

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1691.

(Given pursuant to section 4 of the Food and Drugs Act.)

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### ALLEGED MISBRANDING OF CUTICURA OINTMENT AND CUTICURA SOAP.

On October 9, 1909, the United States Attorney for the District of Massachusetts, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Potter Drug & Chemical Corporation, a corporation, Boston, Mass., alleging shipment by it, in violation of the Food and Drugs Act—

(1) On October 5, 1908, from the State of Massachusetts into the District of Columbia of a consignment of Cuticura Ointment which was misbranded. Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that it was petrolatum, colored and perfumed. A trace of phenol or salicylic acid was indicated.

(2) On February 27, 1909, from the State of Massachusetts into the District of Columbia of a consignment of Cuticura Ointment which was misbranded. Analysis of a sample of this product by the Bureau of Chemistry of this Department showed it to consist of petrolatum, hardened with a little wax and containing a trace of carbolic acid. The product is perfumed. It is also colored with a blue dye. The product in both the above-named consignments was labeled: "Great Skin Cure Cuticura. Guaranteed under the Food and Drugs Act, June 30, 1906. No. 344. Prepared by Potter Drug & Chemical Corp., Boston, Massachusetts, U. S. A. Registered in United States Patent Office. Registered in all Countries. Cuticura, the Great Skin Cure, is a Medicinal Emollient, Sanative, Antiseptic Ointment for the Immediate Relief and Speedy Cure of Torturing, Disfiguring Humors, Eczemas, Tetter, Rashes, Itchings, Irritations, Scalings and Crustings of the Skin and Scalp, with loss

of Hair of Infants, Children and Adults. Cuticura, the Great Skin Cure, is the Purest and Sweetest of Emollients, for Preserving, Purifying and Beautifying the Skin, Scalp, Hair and Hands, as well as for Every Toilet Purpose. A Specific for Summer and Winter Rashes, Sore Hands, Tender Feet, Itching Scaly Scalps, Infantile Humors, Burns, Scalds, Wounds, Strains and Pains." Misbranding as to the product in both these consignments was alleged in the information for the reason that the containers of the product bore labels upon which appeared statements regarding the ingredients and substances contained therein which were false and misleading in certain particulars, that is to say, in the statement, "Cuticura, the Great Skin Cure, is a Medicinal Emollient, Sanative, Antiseptic Ointment for the immediate relief and Speedy Cure of Torturing, Disfiguring Humors, Eczemas, Tetter, Rashes, Itchings, Irritations, Scalings and Crustings of the Skin & Scalp, with loss of Hair of Infants, Children and Adults," and in the statement, "Cuticura, the Great Skin Cure, is the Purest and Sweetest of Emollients, for Preserving, Purifying and Beautifying the Skin, Scalp, Hair and Hands, as well as for Every Toilet Purpose," and in the statement, "A specific for Summer and Winter Rashes, Sore Hands, Tender Feet, Itching Scaly Scalps, Infantile Humors, Burns, Scalds, Wounds, Strains and Pain," said statement being false and misleading in said particulars, because Cuticura is not a great skin cure, nor a medicinal emollient, sanative, antiseptic ointment for the immediate relief and speedy cure of torturing, disfiguring humors, eczemas, tetter, rashes, itchings, irritations, scalings and crustings of the skin and scalp, with loss of hair of infants, children and adults, nor is it the purest and sweetest of emollients for preserving, purifying and beautifying the skin, scalp, hair and hands, as well as for every toilet purpose, nor is it a specific for summer and winter rashes, sore hands, tender feet, itching scaly scalps, infantile humors, burns, scalds, wounds, strains and pain.

(3) On February 27, 1909, from the State of Massachusetts into the District of Columbia of a consignment of Cuticura Soap which was misbranded. The product was labeled: "Cuticura Soap. Medicinal and Toilet. Emollient, Sanative, Antiseptic, Fragrant and Refreshing. For Skin Purification, Toilet, Bath and Nursery. This soap contains, in a modified form, the Medicinal Properties of Cuticura, the Great Skin Cure". Analysis of a sample of this product by the Bureau of Chemistry of this Department showed it to be a colored soap. The chemical constituents of the fatty acids indicate that they are derived from an average quality of tallow. The product contained a small amount of petrolatum. No medicinal or antiseptic substances were found except what may be present in ordinary toilet

soap. Misbranding was alleged in the information for the reason that the product bore labels upon which appeared certain statements regarding the ingredients and substances contained therein which were false and misleading in certain particulars, that is to say, in the particular that said Cuticura is medicinal and antiseptic and that it is for skin purification, toilet, bath and nursery, said statement being false and misleading in said particulars because Cuticura is not medicinal and antiseptic and is not for skin purification, toilet, bath and nursery.

On April 22, 1910, the defendant corporation entered a plea of not guilty. On May 16, 1910, this plea was withdrawn by leave of the court and defendant filed a motion to quash the information. On February 27, 1911, defendant filed its demurrer to the information and on December 18, 1911, the court sustained the demurrer and quashed the information.

W. M. HAYS,

*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *July 29, 1912.*

