

13. It is the finding and holding of the Court that the Claimant in the present action is attempting to relitigate and re-try the same issues that were litigated and adjudicated in Civil Action No. 325. It is not permissible for the Claimant to do so. *George H. Lee Co. v. Federal Trade Commission* (8th Cir. 1940) 113 F. 2d 583; *George H. Lee Co. v. United States* (9th Cir. 1930) 41 F. 2d 460; *Lee v. United States* (10th Cir. 1951) 187 F. 2d 1005; *United States v. 14 105 Pound Bags* (D. C. Idaho 1953) 118 F. Supp. 837.

14. It is the finding and holding of the Court that there is no genuine issue of material fact in any of the present actions which is now subject to being litigated or tried.

15. It is the finding and holding of the Court that the Libelant is entitled to judgment in each of the present actions as a matter of law.

"It is hereby ordered that the motions of the Libelant for summary judgment in the present actions be and the same are hereby sustained and judgment shall be entered accordingly."

Pursuant to the above opinion, the court, on 1-6-55, entered decrees condemning the article and ordering its destruction. The claimant filed a motion for rehearing on 1-17-55 and a motion to amend findings and decrees on 1-28-55, both of which were denied by the court on 2-1-55.

**4670. Hog Tabs.** (F. D. C. No. 37529. S. No. 8-621 M.)

**QUANTITY:** 11 drums containing a total of 136,400 tablets and 21 250-tablet cans at Omaha, Nebr., in the possession of Standard Chemical Mfg. Co.

**SHIPPED:** 6-17-54, from Cleveland, Ohio, by Strong, Cobb & Co., Inc.

**LABEL IN PART:** (Can) "Standard Hog Tabs An Intestinal Astringent Contain Potassium Permanganate and Copper Sulphate \* \* \* Directions Dissolve one tablet in each gallon of water. \* \* \* Give in the drinking water night and morning, \* \* \* Feed hogs a milk of mill feed slop until they are well on the road to recovery."

**RESULTS OF INVESTIGATION:** The tablets had been shipped in bulk, and upon receipt by the consignee, a number of the tablets were repackaged into cans.

Analysis showed that the tablets contained approximately 27 grains of copper sulfate and 3.6 grains of potassium permanganate per tablet.

**LIBELED:** 12-14-54, Dist. Nebr.

**CHARGE:** 502 (a)—the label of the article while held for sale contained false and misleading representations that the article was effective as an intestinal astringent for the treatment of "sick" hogs; and, 502 (f) (1)—the labeling of the article when shipped failed to bear adequate directions for use, and the article was not entitled to any exemption from that requirement.

**DISPOSITION:** 2-8-55. Default—destruction.

### DRUG ACTIONABLE BECAUSE OF CONTAMINATION WITH FILTH

**4671. Bulk tablets.** (F. D. C. No. 37404. S. No. 42-170 L.)

**QUANTITY:** 4 15,000-tablet drums at San Francisco, Calif.

**SHIPPED:** 8-24-54, from Cleveland, Ohio.

**RESULTS OF INVESTIGATION:** Examination showed that the tablets were contaminated with petroleum oil and were brownish in color and obnoxious in odor. It was assumed that the tablets became contaminated with petroleum oil while in transit.

**LIBELED:** 11-10-54, N. Dist. Calif.