

SOFRON B. NEDILSKY

United States of America,	)
	)
Plaintiff,	)
	)
v.	)
	)
An article of device . . . "Toftness	)
Radiation Detector . . . ,"	)
	)
Toftness Post-Graduate School	)
of Chiropractic, Inc.,	)
a corporation, and	)
	)
Irwing N. Toftness,	)
an individual,	)
	)
Defendants.	)

JAN 18 1952

75-C-478 & 479

JUDGMENT

The jury in this action having returned a general verdict in favor of the plaintiff, the United States of America, it is HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. This Court has jurisdiction over the subject matter and the parties to the action.
2. The two defendant Toftness Radiation Detectors are in violation of the Food, Drug, and Cosmetic Act, and shall be condemned and forfeited to the United States. The defendant devices shall be released to the Food and Drug Administration, which may use them for educational purposes or dispose of them by destruction or sale (with any proceeds to go to the Treasury of the United States), as that agency sees fit.
3. a. The Toftness Post-Graduate School of Chiropractic, Inc., and Irwing N. Toftness, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them, shall be, and hereby are, permanently enjoined from manufacturing, promoting, selling, leasing, distributing, shipping, delivering, or using in any way any Toftness Radiation

Detector. (As used herein, "Toftness Radiation Detector" shall mean any article of device that is in any way labeled or designated as a Toftness Radiation Detector, or any article of device that is substantially the same as, or employs the same basic principles as, the defendant Toftness Radiation Detectors.)

b. The Toftness Post-Graduate School of Chiropractic, Inc., and Irwing N. Toftness shall be, and hereby are, ordered to provide to the Minneapolis District Office of the Food and Drug Administration, 240 Hennepin Avenue, Minneapolis, Minnesota 55401, within 30 days, a statement listing all persons who have either received training in the use of the Toftness Radiation Detector or are believed by defendants to be in possession of a Toftness Radiation Detector. This statement shall also indicate the number of Toftness Radiation Detectors in the possession of each person, as well as the number in the possession of defendants, and provide a written explanation concerning each person who has received training in the use of the Toftness Radiation Detector but is not believed to be in possession of a Toftness Radiation Detector.

c. The Toftness Post-Graduate School of Chiropractic, Inc., and Irwing N. Toftness shall be, and hereby are, ordered to send a letter approved by the Food and Drug Administration, by certified mail return receipt requested, within 30 days, to every person who is believed to be in possession of a Toftness Radiation Detector. Each letter shall enclose a copy of this judgment, cancel the lease or other agreement by which the person is in possession of the Toftness Radiation Detector, and order the return of the device to defendants. Each person in possession of a Toftness Radiation Detector shall be, and hereby is, ordered to return the device to the Toftness Post-Graduate School of Chiropractic, Inc., within ten days of

the receipt of this letter, with defendants to bear the cost of postage or other shipping charges.

d. The Toftness Post-Graduate School of Chiropractic, Inc., and Irwing N. Toftness shall be, and hereby are, ordered to provide to the Minneapolis District Office of the Food and Drug Administration, at least once every 30 days until all Toftness Radiation Detectors have been returned: 1) duplicate copies of all return receipts and correspondence received in response to the letters sent pursuant to paragraph 3(c) above; and 2) a <sup>List</sup> statement indicating the number of Toftness Radiation Detectors in their possession, the names of the persons from whom they were received, and the number received from each person. All Toftness Radiation Detectors shall be kept in a specifically designated place approved by the Food and Drug Administration and the Food and Drug Administration shall be allowed to pick them up at that place between 9:00 a.m. and 5:00 p.m. on any weekday. The Food and Drug Administration may use the Toftness Radiation Detectors for educational purposes or dispose of them by destruction or sale (with any proceeds to go to the Treasury of the United States), as it sees fit.

4. For the purpose of making inspections in order to determine that the requirements set forth in the preceding injunction (paragraph 3 of this judgment) have been met and to ensure continuing compliance with the terms of the injunction, duly authorized representatives of the Food and Drug Administration shall be granted free access between 9:00 a.m. and 5:00 p.m. on any weekday to: (1) defendants' places of business, (2) all Toftness Radiation Detector devices and component parts located therein, and (3) all related labeling, communications, correspondence, doctor or patient lists, complaints, agreements, contracts, leases, records, and other materials. The cost of

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these inspections and all other activities undertaken by the Food and Drug Administration pursuant to this judgment shall be borne by defendants at the rate of \$31.50 per hour and fraction thereof per person for inspectional work and \$74.00 per day per person for subsistence expenses, where necessary. Defendants shall also compensate plaintiff for all necessary travel expenses. The inspection authority granted under this judgment is apart from, and in addition to, the authority to make inspections under the Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 372 and 374.

5. The United States shall recover from defendants all court costs and fees, as well as storage and other expenses.

6. The jurisdiction of this Court is retained for the purpose of enforcing or modifying this judgment and for the purpose of granting such additional relief as may hereafter appear necessary or appropriate.

SO ORDERED.

Robert W. Warren  
UNITED STATES DISTRICT JUDGE

Dated: January 18, 1952