

'eggs,' 'egg' or 'milk' as part of either a firm name, trade name, or label; except that the word 'eggs,' 'egg' or 'milk' may be used on labels and otherwise as part of the bona fide description of the egg or milk content of defendant's products, provided such use is qualified by words or phrases indicating the extent, at least in general non-misleading terms, of such content. Any other use of these words in connection with defendant's products would be, in essence, a deception and would be part and parcel of the misbranding. In other words, if defendant shall no longer be permitted to fill an order for 'Egg-O-Milk' or 'Milk-malt' without re-labelling the products as herein explained, it certainly follows that, unless and until he in fact produces or deals in substantially different milk or egg products, he ought not to be allowed to write, or to otherwise hold himself out as though he dealt in 'Egg-O-Milk' or 'Milk-malt,' which clearly implies a product having a substantial milk or egg content, or both.

"I will sign an order in accordance with the opinion just rendered."

8895. Misbranding of Egg-O-Milk Co.'s Blend. U. S. v. 74 Bags of Egg-O-Milk Co.'s Blend. Default decree of destruction. (F. D. C. No. 15763. Sample No. 3613-H.)

LABEL FILED: April 5, 1945, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about December 16, 1943, by the Egg-O-Milk Co., from Baltimore, Md.

PRODUCT: 74 100-pound bags of Egg-O-Milk Co.'s Blend at Richmond, Va. Examination showed that the article consisted essentially of soybean flour, wheat flour, small amounts of wheat bran, spray-dried grains resembling those of dried egg, and a trace of yeast.

LABEL, IN PART: "Egg-O-Milk Co.'s Blend Buttermilk, Skim Milk, Malt Flour, (Wheat Malt, Barley Malt, Soy Malt,) Powdered Egg-Yolk, Yeast."

NATURE OF CHARGE: Misbranding, Section 403 (a), the name "Egg-O-Milk Co.'s Blend" was misleading since the article was formerly sold under the name "Egg-O-Milk," and the name implied that the article consisted essentially of egg and milk. Further misbranding, Section 403 (a), the label statement, "Buttermilk, Skim Milk, Malt Flour, (Wheat Malt, Barley Malt, Soy Malt,) Powdered Egg-Yolk, Yeast," was false and misleading since the article contained little, if any, buttermilk or skim milk.

DISPOSITION: May 3, 1945. No claimant having appeared, judgment was entered ordering the product destroyed.

8896. Misbranding of Dr. MacDonald's Vitamized Egg Mash Maker, Dr. MacDonald's Vitamized Chick and Growing Mash Maker, and Dr. MacDonald's Vitamized Metabolators For Dairy Cattle, Sheep, Beef Cattle, Calves, and Swine. U. S. v. John R. MacDonald (Vitamized Feed Co.). Plea of nolo contendere. Fine, \$400 and costs. (F. D. C. No. 12557. Sample Nos. 8241-F, 8242-F, 8565-F, 8566-F, 8568-F to 8570-F, incl.)

INFORMATION FILED: December 14, 1944, Northern District of Iowa, against John R. MacDonald, trading as the Vitamized Feed Co., Fort Dodge, Iowa.

ALLEGED SHIPMENT: Between the approximate dates of March 20 and September 22, 1943, from the State of Iowa into the State of Minnesota.

PRODUCT: The Egg Mash Maker and Chick and Growing Mash Maker were sold as supplements for mixing poultry mashes. They consisted essentially of limestone, salt, charcoal, iron compounds, sulfate, iodide, plant material, and small amounts of other mineral substances. The remaining products were stock feeds consisting of cereal matter to which had been added, in various proportions and combinations, ground limestone, salt, charcoal, iron compounds, sulfates, sulfur, copper salts, iodide, oil, ginger, licorice and anise, small amounts of phosphorus, sodium thiosulfate, yeast, fenugreek, charcoal, iodine, iodides, and chloride.

NATURE OF CHARGE: *Egg Mash Maker*, misbranding, Section 403 (a), the label statement, "Iodine (I) Not less Than03906%," was false and misleading since the article contained a smaller amount of iodine. Further misbranding, Section 403 (a), the name of the article, the label statement, "Vitamized Egg Mash Maker," and certain statements in the accompanying circular entitled "Get More Egg By The Vitamized Way" were false and misleading since they represented and suggested that the article contained substances rich in vitamins; that it would produce extra quality eggs; that it contained all of the essential minerals required by poultry; and that it would increase egg production, produce better hatchability of eggs, improve the health of the flock, increase the vitality of poultry, build up body resistance