

safflower oil; and that the gluten flour, noodles, spaghetti, and macaroni were of special significance for starch and sugar restricted diets.

The libel alleged also that the articles together with certain other products were misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7401.

DISPOSITION: On 5-9-62, the articles were claimed by Balanced Foods, Inc., New York, N.Y., and an answer was filed by Balanced Foods, Inc., denying that the articles were misbranded. Thereafter, the case was removed for trial to the Eastern District of New York. On 5-25-62, Dietetic Food Co., Inc., answered the libel and denied that the products packed by them, namely, the gluten flour, noodles, spaghetti and macaroni, were misbranded. On 6-25-62, Balanced Foods Co., Inc., withdrew its claim to the goods. On or about 6-28-62, Dietetic Food Co., Inc., filed a claim to the gluten flour, noodles, spaghetti, and macaroni. On 8-3-62, a default decree of condemnation and destruction was filed with respect to the articles containing safflower oil. On 8-14-62, such articles were destroyed. On 1-3-63, the action, with respect to the gluten flour, noodles, spaghetti, and macaroni was dismissed, without prejudice, upon the motion of the United States Attorney on the grounds that these articles constituting the *res* of the action were no longer in existence, since they had been inadvertently destroyed thereby rendering the action moot.

29297. Nyal Ny-Vim Vitamin and Mineral Compound. (F.D.C. No. 45903. S. No. 34-372 R.)

QUANTITY: 720 16-oz. btls., at Yonkers, N.Y., in possession of Nyal Co., Inc.

SHIPPED: The article was manufactured by the dealer from raw materials shipped during October 1960, from Newark, N.J.

LABEL IN PART: "Nyal Ny-Vim Vitamin and Mineral Compound Fortified with Vitamin B₁ and Iron * * * Daily Directions * * * Supply * * * Vitamin D 624 U.S.P. Units * * * Nyal Company, Inc., Distributors, New York, N.Y."

RESULTS OF INVESTIGATION: The article was found to contain about 60 percent of the labeled amount of vitamin D.

LIBELED: 5-25-61, S. Dist. N.Y.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent vitamin D had been in part omitted or abstracted therefrom; and 403(a)—the label statement "Daily directions (1 tablespoonful four times a day) Supply * * * Vitamin D 624 U.S.P. Units" was false and misleading.

DISPOSITION: 6-23-61. Default—destruction.

29298. Sea kelp powder and Kelp-Ettes. (F.D.C. No. 46561. S. No. 21-857 R.)

QUANTITY: 70 100-lb. drums of sea kelp powder and 397 100-tablet btls. of Kelp-Ettes, at Hobart, Ind., in possession of Nelson's Natural Foods.

SHIPPED: The bulk sea kelp was shipped on 3-8-61, from San Pedro, Calif.

LABEL IN PART: (Btl.) "500 5 Grain Tablets * * * Nelson's Kelp-Ettes A Pure Sea Food Containing Safe Natural Iodine. Made from Pacific Coast Giant Brown Sea-Kelp (*Macrocystis Pyrifera*) * * * Packed and Distributed by: Nelson's Natural Foods."

ACCOMPANYING LABELING: Leaflet entitled "Have You Checked Your Eating Habits Lately?"; and mimeographed sheets entitled "Alcohol or Poor Diet," "Who Is More Important? A New Born Baby or You? Think It Over!," and "Do You Play the Game of Life to Win?"

RESULTS OF INVESTIGATION: The accompanying leaflets and mimeographed sheets were used by the dealer in promoting the sales of the article. The Kelp-Ettes had been prepared and entabled by the dealer using a portion of the bulk powder.

LIBELED: 10-10-61, N. Dist. Ind.

CHARGE: 403(a)—while held for sale, the accompanying labeling of the article contained false and misleading representations that the article may be consumed with safety in any amount, that the article was of unusual benefit for special dietary supplementation as a source of minerals, vitamins and trace elements; and that the ordinary individual requires daily food supplementation.

The libel alleged also that the article was misbranded under provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 7404.

DISPOSITION: On 12-21-61, Carl A. Nelson, owner and operator of Nelson's Natural Foods, filed an answer consenting to a decree. On 1-24-62, a consent decree of condemnation was entered. On 2-7-62, the articles were released under a \$500 bond to the claimant for the purpose of bringing the article into compliance with the law. On 9-20-62, a motion was filed to declare forfeiture of bond, which motion was based upon claimant's failure to keep the seized lot intact for examination and inspection, in that claimant made 3 shipments of sea kelp without notification to, or authorization from, a representative of the Department of Health, Education, and Welfare. On 10-25-62, the Government's motion was argued before the court and the court declared the bond forfeit. On 10-31-62, a decree of forfeiture was filed.

29299. Vitamin and mineral capsules. (F.D.C. No. 49121. S. Nos. 77-861/5 V.)

QUANTITY: 232 100-capsule btls. of Prenatal vitamin and mineral capsules, 349 50-cc. btls. of Polyvitamin Drops, 307 100-capsule btls. of Geriatric capsules, 404 100-capsule btls. of vitamin and mineral capsules, and 430 100-capsule btls. of Multi-Vitamin Therapeutic capsules, at Toledo, Ohio.

SHIPPED: Prior to 1-1-60, from Detroit, Mich., by Family Vitamin Co., Inc.

LABEL IN PART: (Btl.) "Prenatal Vitamin and Mineral Distributed by Family Vitamin Co., Inc. * * * Detroit 4, Michigan, * * * Each capsule contains * * * Vitamin B₁ 1 Mg."; "Polyvitamin Drops * * * Fruit Flavored For Infants & Children * * * 0.6 cc. (* * *) provides * * * Thiamine (B₁) 1 Mg. * * * Dist. by Family Vitamin Co., Inc. * * * Detroit 4, Mich," "Geriatric Distributed by Family Vitamin Co., Inc. * * * Detroit 4, Michigan, * * * Each capsule contains * * * Vitamin B₁ 5 Mg.," "Vitamin and Mineral Distributed by Family Vitamin Co., Inc., * * * Detroit 4, Michigan * * * Each capsule contains * * * Folic Acid U.S.P. 0.34 Mg.," and "Multi-Vitamin Therapeutic Distributed by Family Vitamin Co., Inc. * * * Detroit 4, Michigan * * * Each capsule contains * * * Vitamin B₁ 10 Mg."

RESULTS OF INVESTIGATION: Analysis showed that the Prenatal vitamin and mineral capsules contained approximately 75 percent; Polyvitamin Drops contained approximately 35 percent; Geriatric capsules contained approximately 70 percent; and the Multi-Vitamin Therapeutic capsules contained approximately 75 percent of the declared amount of vitamin B₁.

LIBELED: 7-24-63, N. Dist. Ohio.