

4391. Misbranding of "Dr. Freeman's Balsam of Fir Wafers." U. S. * * * v. Edgar S. Fossett (Freeman Pharmacal Co.). Plea of nolo contendere. Fine, \$40. (F. & D. No. 6137. I. S. No. 8071-e.)

On March 13, 1915, the United States attorney for the District of Maine, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Edgar S. Fossett, trading as the Freeman Pharmacal Co., Portland, Me., alleging shipment by said defendant, in violation of the Food and Drugs Act, as amended, on or about April 11, 1913, from the State of Maine into the State of Massachusetts, of a quantity of "Dr. Freeman's Balsam of Fir Wafers," which was misbranded. The article was labeled: (On carton; front) "Dr. Freeman's Balsam of Fir Wafers. Trade-Mark. A Remedy for all affections of the Throat and Lungs. Price, 25 Cents. Manufactured only by Freeman Pharmacal Company, Portland, Maine, U. S. A." (Back) "Guaranteed by Freeman Pharmacal Co. under the Food and Drugs Act of June 30, 1906. Serial No. 455." (Sides) "A Remedy for Bronchitis, Asthma, Coughs, Colds, Croup, Canker, Sore Throat, Catarrh, Whooping Cough, Hoarseness, and La Grippe. Relieves Consumption, and stops raising blood. Contains no mineral poison. None genuine without the Red Maltese Cross Label. Never Accept a Substitute. Directions.—Let a Wafer dissolve in the mouth every 15 or 20 minutes until relieved. Be sure and place one or two Wafers in the mouth on retiring for the night. Warrant.—The dealer is authorized to refund the purchase price if the medicine does not do all we claim for it."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Average weight of 1 wafer (grains)-----	11.2
Ash (per cent)-----	0.03
Ether-soluble resin (gram per wafer)-----	0.004
Sucrose (per cent)-----	91.2
Volatile oil (cc per wafer)-----	0.006
Starch and gum: Present.	
Alkaloids and tartar emetic: Absent.	
Copper acetate test on resin: Positive.	

Product consists of sugar lozenges containing very small amounts of oil of turpentine and eucalyptus. The positive copper acetate tests indicates the possible presence of a trace of balsam of fir.

Misbranding of the article was alleged in the information for the reason that the following statements regarding the therapeutic or curative effects thereof, appearing on the label aforesaid, to wit, "Dr. Freeman's Balsam of Fir Wafers * * * A Remedy for all affections of the Throat and Lungs. * * * A Remedy for Bronchitis, Asthma, * * * Croup, * * * Catarrh, Whooping Cough, * * * and La Grippe. Relieves Consumption, and stops raising blood," were false and fraudulent in that the same were applied to the article knowingly, and in reckless and wanton disregard of their truth or falsity, so as to represent falsely and fraudulently to the purchasers thereof, and create in the minds of purchasers thereof the impression and belief, that it was, in whole or in part, composed of, or contained, ingredients or medicinal agents effective, among other things, as a remedy for all affections of the throat and lungs, bronchitis, asthma, croup, catarrh, whooping cough, and la grippe, and effective for relieving consumption and stopping the raising of blood in consumption, when, in truth and in fact, it was not, in whole or in part, so composed, and did not contain such ingredients or medi-

nal agents. Misbranding was alleged for the further reason that the following statement appearing on the label aforesaid, to wit, "Balsam of Fir Wafers," was false and misleading in that it indicated to the purchasers thereof that the article contained an appreciable amount of balsam of fir, when, in truth and in fact, it did not, but contained merely a trace of balsam of fir.

On September 18, 1915, the defendant entered a plea of nolo contendere to the information, and the court imposed a fine of \$40.

C. F. MARVIN, *Acting Secretary of Agriculture,*