

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2094.

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

MISBRANDING OF STOMACH BITTERS; ADULTERATION AND MISBRANDING OF EXTRACT OF PEPPERMINT; MISBRANDING OF CORDIAL.

On May 8, 1912, the United States Attorney for the Northern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district an information in four counts against the Weideman Co., a corporation, Cleveland, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act—

(1) On or about December 15, 1910, from the State of Ohio into the State of Missouri of a quantity of bitters which was misbranded. The product was labeled: (On bottle) "Hamburg Stomach Bitters. Trade Mark * * * Weideman & Co. Sole Prop's. 35 per cent Alcoholic Strength. Hamburg Stomach Bitters * * *". (Blown in bottle) "The Weideman Co. Cleveland, O."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed that it consisted of a sweetened water and alcoholic liquor flavored with a small amount of flavoring material and colored with caramel; alcohol (per cent by volume), 37.75; sugar (grams per 100 cc), 18.56. Misbranding of the product was alleged in the information for the reason that the label and brand thereon was false in that it contained a statement that the product contained 35 per cent of alcohol, whereas, in fact, it contained a greater amount than 35 per cent, to wit, 37.75 per cent of alcohol, and for the further reason that the label contained a statement that was false and misleading, to wit, "Hamburg Stomach Bitters," which would lead the purchaser to believe that the product was of foreign manufacture, whereas, in fact, it was of domestic manufacture. The product was falsely branded as to the territory or country in which it was manufactured or produced, in that the statement, to wit, "Hamburg

Stomach Bitters" on the label indicated it to be a product manufactured in a foreign country, whereas, in truth and in fact, it was a product prepared and manufactured in the United States.

(2) On or about January 11, 1911, from the State of Ohio into the State of New York of a quantity of extract of peppermint which was adulterated and misbranded. The product was labeled: (On wrapper) "Standard Brand Extract of Peppermint." (On bottle) "Standard Brand Extract of Peppermint. Formula—Solution of Peppermint 800 parts, Hydro-Alcoholic Solution 2000 parts, Trace of harmless color."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Peppermint oil (by volume), 0.76 per cent; specific gravity, 15.6° C./15.6° C., 0.9147; alcohol, per cent by volume, 59.31; methyl alcohol, per cent by volume, none; solids, grams per 100 cc, 0.26; coal-tar color, present; color, light green SF yellowish. Adulteration of the product was alleged in the information for the reason that a substance, to wit, a dilute solution of peppermint, had been mixed and packed with the product in such a manner as to reduce, lower, and injuriously affect its quality and strength, and further, in that a substance, to wit, a dilute solution of peppermint, had been substituted in part for the product indicated by the label and brand, and further, in that the product had been colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the statement, to wit, "Standard Brand Extract of Peppermint," borne on the label thereof, was false and misleading, in that it would deceive the purchaser into the belief that the product was a genuine standard brand extract of peppermint, whereas, in truth and in fact, it was not a standard brand extract of peppermint but consisted of a dilute solution of peppermint.

(3) On or about July 3, 1911, from the State of Ohio into the State of Missouri of a quantity of cordial which was misbranded. The product was labeled: (On front of package) "Fruits & Flowers. A Liqueur Par Excellence. The Weideman Co., Cleveland, O. Cordial. Artificially colored Triple Flavor." (On back) "Guaranteed under the National Pure Food & Drugs Act, June 30, 1906. Registered No. 2300. Guaranteed by The Weideman Co." (On neck) "Fruits and Flowers." (Picture of fruits and flowers).

Analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Alcohol by volume, 41.25 per cent; solids, calculated as sugar, grams per 100 cc, 27.4; sucrose, grams per 100 cc, 13.6; ash, grams per 100 cc, 0.012; colored with cudbear. This appears to be a wholly artificial product. No evidence of fruits and flowers. Misbranding of the product was alleged in the information for the reason that the label and brand

upon the package thereof was false and misleading, in that it would deceive and mislead the purchaser into the belief that the product was manufactured from fruits and flowers, whereas, in truth and in fact, it was produced from artificial flavors and was not the product of fruits and flowers. Misbranding was alleged for the further reason that the label and brand upon the package was false and misleading, the product being labeled "Fruits & Flowers" "Cordial," thereby purporting that it was manufactured from fruits and flowers, whereas, in truth and in fact, it was produced from artificial flavors.

On May 9, 1912, the defendant company entered a plea of guilty to the second and third counts of the information charging adulteration and misbranding of extract of peppermint and plea of nolo contendere as to the first and fourth counts charging misbranding of stomach bitters and cordial, respectively, and the court imposed a fine of \$25 each on the second and third counts, with costs of \$25.81.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *December 11, 1912.*

