

Massachusetts to the above-entitled Court, and this Court now has jurisdiction of said cause pursuant to Section 304 (a) of the Food, Drug, and Cosmetic Act, 21 U. S. C. 334.

"6. That the bottle label (Libellant's Exhibit 1) is accurate in its representation that the aforesaid article is 'for use in a required low caloric diet as an aid in appeasing the appetite for excess food.'

"7. That the statements in Claimant's price list (Libellant's Exhibit 4) 'appetite curb tablets * * * to aid in diminishing hunger pains during weight reduction regimen' are not false or misleading.

"8. That the notation 'VITAMINERALS' appearing upon the label affixed to the aforesaid article (Libellant's Exhibit 1) is a purely fanciful and arbitrary word, used by the Claimant on the aforesaid article and approximately 34 of Claimant's other products, as a trade mark to denote the origin of such goods, and that said trade mark 'VITAMINERALS' as used on Claimant's bottle label (Libellant's Exhibit 1) neither represents nor suggests the vitamin or mineral content of the aforesaid article.

"9. That Claimant, Vitaminerals Co., is the owner of the articles seized and as such owner is entitled to the return of said articles.

"10. That the aforesaid article is of the composition stated upon Claimant's label (Libellant's Exhibit 1), and that none of the statements upon said label are false or misleading.

CONCLUSIONS OF LAW

I.

"This Court has jurisdiction of this libel of information, the article of food 'VITAMINERALS NO. 5,' and the parties hereto.

II.

"The Claimant's bottle label (Libellant's Exhibit 1) does not constitute misbranding in interstate commerce within the meaning of the Federal Food, Drug and Cosmetic Act (21 USC 343 (a), or any other section thereof); in any of its particulars, and the statements appearing thereon are neither false nor misleading.

III.

"Claimant's price lists entitled 'VITAMINERALS CO.' (Libellant's Exhibit 4) does not constitute misbranding within the meaning of the Federal Food, Drug and Cosmetic Act (21 USC 343 (a), or any other section thereof), in any of the particulars stated on Page 12 thereof with respect to the aforesaid article 'V. M. No. 5,' and the statements appearing therein are neither false nor misleading.

IV.

"Libellant herein, having completely failed to support the allegations of the libel of information by satisfactory proof, Respondent is entitled to a dismissal of the said libel of information with prejudice, and to the return of the articles and price lists seized, together with its taxable costs herein."

12997. Adulteration of Cal-Vitaron tablets. U. S. v. The Warren-Teed Products Co. Plea of guilty. Fine, \$300. (F. D. C. No. 20178. Sample No. 35915-H.)

INFORMATION FILED: February 26, 1947, Southern District of Ohio, against the Warren-Teed Products Co., a corporation, Columbus, Ohio.

ALLEGED SHIPMENT: On or about November 6, 1945, from the State of Ohio into the State of Missouri.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted and abstracted from the article, in that each tablet of the article was represented to contain 100 U. S. P. units of vitamin D, whereas each tablet contained less than that amount of vitamin D.

The information charged also that the defendant shipped in interstate commerce a misbranded drug known as Vitaroid tablets, as reported in notices of judgment on drugs and devices, No. 2269.

DISPOSITION: April 7, 1947. A plea of guilty having been entered, the court imposed a fine of \$300 on the count charging adulteration of the Cal-Vitaron tablets and a fine in the same amount on the remaining count charging adulteration of the Vitaroid tablets.

12998. Misbranding of Ramol. U. S. v. Benjamin Ostroff. Plea of nolo contendere. Fine, \$75 and costs. (F. D. C. No. 23234. Sample Nos. 52766-H, 53921-H, 53922-H, 60869-H.)

INFORMATION FILED: October 7, 1947, Western District of Pennsylvania, against Benjamin Ostroff, Pittsburgh, Pa.

ALLEGED SHIPMENT: On or about September 20 and October 1, 18, and 30, 1946, from the State of Pennsylvania into the State of Ohio.

LABEL, IN PART: "Ramol No. 350 U. S. P."

NATURE OF CHARGE: Misbranding, Section 403 (b), the article consisted of mineral oil, a nonnutritive substance, and it was offered for sale under the name of another food, salad oil, a nutritive substance; and, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the article, i. e., mineral oil.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2296.

DISPOSITION: December 12, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$75, plus costs.

12999. Misbranding of Morgan preparations. U. S. v. 300 Bottles of Morgan 1 Tablets, etc. (F. D. C. No. 17437. Sample No. 2928-H.)

LABEL FILED: September 7, 1945, District of Columbia.

PRODUCT: 300 bottles of Morgan 1 tablets, 300 bottles of Morgan 2 tablets, 350 bottles of Morgan 3 capsules, 300 bottles of Morgan 4 tablets, 300 bottles of Morgan 7 capsules, 325 bottles of Morgan 9 tablets, and 350 bottles of Morgan 14 capsules, at Washington, D. C., together with a number of accompanying booklets entitled "Class Lesson Number One," "Class Lesson Number Two," "Class Lesson Number Three," "Class Lesson Number Four," and "New Bodies for Old." The products were held and intended for sale in commerce within the District of Columbia.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the booklets were false and misleading.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2285, in which excerpts from the labels indicating the composition of the products are set forth, and the nature of the false and misleading claims is described.

DISPOSITION: Sarah I. Morgan, Baltimore, Md., appeared as claimant and filed an answer consenting to the destruction of the Morgan 14 capsules. The claimant consented also to the condemnation of the other products, but prayed for their release under bond. On November 8, 1945, judgment of condemnation was entered and it was ordered that the Morgan 14 capsules be destroyed and that the other products be released under bond for remanufacturing and relabeling under the supervision of the Food and Drug Administration. On June 14, 1946, and with the consent of the claimant, an amended decree was entered, ordering that all of the products, together with the accompanying booklets, be destroyed.

13000. Misbranding of Morgan preparations. U. S. v. 100 Bottles of Morgan 1 Tablets, etc. (F. D. C. No. 17461. Sample No. 10928-H.)

LABEL FILED: September 12, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 31, 1945, Sarah I. Morgan caused the Q-V Corporation to ship quantities of the Morgan preparations from Kalamazoo, Mich., to Pittsburgh, Pa.; and on or about September 10, 1945, Sarah I. Morgan caused J. T. Regardie to ship a number of booklets relating to the preparations from Silver Spring, Md., to Pittsburgh, Pa.

PRODUCT: 100 bottles of Morgan 1 tablets, 200 bottles of Morgan 2 tablets, 200 bottles of Morgan 3 capsules, 200 bottles of Morgan 4 tablets, 100 bottles of