

ALLEGED SHIPMENT: On or about September 15, 1950, and January 2, 1951, by the Zenith Drug Sales, Inc., from Philadelphia, Pa.

PRODUCT: 42 cartons of *prophylactics* at Atlanta, Ga. Examination of samples disclosed that 3.95 percent were either dried out and could not be unrolled or contained holes, and therefore were unsuitable for use.

LABEL, IN PART: (Carton) "Zenith Lubri-Pak ½ Gross."

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

Misbranding, Section 502 (a), the label statements "Prophylactic" and "For the prevention of disease" were false and misleading as applied to an article that was either dried out and could not be unrolled or contained holes.

DISPOSITION: April 6, 1951. Default decree of condemnation and destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

3395. Misbranding of Bone Food (bone phosphate). U. S. v. 1 Drum, etc.
(F. D. C. No. 30231. Sample No. 81871-K.)

LABEL FILED: November 9, 1950, Southern District of Florida.

ALLEGED SHIPMENT: On or about August 15, 1950, from Chicago, Ill.

PRODUCT: 1 full drum containing 325 pounds and 1 partly filled drum containing 100 pounds of *bone phosphate*, and 102 1-pound bottles and 98 6½-ounce bottles of the same product relabeled *Bone Food*, at Miami, Fla., in possession of Carothers' Laboratory, together with a number of loose bottle labels, a number of circulars entitled "Carothers' Laboratory To The Physician," and a number of placards entitled "Your Bones Can Be Like This."

Examination showed that the *Bone Food* contained the declared proportion of calcium and phosphorus but less than 1 percent of magnesium.

RESULTS OF INVESTIGATION: The article contained in the bottles was repackaged from one of the above-mentioned drums at the point of destination. The consignee had the labels, circulars, and placards printed, and these circulars and placards were sent to customers with initial shipments of the repackaged product.

LABEL, IN PART: (Drum) "Bone Phosphate"; (bottle) "Carothers' Bone Food #1 Mineral Supplement To Your Diet Analysis: Calcium 33% Phosphorus 15% Magnesium 14% Iron 710 ppm Zinc 30 ppm Copper 5 ppm Manganese 4 ppm Fluorine 400-500 ppm."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the articles in the drums and bottles, namely, the bottle labels, circulars, and placards, contained statements which were false and misleading. The statements represented and suggested that the articles were an adequate and effective treatment for arthritis, bone ailments, rheumatism, tooth and gum disorders, high blood pressure, and low blood pressure; that they were effective to insure the growth of normal, healthy, and strong bones and joints, and healthy nails and teeth; and that they were effective to prevent dental caries, abscesses of the teeth, gum disorders, and death from rheumatic heart disease. The articles were not an adequate and effective treatment for such diseases and conditions, and they were not effective for the purposes stated and implied. The articles were misbranded while held for sale after shipment in interstate commerce.

*See also Nos. 3385, 3388, 3392-3394.

The articles were alleged also to be misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: January 12, 1951. Default decree of forfeiture and destruction.

3396. Misbranding of Dr. Burnett's New Cold Remedy. U. S. v. 18 Bottles * * *. (F. D. C. No. 30843. Sample No. 2759-L.)

LIBEL FILED: February 16, 1951, Middle District of North Carolina.

ALLEGED SHIPMENT: On or about January 4, 1951, by Dr. Burnett Medicine Co., Inc., from Hillsville, Va.

PRODUCT: 18 6-ounce bottles of *Dr. Burnett's New Cold Remedy* at Mount Airy, N. C. Examination disclosed that the product consisted essentially of water, with small proportions of materials extracted from plant products.

LABEL, IN PART: (Bottle) "Dr. Burnett's New Cold Remedy Made From Botanical Drugs Contains the Following Sassafras, Pinus (Alba), Ulmus Fulva, 'Populus.'"

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statement "Cold Remedy * * * recommended for the relief of colds" was false and misleading since the article was not effective for the purpose recommended.

DISPOSITION: April 13, 1951. Default decree of condemnation and destruction.

3397. Misbranding of Dr. Burnett's Preparation. U. S. v. 41 Bottles, etc. (F. D. C. No. 30842. Sample No. 2865-L.)

LIBEL FILED: February 19, 1951, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about January 18, 1951, by Dr. Burnett Medicine Co., Inc., from Hillsville, Va.

PRODUCT: 41 1-quart bottles and 15 1-pint bottles of *Dr. Burnett's Preparation* at Welch, W. Va., together with a number of large display cards and a number of circulars relating to the product. Examination disclosed that the product consisted essentially of water, with small proportions of materials extracted from plant products.

LABEL, IN PART: (Bottles) "Dr. Burnett's Preparation * * * Made From Botanical Drugs * * * Contains the Following: 'Populus,' 'Cornus Florida,' Pinus (Alba), Pinus (Virginia), Sassafras, Aralia Nudicaulis, Salix, Prunus (some species), Various species of Rubus, Carya (Hicoria), Prunus, Magnolia Acuminate, Nyssa Sylvatica, Ulmus Fulva."

NATURE OF CHARGE: Misbranding, Section 502 (a), the following statements appearing in the labeling of the article were false and misleading since the article was not effective for the purposes recommended: (Label) "recommended for tonic. Many have used it for other ailments and report satisfactory results"; (large display card) "For Good And Better Health"; and (circular) "I suffered over ten years with cough, also had rheumatism in my arms and legs so bad that I couldn't work, 'I tried different kinds of medicines and remedies, but they all failed to bring me relief,' 'A friend of mine persuaded me to try Dr. Burnett's "New Medicine." After taking it one month I improved and after five months I fully recovered and I feel like a new man now, 'I gained back my lost weight and strength. I have been well for three years now. I can eat and sleep fine and work hard every day,' and 'I think Dr. Burnett's "New Medicine" is wonderful. It brought me relief after everything else I tried had failed.'"

DISPOSITION: April 5, 1951. Default decree of condemnation and destruction.