

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1882.

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

ADULTERATION AND MISBRANDING OF DAMIANA ELIXIR.

On September 25, 1911, the United States Attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Mihalovitch Co., a corporation, Cincinnati, Ohio, alleging shipment by said company, in violation of the Food and Drugs Act, on or about June 20, 1910, from the State of Ohio into the State of Colorado of a quantity of so-called "Damiana Elixir" which was adulterated and misbranded. The product was labeled: "Dr. Friedrich Kneip's The Only Genuine 30% Alcohol, Damiana Elixir, A True and Sure Invigorator, Purity Guaranteed. Invigorates Strengthens, Standard Quality."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Alcohol by volume, 29.03 per cent; total solids, 10.37 per cent; sugars, 9.45 per cent; nonsugar solids, 0.92 per cent; very little or no damiana. Adulteration was alleged in the information for the reason that the product was sold under and by a name, to wit, "Damiana Elixir" (Elixir Turneræ), recognized in the National Formulary, and the standard of strength, quality, and purity of said product, as determined by the test laid down in the National Formulary official at the time of sale and shipment of the product, was "Nine and one-half (9½) grains of Damiana (Turneræ) are represented in one fluidrachm of the finished elixir," and that the product differed from the standard of strength, quality, and purity as determined by the test laid down in the National Formulary official at the time of the investigation, and that it was of inferior quality and below the standard of strength, quality, and purity laid down in the National Formulary as afore-

said, the product containing an amount of damiana (Turneræ) less than that prescribed in the National Formulary, to wit, very little or no damiana (Turneræ). Misbranding was alleged for the reason that the label and brand on the product bore statements regarding it and the ingredients and substances contained therein, which statements were false, misleading, and deceptive in that the product was thereby represented to be Damiana Elixir (Elixir Turneræ) of standard strength and quality, as such standard is determined and laid down in the National Formulary, as set forth above, whereas, in truth and in fact, the statements were untrue and false for the reason that the product was not of such standard strength and quality and contained very little or no damiana (Turneræ).

On July 19, 1912, the defendant company entered a plea of nolo contendere to the information and the court imposed a fine of \$25 and costs, aggregating \$41.95.

W. M. HAYS,

Acting Secretary of Agriculture.

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

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