

INFORMATION FILED: December 28, 1953, District of Rhode Island, against David E. Lemay and Ida I. Lemay, partners in the partnership of Dave's Seafood Restaurant, Portsmouth, R. I.

ALLEGED VIOLATION: On or about August 12, 1953, at Portsmouth, R. I., the defendants unlawfully possessed and served quantities of colored oleomargarine or colored margarine.

NATURE OF CHARGE: Colored oleomargarine or colored margarine was possessed by the defendants in violation of Section 407 (c), in that the article was possessed at a public eating place, namely, Dave's Seafood Restaurant, and was in a form ready for serving, and a notice that oleomargarine or margarine was being served was not displayed prominently and conspicuously, or at all, in such public eating place, and such notice was not printed or otherwise set forth on the menu at such public eating place.

Colored oleomargarine or colored margarine was served by the defendants in violation of Section 407 (c), in that the article was served at a public place, namely, Dave's Seafood Restaurant, and was a separate serving which (1) did not bear and was not accompanied by labeling identifying it as oleomargarine or margarine, or (2) was not triangular in shape.

DISPOSITION: January 19, 1954. The defendants, having entered pleas of guilty, the court fined each defendant \$25 and placed each on probation for 1 year.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

20999. Adulteration and misbranding of vitamin capsules. U. S. v. 12 Bottles, etc. (F. D. C. No. 34913. Sample No. 17243-L.)

LIBEL FILED: March 30, 1953, Southern District of California.

ALLEGED SHIPMENT: On or about May 15 and 31, 1951, from New York, N. Y.

PRODUCT: 12, 1,000-capsule bottles of vitamin capsules at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (b), (1), a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statement "Vitamin B₁ * * * 1 Mg. 333 U. S. P. Units One Capsule provides the minimum adult daily requirements of Vitamin B₁" was false and misleading as applied to the article, which contained less than the declared amount of vitamin B₁.

The article was alleged to be adulterated and misbranded while held for sale after shipment in interstate commerce.

The libel alleged also that another lot of vitamin capsules was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4254.

DISPOSITION: July 23, 1953. The American Pharmaceutical Co., New York, N. Y., claimant, having consented to the entry of a decree, the court ordered that a portion of the vitamin capsules having the status of drugs be released to the claimant and that the remainder of the vitamin capsules having the status of drugs and all of the vitamin capsules having the status of foods be condemned and destroyed.

21000. Misbranding of artificial mineral water. U. S. v. 366 Cases, etc. (F. D. C. No. 34961. Sample No. 157047-L.)

LIBEL FILED: April 24, 1953, Northern District of Ohio; amended libel filed May 26, 1953.

ALLEGED SHIPMENT: On or about April 28, 1953, by Nuvi-T-Min, Inc., from
Gordonville, Pa.

PRODUCT: 366 cases, each containing 25 1-gallon bottles, of artificial mineral water at Toledo, Ohio, together with a number of accompanying pamphlets entitled "Functions of Minerals in Nutrition." Analyses showed that the article consisted of approximately 99.5 percent water and 0.5 percent dissolved mineral matter, nearly all of which was sodium sulfate, and that there were but inconsequential traces of other minerals.

LABEL, IN PART: (Bottle) "Nuvi-T-Min, Inc., Artificial Mineral Water."

NATURE OF CHARGE: Misbranding, Section 403 (a) the statements on the label of the article, namely, "Minerals Added Potassium Diphosphate, Calcium Phosphate, Magnesium Phosphate * * * Silicon Dioxide, Sodium Phosphate * * * Zinc Sulphate, Sodium Sulphate, Manganese Chloride, Ferric Phosphate, Cobalt Sulphate, Potassium Chloride," and certain statements in the above-mentioned accompanying pamphlet, which referred to chlorine, fluorine, cobalt, manganese, zinc, and copper, were misleading. The statements represented and suggested that the named substances contributed to the nutritional properties of the article, whereas such substances did not contribute to the nutritional properties of the article and such misleading impression was not corrected by the statement on the margin of the label "Calcium Hydroxide and Sodium Sulfate predominate in this water. Other mineral elements present in minute quantities."

Further misbranding, Section 403 (a), the label designation "Nuvi-T-Min" was false and misleading since it represented and suggested that the article contained vitamins, whereas the article contained no vitamins; and the false and misleading representation and suggestion was not corrected by the statement on the margin of the label "This Mineral Water does not contain vitamins."

Further misbranding, Section 403 (j), the article purported to be a food for special dietary use by reason of its mineral content, and its label failed to bear, as required by the regulations, a statement of the amounts of the mineral elements, listed upon the label as ingredients, supplied by the article when consumed in a specified quantity during a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 4234.

DISPOSITION: -- July 16, 1953. Nuvi-T-Min, Inc., and W. R. Devlin, Gordonville, Pa., the owners of the product, having appeared as claimants, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Department of Health, Education, and Welfare.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 20951 TO 21000

PRODUCTS

N. J. No.		N. J. No.	
Beans, lima, frozen	20989	Butter	20962-20964
Beverages and beverage materials	20951-20953	Catfish fillets, frozen	20968
Blueberries, canned	20980	Cereals and cereal products	20954-20961
fresh	20985-20988	Cheese	20965