

inducing drug. . . . The claims for safety and non-habit forming characteristics of the drug were largely responsible for my using the drug. . . . I submitted no written reports on the use of this drug, and the drug was given to me with this understanding. I did not pretend to do any research on drugs used in my regular practice. My agreement with Mr. Frank Johnson was that I would submit no written report but would give oral reports to him. I made it clear that I was not a research man and that I would want the safety of the drug determined before I would give it to any of my patients. . . . In my opinion this drug was made available to me to familiarize me with its use."

John D. DeMott, M.D., 1440 Professional Bldg., Kansas City, Mo., Psychiatrist, signed an affidavit stated in part, "Just prior to November of 1960 I had discussions with Frank Johnson, detailman for Wm. S. Merrell Company, . . . regarding my use of the drug Kevadon. I also talked to Dr. T. L. Jones, of Wm. S. Merrell Company by phone, concerning this same drug and its use. I decided to try the drug largely because of its claims regarding efficacy and safety which are of great importance in my type of practice. When arrangements were made for my using the drug, I understood that a clinical report was to be submitted after I had used the drug for a period. I signed no particular agreement but drugs were to be supplied to me in the amount that I requested. The drug was supplied to me to allow me to evaluate its effectiveness . . . I have not submitted any written reports to Wm. S. Merrell Company but I have given verbal reports to the firm's detailman, Frank Johnson concerning the use of the drug . . . I have received a number of pieces of literature from the home office of Wm. S. Merrell Company and Inspector Souder made copy of this literature as follows:

"1. Dated August 21, 1962 from Thomas L. Jones, M.D. giving a current status report on the use of Kevadon . . ."

Milton Ende, M.D., 121 S. Market Street, Petersburg, Va. Internist, signed an affidavit stated in part, "The representative contacted me at my office during the latter part of 1960 at which time he offered to supply me with Kevadon for my use as a sedative. The representations made indicated that the drug was safe for use as a sedative. I do not recall any direct claims for the drug other than its safety as a sedative. Information supplied me concerning the drug was of a casual nature with no specific details concerning the drug except that I had obtained the impression from the representative that the drug was completely safe. This drug was represented to me in a manner similar to the manner in which detailmen or medical representatives present me with physicians samples of commonly marketed drugs. I was persuaded to accept the drug for use due to its apparent safety and due to the fact that it was a free sample for which I would not have to charge my patients . . . I have not submitted any written reports to Merrell Company but may have filled out any investigator statement. I do not recall if this statement was supplied by Merrell Company . . . In my original contact with the medical representative concerning this drug I was lead to believe that written reports concerning my use of this drug would not be necessary, however, I do not recall any positive statements indicating the need for or non-necessity of written reports and records . . ."

Ray Firestein, M.D., 416 Sherland Bldg., So. Bend, Indiana, Internist, signed an affidavit which is quoted in part "The detailman stated or else there were statements in the literature supplied by Merrell to the effect that Kevadon had been carefully studied in Europe. I was impressed by the claim that no lethal dose was known for Kevadon. This alone would have made the use of Kevadon highly desirable as a hypnotic . . . I did not submit any written reports to Wm. S. Merrell regarding my use of Kevadon. I did not consider my use of Kevadon as part of an investigational program to determine safety. I considered that the manufacturer had supplied me with the drugs so that I could familiarize myself with its use. I was not testing safety . . ."