

durance; that it would be efficacious in the treatment of tuberculosis, rheumatism, arthritis, neuritis, pyorrhea, asthma, heart disease, nervousness, painful menstruation, excessive bleeding, and hemorrhages; that it would be efficacious in building and nourishing the brain, nerves, and bones, and in strengthening the mental power; that it would be efficacious as a neutralizer of body waste and in maintaining youth, keeping the tissues soft and elastic, dissolving and eliminating impurities from the blood, preventing congestion by promoting circulation, counteracting acidosis, aiding digestion, purifying the blood, dissolving hard deposits in the joints; that it would be efficacious in the treatment of rheumatism, gall bladder disorders, constipation, and halitosis; that it would be efficacious in regulating the nutritive processes, expelling waste, purifying the system, reducing body fat, keeping the hair, skin, and sex organs in healthy condition, and intensifying the emotions; that it would be efficacious as a nerve sedative; that it would be efficacious in keeping the body flexible, preventing bones, teeth, and nails from becoming brittle, vitalizing the lungs and neutralizing acid waste materials, building tissues, promoting strength and endurance, supplying heat and energy, and as an aid in gaining weight; that it would be efficacious in the treatment of anemia, heart and circulatory diseases, female disorders, and nerve exhaustion; that it would be efficacious in supplying energy and vitality and regenerating the body, and as an aid to hearing and sparkling eyes; that it would be efficacious as an aid to consciousness, in vitalizing the glands, quickening coordination between thought and action, keeping the body alkaline, keeping the iris of the eye in a healthy condition, preserving youthful appearance, and promoting longevity; that it would be efficacious in the treatment of acidosis, acne, anemia, auto-intoxication, biliousness, high blood pressure, boils, Bright's disease, bronchitis, sinus trouble, catarrh, colitis, diabetes, failing eyesight, cataract, falling hair, thin, hard, brittle fingernails, gallstones, jaundice, hardening of the arteries, hay fever, stiff joints, leucorrhoea, low vitality, sciatic rheumatism, neuralgia, nerve exhaustion, enlargement of the prostate gland, poor circulation, sexual difference, tuberculosis of the lungs, and undernourishment in children; that it would be efficacious in the treatment of retarded growth, weakening of the body in adults, night blindness, dryness of mucous membranes, diminished resistance to diseases, especially those of the respiratory tract, impaired lactation, gland atrophy, xerophthalmia, drying of the lining of the eyelids with consequent inflammation of the lids and eyeballs, loss of appetite, vasomotor symptoms, retarded growth, loss of weight, disturbances of the intestines or colon, peripheral neuritis, nervous depression, general weakness, granulation at edges of eyelids, nutritional cataract, increased susceptibility to certain infections, decreased longevity; that it would be efficacious in the treatment of certain symptoms following pellagra, skin eruptions, dermatitis, and soreness of mouth and tongue, in restoring gray hair to original color, preventing loss of concentration of calcium and phosphorus in the blood, and lowered acidity of the intestinal tract, and in the treatment of sterility and paralysis; that it is a natural antiseptic, a vital element essential to life, and a natural alkaline germicidal agent; that it was essential to human nutrition and necessary to all kinds of animal life; and that it would supply nutritionally significant amounts of potassium, hydrogen, sodium, chlorine, sulfur, magnesium, nitrogen, carbon, oxygen, silicon, manganese, and fluorine. The article would not be efficacious for the purposes represented, and it would not supply nutritionally significant amounts of the above-mentioned substances.

DISPOSITION: October 17, 1947. Pleas of guilty having been entered, the court imposed a fine of \$2,000 against the defendants jointly and severally.

13696. Misbranding of Beir-Nes Blue Label vitamin B₁ tablets. U. S. v. Barnes & Son and Alfred O. Barnes. Motion to strike denied. *Pro se nolo contendere*. Fine of \$1,000 against each defendant. (F. D. No. 20983. Sample No. 58637-H.)

INDICTMENT RETURNED: March 12, 1947, Southern District of California, against S. O. Barnes & Son, a partnership, Gardena, Calif., and Alfred O. Barnes, partner in the partnership, for the offense of giving a false guaranty.

ALLEGED VIOLATION: On or about August 31, 1944, the defendants caused to be given to Beir-Nes Laboratories of Los Angeles, Calif., a guaranty providing that no food shipped or delivered by the defendants to the Beir-Nes Laboratories described in the guaranty as the distributor, would be adulterated or

branded within the meaning of the Federal Food, Drug, and Cosmetic Act; that the potency of the vitamin content of all merchandise furnished to the distributor was guaranteed for a period of 6 months from the date of shipment or delivery to the distributor; that labels used on all merchandise furnished under the agreement were to be furnished by the distributor and placed on the merchandise by the defendants; that all labels must conform to all rules and regulations of the Food and Drug Administration; and that the distributor would assume full responsibility for any variation from the above in respect to information added to or omitted from labels used, as required by the Food and Drug Administration, and to accept full responsibility for any charges of adulteration or misbranding that might result therefrom. On or about July 12, 1945, the defendants caused to be delivered to the distributor at Los Angeles, a number of packages of Beir-Nes Blue Label Vitamin B₁ tablets; and on or about December 7, 1945, the distributor shipped the tablets from the State of California into the State of Oregon. The tablets so guaranteed and shipped were misbranded.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Each Tablet contains Vitamin B₁—100 I. U. (Thiamin Chloride)" was false and misleading since each tablet of the article contained a smaller amount of vitamin B₁ (thiamine chloride) than so labeled.

The indictment alleged also that the defendants caused a false guaranty to be given with respect to the delivery of a drug known as "Tebsin Tablets," as reported in notices of judgment on drugs and devices, No. 2363.

DISPOSITION: The defendants moved to strike from the indictment the allegations with respect to the shipment of the product in interstate commerce, on the grounds that the defendants could not be criminally liable for the act of third parties or for an act in which the defendants did not participate. The defendants' motion was denied by the court on April 21, 1947. Thereafter, a plea of nolo contendere was entered on behalf of the defendants, and on September 15, 1947, the court imposed a fine of \$1,000 against each defendant.

13697. Alleged misbranding of Ays candy. U. S. v. The Carlay Co. and Carl A. Futter. Special plea in bar filed on behalf of individual defendant; plea sustained and case dismissed. (F. D. C. No. 10609. Sample Nos. 485-F, 486-F, 3046-F, 8665-F to 8667-F, incl., 14081-F, 19667-F, 36890-F, 37652-F.)

INFORMATION FILED: During the approximate date of June 1943, Northern District of Illinois, against the Carlay Co., Chicago, Ill., and Carl A. Futter, president and treasurer of the corporation.

ALLEGED SHIPMENT: Between the approximate dates of October 28, 1942, and February 17, 1943, from the State of Illinois into the States of Wisconsin, Minnesota, Massachusetts, California, Missouri, Michigan, and Maryland.

PRODUCT: The product consisted of rectangular pieces of caramel-like candy individually wrapped in wax paper. Analysis disclosed that the candy chiefly contained glucose, sugar, protein, fat, and vitamins A, D, B₁, and flavor.

NATURE OF CHARGE: The information charged the defendants with the introduction into interstate commerce of a misbranded food. The defendants were charged further with causing certain circulars and posters to be brought into association with the food and to accompany the food, resulting in its being misbranded while held for sale after shipment in interstate commerce. The article was charged to be misbranded under Section 403 (a), because of statements in the labeling which represented that the article would be of substantial value as an aid in reducing body weight. These statements were alleged to be false and misleading.

DISPOSITION: On June 19, 1944, a special plea in bar was filed on behalf of Carl A. Futter, claiming immunity from prosecution in the instant case on the basis of evidence given or produced by him in a case involving the same defendants before the Federal Trade Commission. After a hearing in the matter, the court sustained the special plea in bar on September 13, 1944; on August 19, 1944, the case was dismissed as to Carl A. Futter, and on September 12, 1944, the case was dismissed as to the Carlay Co.

13698. Misbranding of Vitawine. U. S. v. 137 Cartons, etc. (F. D. C. No. 22699. Sample Nos. 54133-H to 54135-H, incl.)

LABEL FILED: March 25, 1947, Southern District of Indiana.