

4339. Misbranding of electric massager. U. S. v. 18 Cartons, etc. (F. D. C. No. 34674. Sample No. 37509-L.)

LABEL FILED: February 19, 1953, District of New Jersey.

ALLEGED SHIPMENT: On or about October 31, 1952, by the Republic Electric & Mfg. Corp., from New York, N. Y.

PRODUCT: 18 cartons, each containing 36 de luxe models, and 36 cartons, each containing 36 standard models, of *electric massagers* at Newark, N. J. The device consisted of a small electric motor in a metal case with a rubber suction-type attachment that would vibrate. The de luxe model of the device had an anodized aluminum case, and the standard model had a case which appeared to be chrome plated.

LABEL, IN PART: (Device) "Electric Massager, 110-120 V, 50-60 cycle, 116 amps—14 watts."

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in a leaflet entitled "Reduce—Keep Slim at Home * * * Use Electric Spot Reducer," which was shipped with the device, were false and misleading. The statements represented and suggested that the device was effective to reduce and keep one slim and to cause the removal of fat from a part or area of the body. The device was not effective for such purposes.

DISPOSITION: Joseph J. Pinkus, Newark, N. J., appeared as claimant and filed an answer denying that the device was misbranded. A set of written interrogatories was served thereafter upon the claimant by the Government. The claimant failed to answer the interrogatories, and on April 9, 1954, the court entered a default decree of condemnation and destruction. On April 27, 1954, an amended decree was entered providing for the delivery of 6 devices to the the Food and Drug Administration.

4340. Misbranding of Miracle hearing aid. U. S. v. 500 Devices, etc. (F. D. C. No. 35630. Sample No. 66197-L.)

LABEL FILED: September 16, 1953, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 9, 1952, by Miracle Hearing Aid, Inc., from East Orange, N. J.

PRODUCT: 500 devices known as *Miracle hearing aid* at Chicago, Ill., in possession of Edward S. Nickerson, doing business as Miracle Hearing Aid of Illinois, together with a number of brochures entitled "Sensational New Miracle Hearing Aid" and a number of leaflets entitled "A Modern Arabian Nights Story," "Instructions and Guide on Using & Handling Miracle Hearing Aid Efficiently," and "Customer's Purchase Agreement."

The device consisted of a piece of wire twisted into the shape of a miniature tuning fork, and rubber discs with perforated centers into which the wire was to be inserted.

RESULTS OF INVESTIGATION: The above-mentioned leaflets were printed at Chicago, Ill., for use by the consignee in connection with the marketing of the device.

NATURE OF CHARGE: Misbranding, Section 502 (a), certain statements in the above-mentioned brochures and leaflets accompanying the device were false and misleading. The statements represented and suggested that the device was effective for enabling deaf persons and those suffering from impaired hearing to hear normally, whereas the device was not effective for such pur-

pose. The device was misbranded when introduced into, while in, and while held for sale after shipment in, interstate commerce.

DISPOSITION: January 11, 1954. Default decree of condemnation. The court ordered that 36 devices and their labeling be delivered to the Food and Drug Administration and that the remainder of the devices and labeling be destroyed.

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¹ (4321, 4324, 4333) Prosecution contested.

² (4327) Seizure contested. Contains opinion of the court.

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

4341-4360

DRUGS AND DEVICES

The cases reported herewith were instituted in the United States district courts by the United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare, and include, where indicated, the results of investigations by the Department, prior to the institution of the proceedings. Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *March 30, 1955.*

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