

* * * Manufactured by G. E. Conkey Co., Nebraska City, Nebraska Pellets"; and (bag) "Y-O Plus * * * Manufactured by G. E. Conkey Co., Nebraska City, Neb. 27% Pig & Sow Pellets * * * Active Drug Ingredient 3-Nitro-4-Hydroxyphenylarsonic Acid .00625%."

RESULTS OF INVESTIGATION: Analyses of the articles showed that *egg ration* contained approximately 3.64 percent of the declared amount of furazolidone, and approximately 19 percent of the declared amount of oxytetracycline; *Kwickies* contained approximately 61 percent of the declared amount of chlor-tetracycline hydrochloride; *pig and sow pellets* contained approximately 66.56 percent of the declared amount of 3-nitro-4-hydroxyphenylarsonic acid.

LIBELED: 12-1-60, W. Dist. Mo.

CHARGE: 501(c)—when shipped, the strength of the articles differed from that which they purported and were represented to possess.

DISPOSITION: 3-8-61. Default—destruction.

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

6604. Pearson Sakrin. (F.D.C. No. 43655. S. No. 72-388 P.)

QUANTITY: 99 cases, 36 btls. each, at Atlanta, Ga.

SHIPPED: 9-9-59, from New Providence, N.J., by Pearson Pharmacal Co., Inc.

LABEL IN PART: (Ctn.) "Pearson Sakrin Liquid Sweetener with Exclusive Daramin No Calories! No Sugar! No Salt! No Sodium!" and (btl.) "Pearson Sakrin Super-Concentrated Liquid Sweetener * * * Contents 34 cc."

ACCOMPANYING LABELING: Leaflets in carton reading "The Pearson Sakrin Way to Slimness," and display cartons reading "Lose Weight! Stay Slim! * * * Pearson Sakrin."

LIBELED: 11-5-59, N. Dist. Ga.

CHARGE: 502(a)—when shipped, the labeling contained false and misleading representations that the article was an adequate and effective treatment for weight reduction or for maintaining slimness.

The libel alleged also that the article was misbranded under the provisions of the law applicable to foods, as reported in notices of judgment on foods.

DISPOSITION: On 1-4-60, Pearson Pharmacal Co., Inc., appeared and filed an answer to the libel, a claim to the property, and an application for an order removing the cause to the Southern District of Florida. On 1-18-60, the claimant's motion to remove was overruled and denied by the court in the following opinion:

SLOAN, *District Judge*: "On November 5, 1959, a libel of information was filed against the described property seeking its seizure and condemnation by reason of its allegedly having been misbranded within the meaning of the Federal Food, Drug and Cosmetic Act (21 U.S.C., § 301, et seq.) when introduced into interstate commerce. The articles were subsequently seized under an order of this Court. Pearson Pharmacal Company, Inc., a Florida corporation, on January 4, 1960, filed an answer to the libel and a claim to the property seized.

"Claimant has filed an application for an order removing the cause for trial to the United States District Court for the Southern District of Florida, Miami

*See also Nos. 6582, 6583, 6589, 6592, 6593, 6596-6601.

Division, pursuant to the provisions of 21 U.S.C., § 334. In support of the motion, an affidavit of Lester M. Amster is attached. In this affidavit the affiant deposes that he is president of the claimant corporation and that its principal place of business is 8101 Biscayne Boulevard, Miami, Florida; that claimant does not have or maintain any office within the State of Georgia and that the United States District Court for the Southern District of Florida is within more reasonable proximity to claimant's place of business than is this Court and that a removal of the cause for trial in the United States District Court for the Southern District of Florida at Miami 'would best serve the ends of justice.'

Under Federal Food, Drug and Cosmetic Act provision that, in event of failure of parties to stipulate for removal of condemnation proceeding for trial, a claimant may apply to court of district in which seizure has been made and, absent showing of good cause to contrary, procure order specifying district of 'reasonable proximity' to claimant's principal place of business, such transfer or removal cannot be to district of claimant's principal place of business but only to a 'district of reasonable proximity' thereto. Federal Food, Drug and Cosmetic Act, § 304(a), 21 U.S.C.A. § 334(a).

United States v. United States District Court, 226 F. 2d 238 (3).

"The instant motion to remove the case for trial to the district of claimant's principal place of business is overruled and denied."

Subsequently, the claimant moved that its answer and claim be dismissed. On 7-31-61, the claimant's motion to dismiss its answer and claim was granted and a default decree of condemnation and destruction was entered.

6605. Heatex tablets. (F.D.C. No. 45277. S. No. 31-868 R.)

QUANTITY: 3 drums containing a total of 100,000 tablets at Jackson, Miss.

SHIPPED: 8-12-60, from St. Louis, Mo., by K-V Pharmacal Co.

LABEL IN PART: (Drum) "E. C. White Heatex Tablets Each tablet contains: Ascorbic Acid 100 mg. Sea Salt (Admiral Brand) 5 gr. Dextrose 1 gr."

LIBELED: 12-5-60, S. Dist. Miss.

CHARGE: 502(a)—when shipped, the label of the article contained false and misleading representations that the article was adequate and effective to improve mineral nutrition, correct mineral imbalance, and provide energy.

DISPOSITION: 1-31-61. Consent—claimed by Dumas Milner Corp., Jackson, Miss., and relabeled.

6606. Tuff, Colsil #100, and Sil-kol-oid. (F.D.C. No. 45258. S. Nos. 13-791 R, 13-793/4 R.)

QUANTITY: 32 unlabeled bulk drums containing a total of approximately 4,400 lbs. of a light tan-colored crushed rock, commonly called *tuff*, and 112 7-oz. jars of *Colsil #100*, in possession of the Sil-kol-oid Corp., at Butler, Wis.; and 245 7-oz. jars of *Sil-kol-oid* in possession of the Sil-kol-oid Corp., at Wauwatosa, Wis.

SHIPPED: On 11-25-59, 12-17-59, and on previous unknown dates, from Canon City, Colo., by Lamar Ikeler, as a result of arrangements made by Richard Conn, Inc., Columbus, Ohio.

LABEL IN PART: (Jar) "Colsil #100 * * * consists of 100% Activated Colloidal Tuff * * * Richard Conn Incorporated, 1271 E. Broad St., Columbus 5, Ohio" and "Sil-kol-oid * * * Each rounded teaspoonful contains: Refined Calcined Tuff 60 grs. Magnesium Oxide 2 grs. * * * Control Number: 3001 * * * The Sil-kol-oid Corporation, Milwaukee 13, Wisconsin."