

2920. Adulteration and misbranding of prophylactics. U. S. v. 78 Gross * * *.
(F. D. C. No. 27429. Sample No. 44931-K.)

LIBEL FILED: June 21, 1949, District of Minnesota.

ALLEGED SHIPMENT: On or about May 25, 1949, by Hughes Products, Inc., from Memphis, Tenn.

PRODUCT: 78 gross of *prophylactics* at Minneapolis, Minn. Examination of samples showed that 10.38 percent were defective in that they contained holes.

LABEL, IN PART: "Texide Prophylactic Manufactured by L. E. Shunk Latex Prod., Inc., Akron, Ohio."

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

Misbranding, Section 502 (a), the label statements "Prophylactic" and "For Your Protection" were false and misleading as applied to an article containing holes.

DISPOSITION: October 21, 1949. Default decree of destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

2921. Misbranding of Nue-Ovo. U. S. v. 600 Units, etc. (and 3 other seizure actions). Trial by jury. Verdict for Government. Decree of condemnation and destruction. Judgment affirmed on appeal to court of appeals. Certiorari denied by United States Supreme Court. (F. D. C. Nos. 14342, 16711, 20239, 20768. Sample Nos. 3830-F, 80924-F, 27846-H, 45063-H, 45068-H, 58379-H.)

LIBELS FILED: On or about November 8, 1944, August 6, 1945, and June 18 and August 29, 1946, Western District of Missouri, Western District of Washington, and Southern District of California.

ALLEGED SHIPMENT: The product was shipped by Research Laboratories, Inc., from Portland, Oreg., between the approximate dates of June 27, 1944, and August 24, 1946, and quantities of printed matter were shipped by the above firm, from Portland, Oreg., on or about April 16, 1945, and February 1 and June 1946. Quantities of printed matter also were shipped by Nue-Ovo, Inc., from Chicago, Ill., on or about July 19, 1943, and April 7 and August 8, 1944.

PRODUCT: 600 units, each containing 3 bottles; 71 packages, each containing 3 bottles; and 160 cases, each containing 18 bottles, of *Nue-Ovo* at Kansas City, Mo., Seattle, Wash., and Los Angeles, Calif., together with copies of circulars entitled "Information on Nue-Ovo and its Value in Arthritic and other Rheumatoid Symptoms" and "Read and see what Nue-Ovo has done for this man," copies of a circular letter headed "California Division Research Laboratories, Inc." and beginning "We thank you for your inquiry regarding Nue-Ovo in the treatment of Arthritic and Rheumatic symptoms, which was used successfully by Mrs. Emma Ives," and a number of placards reading, in part, "Are you suffering from arthritis or rheumatism?" Analysis disclosed that the product contained water, sugars, sodium benzoate, and extracts of plant materials, including a caffeine-bearing drug, such as kola nut, and licorice and cinnamon, and a laxative drug, such as cascara sagrada, and that certain portions of the product also contained sodium salicylate and a minute amount of vitamin B₁.

*See also Nos. 2913-2916, 2918-2920.