DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS*

DRUGS FOR HUMAN USE

2220. Adulteration and misbranding of Lactobacillus acidophilus culture. U. S. v. Kovac Laboratories, Inc., and Hugh H. von Kleist. Pleas of nolo contendere. Fines of $150 against the corporation and $300 against the individual. (F. D. C. No. 23275. Sample Nos. 59460–H, 59462–H, 59463–H.)

INFORMATION FILED: July 21, 1947, Southern District of California, against Kovac Laboratories, Inc., Los Angeles, Calif., and Hugh H. von Kleist, president of the corporation.

ALLEGED SHIPMENT: On or about July 20 and 29 and August 16, 1946, from the State of California into the State of Washington.

NATURE OF CHARGE: Misbranding, Section 502 (a), the label statement "Culture Lactobacillus Acidophilus A condensed culture" was false and misleading since it represented and suggested that the article contained significant numbers of *Bacillus acidophilus* organisms, whereas it did not contain significant numbers of *Bacillus acidophilus* organisms, but did contain large numbers of streptococci.

DISPOSITION: August 11, 1947. Pleas of nolo contendere having been entered, the court imposed fines of $150 against the corporation and $300 against the individual.

2221. Misbranding of Laken's 9 Drops Capsules and Liquid. U. S. v. Harry Laken (Marshall Drug Co.). Plea of nolo contendere. Fine, $400. (F. D. C. No. 20202. Sample Nos. 4771–H, 4888–H.)

INFORMATION FILED: December 10, 1946, Eastern District of Pennsylvania, against Harry Laken, trading as the Marshall Drug Co., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about September 5 and October 26, 1945, from the State of Pennsylvania into the State of New Jersey.

PRODUCT: Analysis disclosed that the *capsules* contained a mixture consisting essentially of aspirin, acetophenetidin, and caffeine, and that the *liquid* consisted essentially of a water solution of sodium, salicylate, potassium, iodide, and traces of alkaloids.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements and the design of a man in pain appearing in circulars entitled "Facts Everyone Should Know About," enclosed with the articles, were false and misleading since they represented and suggested that the articles when used alone or in conjunction with each other would be effective in the treatment of rheumatism, arthritis, backache, swollen joints, lumbago, neuritis, rheumatic pains, and stiff joints; that the *liquid* would be effective as an analgesic to get at the main cause of so-called rheumatism; and that the *capsules* would be effective in the treatment of suffering and discomfort associated with common colds. The articles would not be effective for such purposes.

Further misbranding, Section 502 (b) (2), the bottles containing the *liquid* bore no label containing a statement of the quantity of the contents.

DISPOSITION: June 17, 1947. A plea of nolo contendere having been entered, the court imposed a fine of $400.

2222. Misbranding of Luebert's Iron Tonic Tablets. U. S. v. A. Gustave Luebert. Plea of nolo contendere. Fine, $50. (F. D. C. No. 23215. Sample No. 4640–H.)

INFORMATION FILED: August 12, 1947, Eastern District of Pennsylvania, against A. Gustave Luebert, Coatesville, Pa.

ALLEGED SHIPMENT: On or about February 23, 1946, from the State of Pennsylvania into the State of Delaware.

PRODUCT: Analysis disclosed that each tablet of the product contained approximately 1 grain of ferrous carbonate with manganese, a phosphide, and a laxative plant drug.

LABEL, IN PART: "Luebert's (Nox 'em Brand) Iron Tonic Compound Tablets."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements on the label of the article and in a circular entitled "Luebert's Remedies," shipped

*See also Nos. 2202, 2205, 2206, 2211, 2213–2219.

with the article, were false and misleading. These statements represented and suggested that the article would be effective to restore one's appetite; that it would assist nutritive functions and promote activity and nutrition of the nerves and muscles; that it was a general tonic to the digestive tract; that it would assist in the assimilation of food; that it would furnish rich red blood; that it was essential to good health, sound nerves, and normal vitality; that it would build up new vim and vigor in one's body; that it would be efficacious in the treatment of weak, tired nerves; that it was a valuable digestive and tonic medicine; that it would give more strength and vigor to the entire system; that it would be of value to one in a weak and rundown condition; that it would help one to put himself in better condition; and that it would be valuable in helping the nervous system. The article would not be effective for such purposes.

DISPOSITION: October 1, 1947. A plea of nolo contendere having been entered, the court imposed a fine of $50.

2223. Adulteration of Glancaps Special Formula Capsules. U. S. v. 46 Boxes * * *. (F. D. C. No. 23437. Sample No. 83156–H.)

LIBEL FILED: August 28, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: Delivered on or about July 15, 1947, by Mr. Darnell of the Darnell Drug Co., Indianapolis, Ind.

PRODUCT: 46 boxes, each containing 40 capsules, of *Glancaps Special Formula* at Cincinnati, Ohio. The label stated that the article contained 3 minims of oil of albasantal, 2 minims of oleoresin cubeb, 3 minims of oil of copaiba, 2 minims of rectified oil of terpen, and 5 grains of extract of zea mays.

NATURE OF CHARGE: Misbranding, Section 502 (a), the label designation "Glancaps" and the label statements "Glancaps are compounded from only the purest vegetable oils and extracts, especially for the relief of enlarged prostate glands, kidney, bladder and urinary irritations, and are healing and cleansing to the entire urinary system * * * extreme cases may require two or more treatments for complete elimination of urinary poisons" were false and misleading since the article was not an adequate treatment for diseases of the glands and would not fulfill the promises of benefits stated and implied; and, Section 502 (e) (2), the article was fabricated from 2 or more ingredients, and its label failed to bear the common or usual name of each active ingredient since oil of albasantal, rectified oil of terpen, and extract of zea mays are not the common or usual names of oil of santal, rectified oil of turpentine, and extract of corn silk, respectively.

DISPOSITION: October 3, 1947. Default decree of destruction.

2224. Adulteration and misbranding of Calbrite Calcium-Phosphorus Tablets and misbranding of Bextra Vitamin B_1 Tablets, Hi-Plex Vitamin Tablets, Organic Iron Tablets, and Ritamine Vitamin and Mineral Capsules. U. S. v. 354 Bottles, etc. (and a quantity of booklets, leaflets, and placards). (F. D. C. No. 21013. Sample Nos. 59448–H to 59450–H, incl., 59452–H to 59454–H, incl.)

LIBEL FILED: October 15, 1946, Western District of Washington.

ALLEGED SHIPMENT: The products were shipped between the approximate dates of November 14, 1945, and June 25, 1946, by the American Dietaids Co., from Los Angeles, Calif., and Yonkers, N. Y. The booklets were shipped on or about August 17 and 28, 1945, and April 6, 1946, from Watertown, Mass., and the leaflets and placards were shipped during 1944 and 1945 from Yonkers, N. Y., by the same firm.

PRODUCT: 4 bottles of *Bextra Vitamin B_1 Tablets*, 354 bottles of *Calbrite Calcium-Phosphorus Tablets*, 234 bottles of *Hi-Plex Vitamin B Complex Tablets*, 207 bottles of *Organic Iron Tablets*, 481 packages of *Ritamine Vitamin & Mineral Capsules*, and a number of booklets entitled "Health Topics Contains important articles on Health Foods, Diet, Nutrition" and (other booklets) "Health Topics * * * Get Ready to Live Longer," a quantity of leaflets entitled "Are 50 Million People Taking Vitamins Blindfold?" and "Catalog and Price List," and several placards entitled "Vitamins Their relation to poor nutrition and susceptibility to Colds Sinusitis," "This Box of Ritamine," "Good News for Folks over 40," and "Positively Prevent the Dangers of all known Vitamin Deficiencies."