

2942. Adulteration and misbranding of prophylactics. U. S. v. 35 Gross * * *
(F. D. C. No. 27454. Sample No. 33435-K.)

LIBEL FILED: July 7, 1949, Northern District of California.

ALLEGED SHIPMENT: On or about June 4, 1949, by Hughes Products, Inc., from Memphis, Tenn.

PRODUCT: 35 gross of *prophylactics* at San Francisco, Calif. Examination of samples showed that 4.86 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 "Tested * * * For Your Protection" were false and misleading as applied to an article containing holes.

DISPOSITION: August 25, 1949. Default decree of condemnation and destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

2943. Misbranding of Sugretus and dehydrated wild carrot. U. S. v. Albert D. Davis (Universal Health Foods). Motion denied for dismissal of information. Plea of nolo contendere. Imposition of sentence suspended and defendant placed on probation for 2 years. (F. D. C. No. 24219. Sample Nos. 39567-H, 24601-K.)

INFORMATION FILED: February 13, 1948, Eastern District of Michigan, against Albert D. Davis, trading as Universal Health Foods, Van Dyke, Mich.

ALLEGED SHIPMENT: On or about May 29 and September 9, 1947, from the State of Michigan into the State of Wisconsin.

LABEL, IN PART: "Tablets Sugretus * * * Contains: Vitamin B₁ (Thiamin Chloride) and Vitamin B₂ (Riboflavin) in a base of powdered Spineless Cactus (*Opuntia Frarlis*) with excipients Manufactured & Distributed By Dailey's Laboratories 3680 University Ave. San Diego, Calif." and "Dehydrated Wild Carrot * * * Universal Health Foods."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in a leaflet headed "Freed From Insulin Diabetics Find New Help" and in a letter dated September 13, 1946, headed "Dr. Julia Bryant McGee Chiropractor," accompanying the *Sugretus*, and in leaflets entitled "Goodbye Insulin New Hope for Diabetics" and "Good News for All Who Are 'Afraid of Starch and Sugar,'" accompanying the *dehydrated wild carrot*, were false and misleading. The statements represented and suggested that the articles would be efficacious in the cure, mitigation, and treatment of diabetes, whereas the articles would not be efficacious for such purposes.

DISPOSITION: On March 22, 1948, a motion to dismiss the information was filed on behalf of the defendant on the grounds that the leaflets and other printed matter did not actually physically accompany the products nor were made a part of the labels of the articles. On October 29, 1948, the motion was denied. Thereafter, a plea of nolo contendere was entered, and on September 30, 1949,

*See also Nos. 2931-2933, 2935, 2939, 2942.

the court suspended the imposition of sentence and placed the defendant on probation for a period of 2 years, conditioned that he should not sell, dispense, or give away any *Sugretus* or *dehydrated wild carrot* during the period of probation, either in interstate commerce or intrastate commerce.

2944. Alleged misbranding of Bra'zil Liquid Compound and Bra'zil Powder Compound. U. S. v. Yancy T. Shehane (Bra'zil Medicine Co.) Plea of not guilty. Tried to the jury. Verdict of not guilty. (F. D. C. No. 25588. Sample Nos. 27350-K to 27353-K, incl.)

INDICTMENT RETURNED: February 7, 1949, Western District of Arkansas, against Yancy T. Shehane, trading as the Bra'zil Medicine Co., at Arkadelphia, Ark.

ALLEGED SHIPMENT: On or about February 8 and March 8, 1948, from the State of Arkansas into the States of Illinois and Missouri.

LABEL, IN PART: "Bra'zil Liquid Compound Alcohol * * * 13½ % * * * Active Ingredients: Sodium Salicylate" and "Bra'zil Powder Compound Active Ingredients: Epsom Salts."

NATURE OF CHARGE: Misbranding, Section 502 (a), it was alleged that certain statements in the labeling of the articles, including an accompanying leaflet entitled "You May Be Interested In This Medicine—It really Works," were false and misleading in that they represented and suggested that the articles, which were designed and intended for use as a combination treatment, would be efficacious in the treatment of arthritis, neuritis, sciatica, inflammatory rheumatism, rheumatic fever, sinus trouble, bronchial asthma, ulcerated gassy stomachs, kidney pus, gall bladder irritation, prostate gland trouble, nervousness, general poison conditions of the system, aches, pains, swelling, and soreness; and, further that the articles would not be efficacious in the treatment of the conditions represented.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial on October 4, 1949. At the conclusion of the trial on October 5, 1949, the jury returned a verdict of not guilty.

2945. Misbranding of Thiacin. U. S. v. William Teffer (Thiacin Co.). Plea of nolo contendere. Fine, \$500. (F. D. C. No. 26692. Sample No. 27323-K.)

INFORMATION FILED: May 16, 1949, Eastern District of Missouri, against William Teffer, sales director of the Thiacin Co., a partnership, St. Louis, Mo.

ALLEGED SHIPMENT: On or about August 9, 1948, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "Thiacin The Enteric Coated Relief Tablet * * * Each Tablet contains Sodium Salicylate, Thiamin Hydrochloride (10 mg.) Acetylsalicylic Acid, Enteric Coated with Excipient."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the article, which included a number of accompanying circulars entitled "Ask Yourself This Question," was false and misleading. The labeling represented and suggested that the article would be adequate and effective for the treatment and cure of arthritis, rheumatism, neuralgia, neuritis, and muscular lumbago. The article would not be adequate and effective for the treatment and cure of the conditions represented.

Further misbranding, Section 502 (e) (2), the article was not designated solely by a name recognized in an official compendium and was fabricated from two or more ingredients; and its label failed to bear the common or usual name of each active ingredient since one of the active ingredients of the article