

LABEL IN PART: "Body Building Vi-Gor Cup Contains: Brewers' Yeast * * * Wheat Germ * * * the potent heart of wheat * * * Vegetable Concentrate * * * fortified with Pure Vegetable Fat * * * Manufactured for Organic Products, Inc., 615 East 28th St., Minneapolis 7, Minnesota."

LIBELED: 11-13-59, Dist. Minn.

CHARGE: 403(a)—when shipped, the can labels contained false and misleading representations and suggestions that the article was adequate and effective for building a strong, sound body and for producing vigor; and that its wheat germ content would produce healthy nerves, energy, normal growth, and an appetite; 403(i) (2)—the label of the article failed to bear the common or usual name of each ingredient since "Vegetable Fat" is not the common or usual name of the fat ingredient; and 403(j)—the article purported to be and was represented for special dietary use by reason of its vitamin, protein, fat and carbohydrate content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for vitamin A, vitamin B₁, vitamin C, vitamin D, riboflavin, niacin or niacinamide, and calcium, phosphorus, iron or iodine supplied by a specified quantity of the food when consumed during a period of one day, a statement of the quantity of such vitamins and minerals in a specified quantity of the article, and a statement of the percent by weight of fat and available carbohydrates in the article, and the number of available calories supplied by a specified quantity of the article.

DISPOSITION: 2-3-60. Default—destruction.

MISCELLANEOUS FOODS

26399. Soup mix. (F.D.C. No. 43903. S. No. 64-159 P.)

QUANTITY: 374 cases, 24 pkgs. each, at Boston, Mass.

SHIPPED: 9-8-59, from Long Island City, N.Y., by A. Goodman & Sons, Inc.

LABEL IN PART: (Pkg.) "Net Wt. 2½ Ozs. Goodmans * * * Vegetable Noodle Soup Mix * * * A. Goodman & Sons, Inc., * * * Long Island City, N.Y."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 11-13-59, Dist. Mass.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: 1-14-60. Consent—claimed by A. Goodman & Sons, Inc., and brought into compliance with the law by repacking.

26400. Concentrated soups. (F.D.C. No. 43947. S. Nos. 48-749/53 P.)

QUANTITY: 68 cases of mushroom soup, 67 cases of vegetable soup, 58 cases of celery soup, 72 cases of tomato soup, and 67 cases of chicken soup, at San Francisco, Calif. Each case contained 12 pkgs. of 12 individually wrapped 3½-oz. blocks of concentrated soup.

SHIPPED: During November 1956 and 12-14-56 and 1-10-57, from Leicester, England.

LIBELED: 12-22-59, N. Dist. Calif.

CHARGE: 402(a) (3)—contained insects while held for sale.

DISPOSITION: 12-31-59. Consent—destruction.

U.S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

26401-26450

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent, and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *August 11, 1960.*

CONTENTS

	Page		Page
Cereals and cereal products.....	142	Fruits and vegetables—Continued	
Bakery products.....	142	Frozen fruit.....	149
Flour.....	144	Miscellaneous fruit products.....	150
Miscellaneous cereals and ce- real products.....	145	Vegetables and vegetable prod- ucts.....	150
Dairy products.....	147	Nuts.....	152
Butter.....	147	Spices, flavors, and seasoning ma- terials.....	154
Cheese.....	147	Vitamins, mineral, and other prod- ucts of special dietary sig- nificance.....	154
Eggs.....	148	Index.....	156
Fruits and vegetables.....	148		
Canned fruit.....	148		
Fresh fruit.....	149		

**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 26401-26450**

Adulteration, Section 402(a)(2), the article, in four cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two cases, the article was a raw agricultural commodity, and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(3), the article consisted in part of a filthy or decomposed substance, or was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article, or mixed or packed therewith so as to make it appear better or of greater value than it was.

Misbranding, Section 403(a), the label of the article was false and misleading; Section 403(e)(2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403(g)(1), the article purported to be and was represented as a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin properties as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

26401. Italian bread and pumpernickel bread. (F.D.C. No. 43096. S. Nos. 32-968 P, 32-971 P.)

INFORMATION FILED: 11-23-59, S. Dist. N.Y., against West Side Bakery, a partnership, New Rochelle, N.Y., and Pasquale Cassone, a partner in the partnership.

SHIPPED: Between 11-12-58 and 11-14-58, from New York to Connecticut.

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared and packed under insanitary conditions.

DISPOSITION: A motion was filed on behalf of the partnership for dismissal of the information against it. On 3-8-60, the court handed down the following opinion in denial of the motion:

Cashin, District Judge: "This is a motion by the defendant, West Side Bakery, under Rule 12(b) of the Federal Rules of Criminal Procedure, to dismiss the information as to it for failure to charge an offense.

"The moving defendant, a partnership, and one of the partners, are charged in a three count information with introducing into interstate commerce adulterated bread, in violation of § 331(a) of Title 21 U.S.C. Section 333(a) of the same Title provides for punishment by fine and imprisonment of 'any person who violates any of the provisions of Section 331 * * *'. Section 321(e) of Title 21 provides that for the purposes of that chapter 'The term "person" includes individual, partnership, corporation and association'. Despite what would appear to be very clear wording, defendant, nevertheless, argues that a partnership was not intended by Congress to be subject to criminal liability.