

and 34 cartons, each containing 12 1-ounce packages, of celery seed at Philadelphia, Pa.

**NATURE OF CHARGE:** Vanilla and lemon extract. Misbranding, Section 403 (d), the containers were so made, formed, and filled as to be misleading since the individual cartons were too large for the bottles they contained.

Celery seed. Misbranding, Section 403 (d), the containers were so filled as to be misleading since the celery seed occupied only about 62 percent of the volume of the package.

**DISPOSITION:** April 24, 1945. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to charitable institutions.

### MISCELLANEOUS FOODS\*

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

**8993. Misbranding of Essence No. 7, Fernel Nerve and Brain Food, Breasts of Youth Capsules, and Endocrin Rejuvenation Food. U. S. v. Dr. Jean Paul Fernel. Plea of not guilty. Tried to the court. Verdict of guilty. Sentence of 1 year in jail plus fine of \$500 affirmed on appeal. (F. D. C. No. 8819. Sample Nos. 73985-E, 80690-E, 82103-E, 82104-E.)**

**INFORMATION FILED:** April 29, 1943, Northern District of Illinois, against Dr. Jean Paul Fernel, Chicago, Ill.; amended information filed October 25, 1943.

**ALLEGED SHIPMENT:** Between March 17 and April 25, 1942, from the State of Illinois into the States of Kansas, Ohio, and Florida.

**PRODUCT:** Analyses disclosed that the Essence No. 7 consisted of magnesium chloride; that the Fernel Nerve and Brain Food contained calcium phosphate, an oily material, and starch; that the Breasts of Youth Capsules contained glandular material and mineral matter, including compounds of aluminum and silicon; and that the Endocrin Rejuvenation Food consisted essentially of glandular material, including pancreas and salt.

**NATURE OF CHARGE:** *Essence No. 7.* Misbranding, Section 403 (a), a certain label statement was false and misleading since it represented and suggested that the article contained essential halogen food minerals, whereas it did not contain all the essential halogen food minerals; and, Section 403 (i) (1), the label did not bear the common or usual name of the article, i.e., magnesium chloride.

*Fernel Nerve and Brain Food.* Misbranding, Section 403 (a), the name of the article was misleading since it represented and created the impression that the article contained ingredients of special value in the nourishment of the nerves and brain, whereas it contained inconsequential amounts of ingredients having food value; and the statement, "Liniodol, remedies colds and catarrh," in an accompanying price list, was false and misleading since it represented and suggested that the drug Liniodol would be efficacious in the cure, mitigation, treatment, or prevention of colds and catarrh, whereas it would not be efficacious for such purposes. Further misbranding, Section 403 (i) (2), the label did not bear the common or usual name of each ingredient of the article.

*Breasts of Youth Capsules.* Misbranding, Section 403 (a), the name of the article and certain statements on the label were false and misleading since they represented and created the impression that the article would be efficacious in correcting underdeveloped, atrophied, flabby, and pendulous breasts; that it would be efficacious in developing in the consumer the firm, well-developed breasts of youth; and that the article would be efficacious in developing and nourishing the bust or breasts. The article would not be efficacious for those purposes. Further misbranding, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient of the article.

*Endocrin Rejuvenation Food.* Misbranding, Section 403 (a), the name of the article was false and misleading since it represented and suggested that the article would rejuvenate and restore youthful vigor, whereas it would not rejuvenate and restore youthful vigor; and, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient of the article.

The Breasts of Youth Capsules and certain other articles known as Thymus Arthritis Treatment and Liniodol were alleged to be misbranded under the

\*See also No. 8858.

provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 1560.

**DISPOSITION:** On November 10, 1943, the defendant having entered a plea of not guilty, the case came on for trial before the court. On November 16, 1943, the defendant was found guilty, was sentenced to serve 1 year in jail, and was fined \$500. Notice of appeal to the United States Circuit Court of Appeals for the Seventh Circuit was filed by the defendant on November 19, 1943, and on October 3, 1944, a decision was handed down by that court affirming the decision of the district court.

**8994. Misbranding of Min-O-Malt and Vita-Lac. U. S. v. The Energy Food Co. Plea of guilty. Fine, \$900. (F. D. C. No. 12554. Sample Nos. 20294-F, 20299-F, 23475-F.)**

**INFORMATION FILED:** July 5, 1945, Eastern District of New York, against the Energy Food Co., Brooklyn, N. Y.

**ALLEGED SHIPMENT:** Between the approximate dates of August 11 and October 4, 1943, from the State of New York into the States of Massachusetts and Pennsylvania.

**LABEL, IN PART:** (Min-O-Malt, circular) "A pint jar of Improved Min-O-Malt contains 35,000 Units of Vitamin A, more than is found in 30 pounds of bananas. \* \* \* 2,500 Units of Vitamin B<sub>1</sub> (Thiamin Hydrochloride), more than is found in 25 bowls of cooked oatmeal. \* \* \* 14,000 Micrograms of Vitamin B<sub>2</sub> (Riboflavin), more than is found in 55 pounds of tomatoes. \* \* \* 85 Milligrams of Niacinamide, more than is found in 25 pounds of veal. \* \* \* 3,500 Units of Vitamin D, more than is found in 125 quarts of milk. \* \* \* 1,200 Milligrams of Calcium, more than is found in 33 pounds of liver. \* \* \* 1,100 Milligrams of Phosphorus, more than is found in 12 pounds of butter. \* \* \* 84 Milligrams of Iron, more than is found in 80 pounds of milk"; (Vita-Lac, circular) "A pint jar of Vita-Lac contains 35,000 Units of Vitamin A, more than is found in 30 pounds of bananas. \* \* \* 3,500 Units of Vitamin D, more than is found in 125 quarts of milk. \* \* \* 1,200 Milligrams of Calcium, more than is found in 33 pounds of liver. \* \* \* 1,100 Milligrams of Phosphorus, more than is found in 12 pounds of butter. \* \* \* 84 Milligrams of Iron, more than is found in 80 pounds of milk."

**NATURE OF CHARGE:** Misbranding, Section 403 (a), certain statements in the labeling were misleading since they represented, suggested, and implied that it is unwise and impractical to rely on ordinary foods to supply the vitamins and minerals required by the body; that it is necessary and advisable to supplement the diet with additional vitamins in order to insure an excess of vitamins; that 1 pint of the articles contained all of the essential vitamins and minerals which are present in the various foods with which comparison was made in the labeling; that the articles contained nutritional factors ordinarily lacking in, or unobtainable from, ordinary foods; that they would be efficacious in the treatment of conditions resulting from dietary deficiencies; and that the Min-O-Malt would be efficacious in the treatment or prevention of pellagra and prepellagrous conditions. As a matter of fact, it is not unwise or impractical to rely on ordinary foods to supply the vitamins and minerals needed by the body, as sufficient vitamins and minerals for the needs of the body may be obtained from ordinary foods; it is not necessary or advisable to supplement the diet with additional vitamins in order to insure an excess; 1 pint of either article did not contain all the essential vitamins and minerals contained in the various foods with which comparison was made in the labeling; the articles did not contain nutritional factors ordinarily lacking in, or unobtainable from, ordinary foods; and they would be of inconsequential value in the treatment of conditions resulting from dietary deficiencies. The Min-O-Malt would not be efficacious in the treatment or prevention of pellagra and prepellagrous conditions.

Further misbranding, Section 403 (a), the labeling further implied that decreased energy, low resistance to infection, poor appetite, unhealthy skin, poor digestion, unhealthy teeth, poor bone structure, insufficient red blood cells, failure of normal functioning of body processes, poor health, lack of physical and mental well-being, impaired growth, night blindness, failure of normal intestinal function, various skin and eye infections, nutritional anemias (poor blood), increased nervous tension, and lack of ability to tolerate roughage in the diet, commonly and usually result from lack of vitamins and minerals; and that the user might reasonably expect that the consumption of the articles would