

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

---

## NOTICE OF JUDGMENT NO. 1215.

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

---

### MISBRANDING OF "VINO VITO."

On March 3, 1911, the Grand Jurors of the United States within and for the Northern District of California, acting upon a report of the Secretary of Agriculture, returned an indictment against the American Cordial and Distilling Co., in which it was charged that on or about November 29, 1909, said company sold and delivered to the Rosenblatt Co., of San Francisco, a quantity of goods containing, among other things, a case of "Vino Vito" under a general guaranty as to quality and standard of said goods under the Food and Drugs Act; that on or about March 17, 1910, the Rosenblatt Co., relying upon said guaranty, sold and shipped said case of Vino Vito from the State of California into the Territory of Arizona and that said product was misbranded. The product was labeled: (On neck of bottle) "Reward \$250.00 Reward will be paid for the arrest and conviction of any person refilling this bottle. American Cordial & Distilling Co." (On the main label) "Vino Vito Cordial Restores Youthful Strength & vigor. Agreeable to the taste Sure in action Proof 55 American Cordial & Distilling Co. San Francisco, U. S. A. Guaranteed under the Food & Drugs Act, June 30, 1906. Serial No. 7564."

Analysis of the said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the product to consist essentially of alcohol, sugar, water, and a small amount of a plant extract resembling damiana. Misbranding was alleged in the indictment as follows: "And the Grand Jurors aforesaid do further present that each bottle of Vino Vito in said case contained, so shipped as aforesaid, was then and there misbranded in the following particulars, to-wit: That each of said bottles in said case contained, had two labels thereon regarding said Vino Vito, which labels contained the following words and impressions; on the neck label, 'Reward \$250.00 Reward will be paid for the arrest and conviction of any person refilling this bottle. American Cordial & Distilling Co.'—and on the main label, 'Vino Vito Cordial Restores

Youthful Strength & vigor. Agreeable to the taste Sure in action Proof 55 American Cordial & Distilling Co. San Francisco, U. S. A. Guaranteed by the American Cordial & Distilling Co. under the Food & Drugs Act, June 30, 1906, Serial No. 7564,' with the impression of a nearly nude woman lying upon a couch and holding a corkscrew in her hand, beside which corkscrew were written the words 'Trade Mark', and with the impression of a bottle of Vino Vito on a tabourette beside said couch; That said labels were then and there false and misleading in this, that the statements 'Vino Vito restores Youthful Strength and Vigor,' 'Agreeable to the Taste', and 'Sure in Action', and the design on the label are false and deceptive, as the product contained in each of said bottles in said case, is not a wine of life, will not restore youthful strength and vigor, and is not sure in action, as the said product does not contain a quantity of the extract of damiana sufficient to produce any aphrodisiacal effect. And the Grand Jurors aforesaid, do further present that the said Vino Vito is misbranded in this, that each of the bottles in said case contained, fails to bear any statement on said label, of the quantity or proportion of alcohol contained in said Vino Vito, whereas in truth and in fact, the contents of each of said bottles in said case, contains a large quantity of alcohol".

On September 25, 1911, the defendant, the American Cordial & Distilling Co., entered a plea of guilty and was fined \$100.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *November 28, 1911.*