

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 2716.

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

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**U. S. v. Fitzpatrick Drug Co. Plea of guilty. Fine, \$50 and costs.**

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### MISBRANDING OF PHOENIX DIARRHŒA MIXTURE AND PHOENIX SEMINOLA HAIR RESTORER.

On October 28, 1911, the United States Attorney for the Eastern District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Fitzpatrick Drug Co., a corporation, Helena, Ark., alleging shipment by said company, in violation of the Food and Drugs Act, on January 19, 1911, from the State of Arkansas into the State of Tennessee, of quantities of so-called Phoenix Diarrhœa Mixture and Phoenix Seminola Hair Restorer, which was misbranded. The products were labeled: (Diarrhœa mixture, on carton) "Phoenix Diarrhœa Mixture—Guaranteed under the Food and Drugs Act, June 30, 1906. Serial No. 2933. Fitzpatrick Drug Co." (On bottle) "Phoenix Diarrhœa mixture. Phoenix Mfg. Co., Helena, Arkansas." (Hair restorer, on carton) "Phoenix Seminola Hair Restorer—Phoenix Mfg. Co. Sole Proprietors, Helena, Arkansas." (On bottle) "Seminola Hair Restorer—Prepared only by Phoenix Mfg. Co., Helena, Ark."

Analyses of samples of the products by the Bureau of Chemistry of this Department showed the following results: Diarrhœa mixture: Alcohol (not declared on label), 19.00 per cent; solids (grams per 100 cc), 13.296; ash (grams per 100 cc), 0.163; specific gravity at 25° C., 1.0318; sugar, present; chloroform, absent; alkaloid, present; capsicum, absent or not present in appreciable amount; this mixture

does not correspond to Dr. Squibb's Mixture as given in the National Formulary. Hair restorer: Alcohol (not declared on label) in first bottle, 8.5 per cent; alcohol (not declared on label) in second bottle, 7 per cent; sulphur free, in first bottle opened (grams per 100 cc), 0.445; sulphur free, in second bottle opened (grams per 100 cc), 17.9907; lead, in first bottle opened, in solution, calculated as  $\text{Pb}(\text{C}_2\text{H}_3\text{O}_2)_2 \cdot 3\text{H}_2\text{O}$  (grams per 100 cc), 0.0708; lead in first bottle, not in solution, calculated as above (grams per 100 cc), 0.0362; lead, in second bottle opened, in solution, calculated as above (grams per 100 cc), 0.1008; lead, in second bottle opened, not in solution, calculated as above (grams per 100 cc), 0.5070; alkaloid, giving a test for quinine or quinidine (grams per 100 cc), not over 0.0056; bay rum, by odor, present. Misbranding of the products was alleged in the information for the reason that each of them contained alcohol and morphine as follows, to wit, one product was a hydro-alcoholic liquid, containing morphine, 0.0066 gram in 50 cc of the product, and sugar; codein indicated; alcohol, 19 per cent; solids in 100 cc, 13,296 grams; and ash in 100 cc, 0.0163 gram; that the other product contained a hydro-alcoholic preparation, containing free sulphur, lead, cinchona, alkaloid, and bay rum, also about 8 per cent of alcohol.

On March 14, 1912, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$50 and costs.

Prosecution in these cases was recommended upon the ground that the diarrhoea mixture failed to bear a statement showing the quantity or proportion of alcohol and morphine contained therein, and the hair restorer failed to bear a statement on the label showing the quantity or proportion of alcohol contained therein.

C. F. MARVIN,

*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *October 7, 1913.*