

and should be followed. Accordingly, the so-called Spectro-Chrome—the article proceeded against in this case—should be seized and condemned.

“Decree reversed and case remanded for further proceedings in conformity with this opinion.”

A petition for certiorari was subsequently filed in the Supreme Court of the United States on behalf of the claimant, and on October 13, 1947, the petition was denied. Thereafter, a petition for an order of seizure was filed by the Government, and on March 15, 1948, the court ordered the device re-seized. On March 19, 1948, judgment was entered ordering the condemnation and destruction of the device and its accompanying labeling.

2391. Misbranding of Spectro-Chrome. U. S. v. 1 Device * * * (and 5 other seizure actions). (F. D. C. Nos. 16879, 16900, 16901, 16910, 16915, 16923. Sample Nos. 76872-F, 4061-H, 4175-H, 13743-H, 13887-H, 23316-H.)

LIBELS FILED: On or about July 25, 26, and 30, 1945, Southern District of New York, Northern District of Ohio, Eastern District of Missouri, and District of Delaware.

ALLEGED SHIPMENT: Between the approximate dates of October 13, 1944, and July 9, 1945, from Newfield, N. J., by the Dinshah Spectro-Chrome Institute.

PRODUCT: 6 *Spectro-Chrome* devices at Bronx, N. Y., Cleveland and South Euclid, Ohio, St. Louis County, Mo., and Wilmington, Del. The construction and appearance of each device was essentially the same as the device involved in notices of judgment on drugs and devices, No. 2098.

The devices were accompanied by one or more of the following pieces of printed and graphic matter: “Spectro-Chrome Home Guide,” “Favorscope for 1944 [or “1945”],” “Rational Food of Man,” “Key to Radiant Health,” “Request for Enrollment as Benefit Student,” “Auxiliary Benefit Notice—Make Your Own Independent Income as Our Introducer,” “Spectro-Chrome General Advice Chart for the Service of Mankind — Free Guidance Request,” “Certificate of Benefit Studentship,” “Spectro-Chrome—December 1941—Scarlet,” “Spectro-Chrome—August 1944 [or “January 1945”],” “Spectro-Chrome—March 1945—Yellow,” “Spectro-Chrome in Every Home,” and “Spectro-Chrome Metry Encyclopedia.”

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the devices contained false and misleading curative and therapeutic claims in substantially the same respect as the device involved in notices of judgment on drugs and devices, No. 2098.

DISPOSITION: August 24, September 5 and 7, and November 21, 1945. Default decrees of condemnation. The devices were ordered delivered to the Food and Drug Administration, for experimental and investigational purposes and for use in other court cases which were pending or which might be filed in the future.

2392. Misbranding of Spectro-Chrome. U. S. v. 1 Device, etc. (F. D. C. No. 16838. Sample No. 4096-H.)

LIBEL FILED: July 19, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 18, 1945, by Dinshah Spectro-Chrome Institute, from Newfield, N. J.

PRODUCT: 1 *Spectro-Chrome* device at Allentown, Pa. The construction and appearance of the device was essentially the same as the device involved in notices of judgment on drugs and devices, No. 2098. The device was accompanied by the following pieces of printed and graphic matter: “Spectro-Chrome Home Guide,” “Favorscope for 1945,” “Rational Food of Man,” “Key to Radiant Health,” “Request for Enrollment as Benefit Student,” “Auxiliary Benefit Notice — Make Your Own Independent Income as Our Introducer,” “Spectro-Chrome General Advice Chart for the Service of Mankind — Free Guidance Request,” “Certificate of Benefit Studentship,” “Spectro-Chrome — December 1941 — Scarlet,” and “Spectro-Chrome — March 1945 — Yellow.”

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the device contained false and misleading curative and therapeutic claims in substantially the same respect as the device involved in notices of judgment on drugs and devices, No. 2098.

DISPOSITION: An answer to the libel was filed on August 10, 1945, by La Rue E. Snyder, Allentown, Pa. Thereafter, exceptions to the answer were filed on

behalf of the Government on the ground that the answer contained immaterial, irrelevant, and incompetent statements, and failed to raise any issue with respect to the allegation of misbranding set forth in the libel. Motions were also filed on behalf of the Government, requesting that La Rue E. Snyder be directed to file a claim, post security for cause, and make verification of his answer. On September 8, 1947, upon motion of the United States Attorney and with the consent of counsel for La Rue E. Snyder, an order was entered by the court allowing the Government's exceptions to the answer and granting the Government's motions. It was also ordered that if the order of September 8 were not complied with by La Rue E. Snyder, the Government could appear and move for judgment on the pleadings. On October 27, 1947, the court ordered that the answer be stricken from the record and entered a decree providing for the condemnation and destruction of the device and accompanying labeling.

2393. Misbranding of Spectro-Chrome. U. S. v. 1 Device * * *. (F. D. C. No. 18890. Sample No. 23354-H.)

LIBEL FILED: February 4, 1946, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 4, 1945, by Dinshah Spectro-Chrome Institute, from Newfield, N. J.

PRODUCT: 1 *Spectro-Chrome* device at Union, Mo. The construction and appearance of the device was essentially the same as the device involved in notices of judgment on drugs and devices, No. 2098.

The device was accompanied by the following pieces of printed and graphic matter: "Certificate of Benefit Studentship," "Spectro-Chrome General Advice Chart for the Service of Mankind — Free Guidance Request," "Spectro-Chrome Manual for Dinshah Spectro-Chrome," "Favorscope for 1945 for Spectro-Chrome Metry," and "Spectro-Chrome — December 1941 — Scarlet."

NATURE OF CHARGE: Misbranding, Section 502 (a), the labeling of the device bore false and misleading curative and therapeutic claims in substantially the same respect as the device reported in notices of judgment on drugs and devices, No. 2098.

DISPOSITION: Upon refusal of Marie T. Sager and Joseph Sager of Union, Mo., to permit seizure of the device and its labeling which were in their possession, an order to show cause why such parties should not be held in contempt of court was entered on February 21, 1946. Thereafter, answers were filed on behalf of Marie and Joseph Sager, denying that Marie Sager had refused to receive service of the writ of monition under which seizure of the device and its labeling was directed, or that Joseph Sager had refused to allow such seizure. In addition, the answers alleged that the writ of monition was illegally issued and void. After consideration of the evidence and the arguments of counsel, the court, on or about April 1, 1946, handed down findings of fact and conclusions of law to the effect that Marie and Joseph Sager did disobey and resist and did intend to disobey and resist a lawful writ and process of the court, and that such individuals were therefore guilty of contempt. A fine of \$100 was imposed against each individual, together with a sentence of 10 days in jail. It was provided, however, that execution of the jail sentence should be stayed upon delivery of the device and its labeling to the marshal. On May 6, 1946, following such delivery of the device and labeling, a default decree of condemnation was entered. It was ordered that the device and the labeling be delivered to the Food and Drug Administration for experimental and investigational purposes, and that they be destroyed when no longer needed for such purposes.

2394. Misbranding of Vapo-Path. U. S. v. Vapo-Path, Inc., and Granville Class. Information dismissed with respect to corporation. Plea of guilty entered with respect to individual; fine of \$500 imposed, which was remitted. (F. D. C. No. 21484. Sample Nos. 3000-H, 42606-H, 48101-H, 53208-H.)

INFORMATION FILED: July 22, 1947, Southern District of Ohio, against Vapo-Path, Inc., Dayton, Ohio, and Granville Class, president-treasurer of the corporation.

ALLEGED SHIPMENT: On or about October 29 and November 8, 1945, and February 19 and 21, 1946, from the State of Ohio into the District of Columbia and the States of Kentucky, West Virginia, and Idaho.

PRODUCT: Examination showed that the device consisted of cabinets in which the patient's entire body, except his head, was exposed to warm vapors consisting principally of naphthalene, a coal-tar derivative extensively distributed as moth balls, and accessory pieces in which parts of the body such as a foot,