

3519. Misbranding of Excello dairy feed. U. S. v. Excello Feed Milling Co. Plea of guilty. Fine \$10 and costs. (F. & D. No. 5361. I. S. No. 16864-d.)

On February 20, 1914, the United States attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against the Excello Feed Milling Co., a corporation, St. Joseph, Mo., alleging shipment by said company, in violation of the Food and Drugs Act, on or about January 22, 1912, from the State of Missouri into the State of Oklahoma, of a quantity of so-called Excello dairy feed, which was misbranded. The product was labeled: "Excello Dairy Feed For wise feeders, 100 lbs., increases the milk, increases butter fat, manufactured and guaranteed by Excello Feed Milling Co., Sole Manufacturers, St. Joseph, Mo., U. S. A., Also Mfgs. Excello Cattle Fattener & Horse Feed." (On tag) "No. 80151. Excello Dairy Feed. Manufacturers of Excello Feed Milling Co. Guaranteed analysis 100 lbs. Protein 14.36%; Fat 3.50%; Carbohydrates 49.62%; Crude fibre 12 to 15%. Ingredients: Ground corn, wheat bran, cottonseed meal, alfalfa meal, cane molasses and salt."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed the following results:

Moisture (per cent).....	22.84
Ether extract (per cent).....	2.41
Protein (per cent).....	11.56
Crude fiber (per cent).....	9.75

Misbranding of the product was alleged in the information, for the reason that the aforesaid label contained the following statement, to wit, "Guaranteed analysis 100 lbs., Protein 14.36%; Fat 3.50%;" which said statement was false and misleading, in that it purported and represented to the purchaser of said article that there was contained as ingredients thereof 14.36 per centum of protein and 3.50 per centum of fat, whereas, in fact, said article did not contain 14.36 per centum of protein and 3.50 per centum of fat, but contained a less amount of said ingredients, to wit, 11.56 per centum of protein and 2.41 per centum of fat.

Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof into the belief that the same contained 14.36 per centum of protein and 3.50 per centum of fat, whereas, in fact, it contained a less amount of said ingredients, to wit, 11.56 per centum of protein and 2.41 per centum of fat.

On September 21, 1914, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$10 and costs.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *December 31, 1914.*