

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.

Misbranding, Section 403 (a), (Bagdol) the label statement, "Each tablet contains vitamin B₁ 1½ x M. D. R. 1.5 mg.," was false and misleading since it represented that each tablet of the article contained 1.5 milligrams of vitamin B₁ and would furnish 1½ times the minimum daily requirements for this vitamin, whereas each tablet contained not more than 0.58 milligram of vitamin B₁ and would furnish not more than 58 percent of the minimum daily requirement for vitamin B₁; and (B-Iron) the label statement, "Each tablet contains Vitamin B₁ 1,000 Int. Units * * * 1 tablet furnishes three times the minimum daily requirement of vitamin B₁," was false and misleading since each tablet contained not more than 800 International Units of vitamin B₁ and would furnish not more than 2.40 percent of the minimum daily requirement for this vitamin.

DISPOSITION: December 1, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100.

9185. Adulteration and misbranding of Vitiliver Capsules. U. S. v. Myron L. Walker Co., Inc. Plea of guilty. Fine, \$500 on count 1; sentence suspended on counts 2, 3, and 4. (F. D. C. No. 15593. Sample Nos. 63385-F, 63910-F.)

INFORMATION FILED: October 2, 1945, Southern District of New York, against the Myron L. Walker Co., Inc., Mount Vernon, N. Y.

ALLEGED SHIPMENT: Between the approximate dates of March 3 and September 21, 1944.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents had been in whole or in part omitted or abstracted from the article since the product in one shipment was represented to contain 0.50 milligram of vitamin B₁ per capsule, but contained not more than 0.24 milligram of vitamin B₁ per capsule; and the product in the other shipment was represented to contain, in each capsule, 100 International Units of vitamin B₁, equivalent to 0.3 milligram of thiamine and 10 Sherman Bourquin Units of vitamin B₂ (riboflavin), but contained not more than 25 International Units of vitamin B₁, equivalent to not more than .069 milligram of thiamine and approximately 2 Sherman Bourquin Units of vitamin B₂ per capsule.

Misbranding, Section 403 (a), the label statements, (portion) "In each capsule * * * Vitamin B₁ (Thiamine Hydrochloride) .50 mg.," and (remainder) "In each capsule * * * Vitamin B₁ (Thiamin 0.3 Mg.) 100 Int. Units Vitamin B₂ (Natural) 10 Sher. Bourq. Units," were false and misleading.

Further misbranding, Section 403 (j), the article purported to be and was represented for special dietary uses by man by reason of its vitamin properties in respect of vitamin B₁, vitamin B₂, vitamin C, vitamin B₆, and all other B complex factors, and by reason of its mineral property in respect of iron, and its label failed to bear, as prescribed by the regulations, a statement of the proportion of the minimum daily requirements of vitamin B₁, vitamin B₂ (riboflavin), vitamin C, and iron which would be supplied by the article when consumed in a specified quantity during a period of 1 day; and the label did not bear a statement of the quantity of vitamin B₆ and other B complex factors which would be furnished by a specified quantity of the article when consumed during a period of 1 day. Furthermore, the need for vitamin B₆ and factors of the B complex other than vitamin B₁ and vitamin B₂ and niacin not having been established, the label failed to bear, as required by the regulations, the statement that "The need for Vitamin B₆ and factors of the B-complex other than vitamin B₁, B₂ and niacin in human nutrition has not been established.

DISPOSITION: October 11, 1945. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 on count 1 and suspended sentence on the other 3 counts.

9186. Misbranding of wheat germ. U. S. v. Ener-G Cereal Corporation. Plea of guilty. Fine, \$25. (F. D. C. No. 15573. Sample No. 74827-H.)

INFORMATION FILED: October 11, 1945, Western District of Washington, against the Ener-G Cereal Corporation, Seattle, Wash.

ALLEGED SHIPMENT: On or about October 10, 1944, from the State of Washington into the State of California.

LABEL, IN PART: "Jolly Joan Analyzed Wheat Germ."