

their agents, servants, employees, representatives, attorneys and assigns and all persons in active concert or participation with them are perpetually enjoined from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce in violation of 21 U. S. C. 331 (a) the following drugs, so long as they are misbranded within the meaning of 21 U. S. C. 352 (a) as hereinafter set forth.

"The drugs referred to are:

"(1) A brown or blackish-brown mixture which contains potassium iodide, sugar, water, and extracts from one or more of the following: cascara sagrada, common buckthorn, alfalfa, red clover blossoms, and northern prickly ash;

"(2) a pink mixture which contains potassium iodide and elixir lactate of pepsin; and

"(3) any similar drugs.

"The misbranding under 21 U. S. C. 352 (a) which is prohibited by this injunction applies to said drugs, or any of them, the labeling of which is false or misleading in any particular within the meaning of said Act, and the use as labeling on said drugs, or any of them, of a white booklet entitled 'Hoxsey Cancer Clinic Specializing in Cancer,' consisting of 44 pages and a blue booklet entitled 'Hoxsey Cancer Clinic' consisting of 58 pages, which were involved in this action, are specifically prohibited; also, the labeling thereof which represents, suggests or implies that the drugs are beneficial, effective or have value in the cure, mitigation, or treatment of any type of cancer in human beings is prohibited.

"IT IS FURTHER ORDERED AND DECREED that costs are assessed against the defendants in favor of the plaintiff."

In accordance with the above opinion of October 22, 1953, the United States District Court for the Northern District of Texas entered, on October 26, 1953, a decree of permanent injunction against the defendants identical to its decree of June 29, 1953, except for the deletion of that portion which the appellate court had determined to be contrary to its mandate.

Following the appellate court's decision of October 22, 1953, in which leave was denied to the defendants to intervene in the mandamus proceedings, the defendants filed a petition for a writ of certiorari with the United States Supreme Court to review the appellate court's denial of leave to intervene. On November 30, 1953, the Supreme Court denied the petition for certiorari.

An appeal to the United States Court of Appeals for the Fifth Circuit was taken by the defendants from the district court's decree of October 26th; and, after a hearing in the matter, the appeal was dismissed by the appellate court on May 14, 1954.

On August 24, 1954, costs of \$5,520.08 incurred by the Government in the injunction action were taxed against the defendants. Thereafter, a motion to retax the costs was filed by the defendants, and on September 9, 1954, the motion was overruled by the district court.

4655. Testo-Glan and Fem-Tone. (F. D. C. No. 35841. S. Nos. 40-242 L, 53-947 L.)

INFORMATION FILED: 7-16-54, E. Dist. N. Y., against Leo Shine, t/a Glanex Products and Medical Products, Floral Park, N. Y.

SHIPPED: Between 11-20-53 and 4-2-54, from New York to Arizona and Missouri.

LABEL IN PART: (Btl.) "Testo-Glan Male Formula Regular Strength Contents 60 Capsules Each capsule contains—Hormonal activity as found in wheat—Testosterone (Male Sex Hormone). . . . 0.067 mcg. Vitamin E. . . . 0.034 mgms. Survival Factor. . . . Vitamin B₁ 5 mg. 500% MDR. Vitamin B₂ 3.5 mg. 175% MDR. Niacinamide . . . 15 mg." and "Fem-Tone Female Formula Contents 60 Capsules Each capsule contains—Hormonal activity as