

which comprised approximately 40 percent of the total capacity of the package. The packages held about 30 percent of the amount of food that a completely filled box of the same dimensions would hold.

**LABEL, IN PART:** "Servicemen's Candy Package."

**VIOLATION CHARGED:** Misbranding, Section 403 (d), the container was so filled as to be misleading since the upper tray was not filled to capacity, and there was unfilled space beneath the tray.

**DISPOSITION:** April 12, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

**8491. Misbranding of gift packages of food. U. S. v. 234 Cartons of Gift Packages. Decree of condemnation. Product ordered released under bond.** (F. D. C. No. 14494. Sample No. 73295-F.)

**LABEL FILED:** November 20, 1944, Northern District of California.

**ALLEGED SHIPMENT:** On or about August 29, 1944, by Golden Brand Nut Products, Inc., from New York, N. Y.

**PRODUCT:** 234 3-pound gift packages of food at Oakland, Calif.

The packages contained 14 fluted paper cups of cookies, candies, pear paste, a jar of honey, and a jar of cherries arranged around the rim of the package. A rectangular tray, 1 inch deep, covered with yellow cellophane and containing candied fruits and fruit paste, occupied the center of the package. The tray was not filled to capacity, which fact was not readily apparent to the purchaser because of the yellow cellophane cover. Space beneath the tray, ½ inch deep, was unfilled except for two pieces of pear paste supporting the tray.

**LABEL, IN PART:** "Victory Snack Pack."

**VIOLATION CHARGED:** Misbranding, Section 403 (d), the container was so filled as to be misleading since the cellophane-covered tray was not filled to capacity, and there was unfilled space beneath the tray.

**DISPOSITION:** January 26, 1945. Montgomery Ward and Co., Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**8492. Misbranding of vanilla- and chocolate-flavored puddings. U. S. v. 10 Cartons of Vanilla Flavor Pudding and 7 Cartons of Chocolate Flavor Pudding. Default decree of condemnation. Product ordered delivered to a charitable institution.** (F. D. C. No. 15081. Sample Nos. 5801-H, 5802-H.)

**LABEL FILED:** January 25, 1945, District of New Jersey.

**ALLEGED SHIPMENT:** On or about November 13, 1944, by the Van Besta Co., from Brooklyn, N. Y.

**PRODUCT:** 10 cartons, each containing 6 dozen packages, of vanilla-flavored pudding; and 7 cartons, each containing 6 dozen packages, of chocolate-flavored pudding at Hoboken, N. J. Examination showed that the products were in the form of powder packaged in paper bags, each bag being enclosed in individual cardboard cartons.

**LABEL, IN PART:** "Van Besta Vanilla [or "Chocolate"] Flavor Pudding."

**VIOLATION CHARGED:** Misbranding, Section 403 (d), the containers of the products were so filled as to be misleading since the vanilla pudding occupied only about 38 percent of the volume of its individual carton, and since the chocolate pudding occupied only about 59 percent of the volume of its individual carton.

**DISPOSITION:** April 2, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

#### VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES\*

**8493. Adulteration and misbranding of wheat germ. U. S. v. Omar, Inc. Plea of nolo contendere. Fine, \$500.** (F. D. C. No. 14304. Sample No. 69657-F.)

**INFORMATION FILED:** March 28, 1945, District of Colorado, against Omar, Inc., Denver, Colo.

**ALLEGED SHIPMENT:** On or about April 25, 1944, from the State of Colorado into the State of New Mexico.

**LABEL, IN PART:** "Omar Toasted Wheat Germ."

\*See also No. 8305.

**VIOLATIONS CHARGED:** Adulteration, Section 402 (b) (1), a valuable constituent of the product, thiamine (vitamin B<sub>1</sub>), had been in part omitted, since it was labeled as containing 15 milligrams of thiamine per pound, whereas it actually contained not more than 10.9 milligrams.

Misbranding, Section 403 (a), certain label statements were false and misleading in that they represented and suggested that the product contained not less than 15 milligrams of thiamine (vitamin B<sub>1</sub>) per pound; that the product would supply sufficient quantities of the vitamin B complex and calcium to correct all deficiencies of these substances in the diet; and that it is ordinarily necessary to supplement the diet with wheat germ or a similar product in order to obtain sufficient vitamins and minerals. The product contained less than 15 milligrams of thiamine per pound; it would not supply sufficient quantities of vitamin B complex and calcium to supply all deficiencies of those substances in the diet; and it is not ordinarily necessary to supplement the diet with wheat germ or a similar product, since the ordinary diet contains sufficient vitamins and minerals for normal nutrition.

Further misbranding, Section 403 (a), the label statement, "anti pellagra factor," following the word "Niacin," was misleading because it created the impression that the product in the quantity ordinarily consumed would be of value in the prevention and treatment of pellagra, whereas it would not be of value for such purposes; and, Section 403 (j), the product purported to be and was represented as a food for special dietary uses by reason of its properties in respect of certain vitamins and minerals, and its label failed to bear, as the regulations require, (1) a statement of the proportion of the minimum daily requirements for thiamine (vitamin B<sub>1</sub>), riboflavin (vitamin B<sub>2</sub>), iron, calcium, and phosphorus supplied by the product when consumed in a specified quantity during a period of 1 day, (2) a statement of the quantity of niacin present in a specified quantity of the product, and (3) the statement that the need for vitamin E in human nutrition has not been established.

**DISPOSITION:** June 22, 1945. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$250 on each count, a total fine of \$500.

**8494. Adulteration and misbranding of Derbetain No. 3 Tablets. U. S. v. Dermetics, Inc. Plea of guilty. Fine, \$200. (F. D. C. No. 14242. Sample No. 57104-F.)**

**INFORMATION FILED:** March 21, 1945, Western District of Washington, against Dermetics, Inc., Seattle, Wash.

**ALLEGED SHIPMENT:** On or about September 6, 1943, from the State of Washington into the State of New York.

**LABEL, IN PART:** "Derbetain No. 3 Tablets Contains a vitamin A and D concentrate of fish liver oils and a special strain of yeast. Each tablet contains 200 vitamin A units U. S. P., 15 vitamin B<sub>1</sub> units U. S. P., 35 vitamin D units U. S. P., 5 vitamin G units Sherman-Bourquin, \* \* \* Biologically Standardized Heller Runnels Laboratories Inc., Los Angeles, California."

**VIOLATIONS CHARGED:** Adulteration, Section 402 (b) (1), valuable constituents, vitamin A and vitamin D, had been in part omitted or abstracted from the product, since each tablet was represented to contain 200 U. S. P. units of vitamin A and 35 U. S. P. units of vitamin D, whereas each tablet contained not more than 125 U. S. P. units of vitamin A and not more than 17.5 U. S. P. units of vitamin D.

Misbranding, Section 403 (a), the label statements, "Each tablet contains 200 vitamin A units U. S. P. \* \* \* 35 vitamin D units U. S. P.," were false and misleading; and, Section 403 (j), the product purported to be and was represented as a food for special dietary uses by man by reason of its vitamin properties in respect of vitamins A, B<sub>1</sub>, D, and G, and by reason of its use as a means of regulating the intake of protein, fat, carbohydrates, or calories for the purpose of controlling body weight, and its label failed to bear, as required by the regulations, (1) a statement of the proportion of the minimum daily requirements for vitamins A, B<sub>1</sub>, D, and G which would be supplied by the product when consumed in a specified quantity during a period of 1 day, and (2) a statement of the percent by weight of protein, fat, and available carbohydrates in the product and the number of available calories which would be supplied by the product when consumed in a specified quantity during a period of 1 day.