

The article was alleged to be adulterated in that its strength differed from and its quality fell below that which it was represented to possess. It was alleged to be misbranded in that the following statement was false since it was incorrect: "400 Units Vitamin D Per Gram A O A C."

The article was also alleged to be adulterated and misbranded in violation of the provisions of the law applicable to foods reported in F. N. J. No. 2156.

On July 3, 1941, the Gorton Pew Fisheries Co., Gloucester, Mass., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled under the supervision of the Food and Drug Administration.

**480. Adulteration and misbranding of cod-liver oil concentrate. U. S. v. 1¼ 420-Pound Drums of Five X Concentrate. Default decree of condemnation and destruction. (F. D. C. No. 3478. Sample No. 34377-E.)**

This product contained less than 300 A. O. A. C. chick units of vitamin D per gram; whereas its label represented that it contained not less than 425 A. O. A. C. chick units of vitamin D per gram.

On December 4, 1940, the United States attorney for the District of New Jersey filed a libel against 1¼ 420-pound drums of cod-liver oil concentrate at Plainfield, N. J., alleging that the article had been shipped in interstate commerce on or about September 9, 1940, by the Whitmoyer Laboratories, Inc., from Myerstown, Pa.; and charging that it was adulterated and misbranded. The article was labeled in part: "Whitmoyer Quality Five X Concentrate."

The article was alleged to be adulterated in that its strength differed from and its quality fell below that which it was represented to possess. It was alleged to be misbranded in that the statement on the label, "Five X Concentrate is guaranteed to contain not less than 425 A. O. A. C units vitamin D per gram," was false and misleading since it was incorrect.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 2647.

On June 2, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**481. Adulteration and misbranding of fortified cod-liver oil. U. S. v. Seaboard Supply Co., Inc. Plea of nolo contendere. Fine, \$150. (F. D. C. No. 2890. Sample Nos. 1236-E, 14209-E, 78465-D.)**

This veterinary product was found to be deficient in both vitamin D and vitamin A.

On January 8, 1941, the United States attorney for the Eastern District of Pennsylvania filed an information against Seaboard Supply Co., Inc., a corporation, Philadelphia, Pa., alleging shipment within the period from on or about January 2 to on or about March 28, 1940, from the State of Pennsylvania into the States of West Virginia and Delaware of quantities of fortified cod-liver oil that was adulterated and misbranded. The article was labeled in part: "50 Lbs. Net Sea-Clo-400-D Highly Fortified Cod Liver Oil In Dry Base."

It was alleged to be adulterated in that its strength differed from, or its quality fell below, that which it purported or was represented to possess since it was represented to contain 400 units of vitamin D per gram, and approximately 1,000 units of vitamin A per gram; whereas it contained less than 400 units of vitamin D per gram, namely, less than 200 units of vitamin D per gram, and materially less than 1,000 units of vitamin A per gram, namely, not more than 500 units of vitamin A per gram.

It was alleged to be misbranded in that the statements, "In place of each 4¾ lbs. straight 85-D Oil use 1 lb. Sea-Clo-400-D. In place of each 1 lb. Fortified 400-D Oil use 1 lb. Sea-Clo-400-D. For each 5 pints 85-D Oil used, replace with 1 lb. Sea-Clo-400-D," and "Guaranteed to contain 400 A. O. A. C. units of Vitamin D. per gram. When this product is packed it contains more than 1,000 units of Vitamin 'A' per gram, but due to a difference of opinion of our many authorities regarding the stability of Vitamin 'A' from Cod Liver Oil when added to feeds, we are making no claim for it," appearing in the labeling, were false and misleading since it contained less than 400 units of vitamin D per gram and contained materially less than 1,000 units of vitamin A per gram, and 1 pound of the article would not be equivalent in feeding value or as a source of vitamin D and vitamin A to 4¾ pounds of straight 85-D cod liver oil, or 1 pound of fortified 400-D cod liver oil or 5 pints of 85-D cod liver oil.

The article was also charged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 2645.

On March 24, 1941, the defendant having entered a plea of nolo contendere, the court imposed a fine of \$150.

**482. Adulteration and misbranding of sardine oil. U. S. v. Industrial Oil Products Corporation. Plea of nolo contendere. Fine, \$100 on count I. Imposition of of sentence suspended on remaining counts. (F. D. C. No. 4155. Sample Nos. 24504-E, 40103-E.)**

This veterinary product contained less vitamin D than the amount declared on the label.

On August 7, 1941, the United States attorney for the Southern District of California filed an information against the Industrial Oil Products Corporation, trading at Los Angeles, Calif., alleging shipment on or about September 4 and October 24, 1940, from the State of California into the State of New Jersey of quantities of sardine oil which was adulterated and misbranded. The article was labeled in part: "Fox Special Sardine Oil \* \* \* The Fox Company, Newfield, New Jersey."

It was alleged to be adulterated in that its strength differed from and its quality fell below that which it purported or was represented to possess since it was represented in its labeling to contain 85 A. O. A. C. chick units of vitamin D per gram; whereas it contained less than so represented, the product in one shipment containing not more than 60 and that in the other shipment containing not more than 65 A. O. A. C. chick units of vitamin D per gram.

It was alleged to be misbranded in that the statement "Guaranteed 85 AOAC Chick Units of Vitamin D per Gram," borne on the drum, was false and misleading since the article contained less than 85 A. O. A. C. chick units of vitamin D per gram.

The article was also alleged to be adulterated and misbranded under the provisions of the law applicable to foods, as reported in F. N. J. No. 2648.

On August 28, 1941, a plea of nolo contendere having been entered, the court sentenced the defendant to pay a fine of \$100 on count I and suspended imposition of sentence on the remaining 7 counts.

### DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING STATEMENTS IN THE LABELING<sup>a</sup>

Nos. 483 to 536, inclusive, report actions based on interstate shipment of drugs or devices the labeling of which contained false and misleading statements—in most instances regarding their therapeutic efficacy.

**483. Misbranding of El Panal Cuban Honey. U. S. v. Albert H. Hoffman (Hoffman Health Products Co.). Plea of guilty. Fine, \$50. (F. D. C. No. 960. Sample No. 65858-E.)**

This honey was falsely labeled to indicate that it possessed minerals and other nutritional elements materially in excess of those contained in ordinary honey. Its label also bore false and misleading representations regarding its efficacy in the conditions indicated below.

On May 28, 1940, the United States attorney for the Southern District of Florida filed an information against Albert H. Hoffman, trading as Hoffman Health Products Co., Tampa, Fla., alleging shipment on or about October 14, 1939, from the State of Florida into the State of North Carolina, of a quantity of El Panal Wonder Honey that was misbranded. The article was labeled in part: "El Panal Cuban Honey. Imported direct from Cuba."

The article was alleged to be misbranded in that certain statements in the labeling were false and misleading since they represented and implied that it was a "Wonder Honey," i. e., that it differed materially from ordinary honey; and that it contained minerals which help build nerve, bone, and muscle tissue materially in excess of those contained in ordinary honey; that it would supply the elements valuable in ailments resulting from mineral deficiencies in amounts materially in excess of such minerals found in ordinary honey; that it possessed proportionately high amounts of potassium, sodium, calcium, magnesium, iron, phosphorus, chlorine, sulfur, silicon, and undetermined minerals; that it possessed value as a food, body builder, and constructive nutritional factor materially in excess of that possessed by ordinary honey; and that it contained minerals and other nutritional elements lacking in other honey;

<sup>a</sup> See also Nos. 426, 427, 429, 431-434, 436-448, 451-454, 459, 460, 468, 470, and 471.