30 and September 15 and 18, 1951, while a number of *Seconal Sodium capsules* were being held for sale at Moore's Pharmacy, after shipment in interstate commerce, the defendants caused various quantities of the capsules to be repacked and dispensed without a physician's prescription, which acts resulted in the repackaged capsules being misbranded.

NATURE OF CHARGE: Misbranding, Section 502 (b) (1) and (2), the repackaged capsules failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents.

Further misbranding, Section 502 (d), the repackaged capsules contained Seconal Sodium, a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the repackaged capsules failed to bear a label containing the name, and quantity or proportion of such derivative and in juxtaposition therewith a statement "Warning—May be habit forming."

Further misbranding, Section 502 (f) (1), the labeling of the repackaged capsules failed to bear adequate directions for use.

DISPOSITION: Defendant Holiman entered a plea of nolo contendere, and Defendant Moore entered a plea of not guilty. The case against Defendant Moore came on for trial before the court and jury on September 8, 1953, and at the conclusion of the trial, the jury returned a verdict of guilty. On September 23, 1953, the court fined Defendant Moore \$1,000 and placed him on probation for 4 years. On the same date, the court fined Defendant Holiman \$400 and placed him on probation for 4 years.

*See also No. 4161.