

9183. Misbranding of Delamer. U. S. v. Frank E. Birtwhistle (Del Monte Laboratories). Plea of nolo contendere. Fine, \$2. (F. D. C. No. 12581. Sample No. 36512-F.)

INFORMATION FILED: January 17, 1945, Northern District of California, against Frank E. Birtwhistle, trading as the Del Monte Laboratories, Monterey, Calif.; information amended April 9, 1945.

ALLEGED SHIPMENT: On or about September 9, 1943, from the State of California into the State of Utah.

PRODUCT: The product was ocean water to which had been added small amounts of calcium acetate, iron chloride, and potassium iodide.

LABEL, IN PART: "Delamer A Mineralized Water * * * Ocean Sea Water Specially Processed."

NATURE OF CHARGE: Misbranding, Section 403 (a), the statements in the circulars accompanying the article were misleading since they represented, suggested, and implied that the "wearing out" of the body, as evidenced by the slowing of the function of the blood, lack of vitality and pep, general poor physical condition, and lack of mental vigor, is usually the result of lack of minerals in the diet; that the user might reasonably expect that the consumption of the article would retard the "wearing out" processes of the body and prolong life; that it would prevent the slowing of the function of the blood; that it would restore vitality and pep and improve the general physical condition and mental vigor; and that the article was a rich source of all minerals. The "wearing out" of the body is a natural process with which lack of minerals is not ordinarily associated; the conditions referred to in the labeling are not usually the result of a lack of minerals in the diet, but result from many and varied causes; the user might not reasonably expect that the consumption of the article would prevent or correct such conditions, since it would not be ordinarily efficacious for such purposes; and the article was not a rich source of all minerals.

Further misbranding, Section 403 (a), certain statements in the circulars were misleading since they represented and suggested that the ordinary diet of children does not provide them with calcium in amounts sufficient to attain normal growth; that the ordinary diet does not contain sufficient minerals for the normal needs of the body; that it is necessary to supplement the ordinary diet with additional minerals; and that it is practically impossible to obtain foods which contain sufficient minerals for the needs of the body. The ordinary diet of children provides them with calcium in amounts sufficient to attain normal growth; the ordinary diet does contain sufficient minerals for the normal needs of the body; and it is not necessary to supplement the ordinary diet with additional minerals, since the foods in the ordinary diet contains sufficient minerals for the normal needs of the body.

The article was also charged to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1779.

DISPOSITION: October 2, 1945. The defendant having entered a plea of nolo contendere, a fine of \$1 on each count was imposed, a total fine of \$2.

9184. Adulteration and misbranding of Bagdol and B-Iron (vitamin preparations). U. S. v. Irwin, Neisler and Co. Plea of guilty. Fine of \$100. (F. D. C. No. 14314. Sample Nos. 61584-F, 61585-F.)

INFORMATION FILED: March 27, 1945, Southern District of Illinois, against Irwin, Neisler and Co., a corporation, Decatur, Ill.; information amended May 1, 1945.

ALLEGED SHIPMENT: On or about June 30 and July 11, 1944, from the State of Illinois into the State of Texas.

LABEL, IN PART: "Bagdol," and "B-Iron."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents had been in part omitted from the articles in that each tablet of the Bagdol was represented to contain 1.5 milligrams of vitamin B₁, whereas each tablet contained not more than 0.58 milligram of vitamin B₁; and each tablet of the B-Iron was represented to contain 1,000 International Units of vitamin B₁, whereas each tablet contained not more than 800 International Units of vitamin B₁.