4078. Misbranding of "Excello Horse Feed." U. S. v. The Excello Feed Milling Co. Plea of guilty. Fine, $10 and costs. (F. & D. No. 5797. I. S. No. 6800-e.)

On December 7, 1914, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Excello Feed Milling Co., a corporation, St. Joseph, Mo., alleging shipment by said defendant, in violation of the Food and Drugs Act, on or about January 29, 1913, from the State of Missouri into the State of Kansas, of a quantity of "Excello Horse Feed" which was misbranded. The product was labeled: (On bag) "Excello Reg. U. S. Pat. Office Horse Feed For wise feeders 100 lbs. (picture of horses' heads) for strength, for speed. Manufactured & guaranteed by Excello Feed Milling Co., Sole manufacturers, St. Joseph, Mo., U. S. A. Also Mfrs. Excello Dairy Feed & Cattle fattener Bemis, Kansas City, Mo." (On tag) "To * * * 100 lbs. Excello Horse Feed Guaranteed Analysis: Protein not less than 11.51 per cent.; Fat, not less than 4.10 per cent.; Carbo-hydrates, not less than 58.41 per cent.; Crude fiber 10.00 to 15.00 per cent.; Ingredients: Alfalfa meal, corn chops, crushed oats, linseed meal, cane molasses and salt. Manufactured by Excello Feed Milling Co., St. Joseph, Mo."

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

Moisture (per cent)	18.72
Ether extract (per cent)	1.92
Protein (per cent)	9.32
Crude fiber (per cent)	11.26

Misbranding of the product was alleged in the information for the reason that the statement, to wit, "Guaranteed Analysis: Protein not less than 11.51 per cent.; Fat, not less than 4.10 per cent.," borne on the tags attached to the bags which contained the article, was false and misleading in that it purported and represented that said article contained 11.51 per centum of protein, and 4.10 per centum of fat, whereas, in truth and in fact, said article did not contain 11.51 per centum of protein and 4.10 per centum of fat, but contained a less amount of protein and a less amount of fat, to wit, 9.32 per centum of protein and 1.92 per centum of fat. Misbranding was alleged for the further reason that the article was labeled and branded "Guaranteed Analysis: Protein not less than 11.51 per cent.; Fat, not less than 4.10 per cent.," so as to deceive and mislead the purchaser into the belief that it contained not less than 11.51 per centum of protein and not less than 4.10 per centum of fat, whereas, in truth and in fact, it contained a less amount of protein and a less amount of fat, to wit, 9.32 per centum of protein and 1.92 per centum of fat.

On March 15, 1915, the defendant company entered a plea of guilty to the information, and the court imposed a fine of $10 and costs.

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

WASHINGTON, D. C., *November 20, 1915.*