

Issued April 18, 1911.

## United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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### NOTICE OF JUDGMENT NO. 816, FOOD AND DRUGS ACT.

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#### ALLEGED MISBRANDING OF A DRUG PRODUCT—"LOPEZ SPECIFIC SPECIAL COMPOUND."

On or about August 12, 1909, John A. Riggs, Hot Springs, Ark., shipped from the State of Arkansas into the State of Missouri a quantity of a drug product labeled: "Lopez Specific Special Compound—\$5.00. Guaranteed by Lopez Remedy Company, under Food and Drugs Act, June 30, 1906—Serial No. 7344, and the Kansas Food and Drug Act, February 14, 1907, Serial No. 100; Arkansas Food and Drug Act, May 28, 1907, Serial No. 31. \* \* \* Lopez Remedy Co., Wichita, Kansas, U. S. A., Hot Springs, Arkansas, U. S. A." Accompanying said bottle, and packed therewith, was a pamphlet descriptive thereof. Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, with the following results: Alcohol 27.40 per cent, potassium iodide 3.85 per cent, total mineral substances 6.02 per cent, total extractive material 9.40 per cent; giving reaction for a laxative drug such as podophyllum with odor, suggesting the presence of sarsaparilla, stillingia, eucalyptus, and taste indicative of the presence of a bitter tonic, like gentian. As the findings of the analyst and report made indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the Secretary of Agriculture afforded the said Lopez Remedy Company, John A. Riggs, and the party from whom the samples were procured, opportunities for hearings. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court for the Eastern District of Arkansas against the said Lopez

Remedy Company and John A. Riggs, charging the above shipment and alleging that the product so shipped was misbranded within the meaning of the act in that: (1) The use of the word "Specific" upon the said label was unwarranted and misleading inasmuch as the article was not a specific; (2) the alcohol contained in said article was not declared in the manner prescribed by Regulation 17, Department of Agriculture; (3) the following statements which appear in the above mentioned pamphlet entitled "Plain Talk on Blood, Skin and Private Diseases;" "Lopez has no equal;" "Nothing but Lopez can and does work such wonders;" were false and misleading inasmuch as the remedy was not calculated to work wonders and was not an infallible cure for the diseases therein enumerated; (4) the statement in said pamphlet, to wit, "Lopez will effect a positive and permanent cure for rheumatism, in all of its many forms," was false and misleading for the reason that the said remedy would not effect a permanent, positive cure for rheumatism in all of its forms; (5) the statement in said pamphlet, "The only guaranteed cure for \* \* \* Consumption, Scrofula, Syphilis, Rheumatism, Stomach, Liver and Bladder affections, Gleet, Sexual Weakness, and Failing Memory," was false, for the reason that the said remedy is not the only guaranteed cure for said diseases, or any of them; (6) the statement in said pamphlet, that "Lopez is a \* \* \* vegetable remedy and positively contains no \* \* \* minerals" is misleading, inasmuch as said remedy does contain minerals, to wit, 6.02 per cent mineral substance; (7) the said article also contained alcohol, 27.40 per cent; potassium iodide, 3.85 per cent; also mandrake (podophyllum), sarsaparilla, stillingia, eucalyptus, and gentian, and the label thereof failed to state correctly the proportion of alcohol in said article; (8) the aforesaid pamphlet accompanying said article contained the following statement: "We not only guarantee to permanently cure Scrofula, syphilis, Running Sores, Tubercular Glands, Erysipelas, Catarrh, Rheumatism, Stomach, Liver and Bladder affections, Gleet, Sexual weakness, Failing Memory, Weak Eyes, General Decline and Blood Poison, in every form, but further agree \* \* \*," which statement was false and misleading in that the said article would not permanently cure consumption, rheumatism, or diseases of the stomach, liver, and bladder, in general, or any or all of said diseases, nor could it be relied upon to cure the other diseases specified in said statement; (9) accompanying said article so shipped was a printed circular or leaflet containing the following statement: "Only 3 to 6 \$5.00 16 Ounce Bottles of Lopez Specific is needed to cure Blood Poison (Syphilis), Scrofula (Running Sores), Malaria, Rheumatism, Paralysis, Early Consumption, Loss of Voice, Weak Eyes, Falling Hair, Sexual Weakness, General Decline, etc.," which statement was false and misleading, in that said article would not

cure consumption, scrofula, syphilis, and the other diseases specified therein, or any of them.

Upon arraignment the defendants filed a plea of not guilty to the above information, and trial was had to a jury. After the witnesses for the Government had been heard, the court, holding that no misrepresentation as to the curative or therapeutic qualities and properties of an article is a misbranding, directed the jury to return a verdict of acquittal, which was done.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

Decisions of the United States Circuit and District Courts and of the United States Circuit Courts of Appeal, adverse to the Government, shall not be considered as final until acquiescence shall have been published.

W. M. HAYS,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *March 18, 1911.*