

DISPOSITION: On October 5, 1943, the defendant having entered a plea of guilty, the court imposed a fine of \$150.

6598. Misbranding of Vitaminerals VM No. 1. U. S. v. John Francis Gorman (Vitaminerals Company). Plea of nolo contendere. Fine, \$1,000 on 2 counts, and probation for 1 year on 3 counts. (F. D. C. No. 8791. Sample No. 81451-E.)

INFORMATION FILED: On April 30, 1943, in the Southern District of California, against John Francis Gorman, trading as the Vitaminerals Co., Los Angeles, Calif.

ALLEGED SHIPMENT: On or about May 5, 1942, from the State of California into the State of Colorado of a quantity of the above-named product.

PRODUCT: Examination of Vitaminerals VM No. 1 disclosed that this article was in the form of orange-colored tablets, containing a large proportion of rhubarb root tissues, together with Irish moss tissues (Chondrus), okra tissues, cranberry fruit tissues, parsley leaf tissues, and acid-insoluble material.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), in that the statements in its labeling which created in the mind of the reader the impression that the article was a supplement in the dietary treatment of constipation; that the ingredient rhubarb root was a food; and that the article derived its physiological activity principally from concentrates and extracts from common vegetables used for food purposes and from vitamins, were misleading since the article was not a supplement in the dietary treatment of constipation but was a laxative drug; the ingredient rhubarb root is not a food but is a drug; and the article did not derive its physiological activity principally from concentrates and extracts from common vegetables used for food purposes and from vitamins, but derived its physiological activity principally from the plant drug rhubarb.

It was alleged to be misbranded further because of the false and misleading statements in its labeling which represented and suggested that the article would be efficacious as a dietary treatment of constipation; that it possessed anti-infective value; that it would be an efficacious tonic treatment for the smooth muscle; that it would facilitate the changing of the colonic flora so as to reduce the colonic bacilli count and the resulting inflammation of the colonic mucosa; that it would promote peristaltic activity, and act practically in the treatment of constipation; that it would produce normal elimination; and that it would be efficacious in the primary treatment of hemorrhoids, in the secondary treatment of arthritis due to excess calcium, and arthritis due to systemic origin, colds, neuralgia, neurosis, obesity, and tonsillitis.

The article was alleged to be misbranded further (1) in that the name "Vitaminerals" was misleading since it suggested and created the impression in the mind of the reader that the article derived its physiological activity solely from vitamins and minerals and contained no other physiologically active ingredients, whereas the article contained rhubarb root from which it derived its principal physiological activity; (2) in that the statement in its labeling, "We hereby guarantee that all Vitamineral products listed herein are not adulterated or misbranded within the meaning of the Federal, Food, Drug, and Cosmetic Act of June 25, 1938," was false and misleading since the article was misbranded within the meaning of such Act; and (3) in that its labeling was misleading since it failed to reveal the material fact that the principal physiological activity of the article was derived from the laxative drug, rhubarb root.

The article was alleged to be misbranded further in that the statements in its labeling, "Ash (Mineral matter*) 22.20%," and "Mineral Matter includes: Calcium 2.18% Phosphorus 0.82% Potassium 1.15% Sodium 0.67% Magnesium 0.34% Chlorine 0.03% Sulphur 0.51% Manganese 0.0023% Iron 0.115% Copper 0.0013% Iodine 0.0002%," were misleading since they suggested and created the impression in the mind of the reader that the article contained the minerals listed therein in amounts which, when taken in accordance with directions on the bottle label, "Two to four tablets, one or two before breakfast and upon retiring," would furnish the minerals in quantities sufficient to contribute in an important respect to the daily requirement of the body for those minerals, whereas the article contained inconsequential amounts of potassium, sodium, chlorine, magnesium, sulfur, manganese, and copper; and four tablets, the maximum amount recommended in the directions, would furnish less than one-thirtieth the minimum daily requirement of the body for phosphorus, less than one-tenth the minimum daily requirement for

calcium, less than one-fifth the daily requirement for iodine, and less than one-third the minimum daily requirement for iron.

The information alleged misbranding of the article, three other drug products, and a device, under the provisions of the law applicable to drugs and devices as reported in the notices of judgment on drugs and devices, No. 1041.

DISPOSITION: On September 27, 1943, the defendant having entered a plea of nolo contendere, the court imposed a fine of \$500 on count 1 of the information, which involved charges against the "Vitaminerals VM No. 1" both as a food and a drug; and \$500 on Count 3, which involved a drug; and placed the defendant on probation with respect to the remaining 3 counts, which involved drugs and the device.

6599. Misbranding of Wel-being. U. S. v. 288 Tins and 24 Tins of Wel-being. Default decree of condemnation and destruction. (F. D. C. No. 9554. Sample No. 12942-F.)

LABEL FILED: March 17, 1943, District of New Jersey.

ALLEGED SHIPMENT: On or about February 18, 1943, from Portland, Oreg., by the Wel-being Co.

PRODUCT: 288 3-ounce tins and 24 12-ounce tins of Wel-being, at New Brunswick, N. J.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the name of the article, "Wel-being," and certain statements in its labeling were false and misleading since the name and statements represented and suggested that the article, when taken as directed by cats, dogs, pets, and fur-bearing animals, would create a feeling of well-being and was a highly concentrated food treatment and supplement; that it was a concentrated food and tonic; that it would aid condition; that it would overcome itching and scratching; that it would aid in body building; that it would restore energy; that it would promote a glossy coat; that it would remove intestinal parasites; that it would aid in whelping and produce vigorous litters; that it would stimulate the appetite; that it was an appetizing nutritional concentrate; that it would prevent skin irritations due to diet deficiency; that it would be effective in stubborn cases; that it would increase body weight; that it was a protective food; that it would supply needed food elements; that it was an appetizing addition to regular rations; that it would avoid starving and dangerous methods of treatment; that it would replace recognized medicinal treatment; that it was a new, simple, scientific pet treatment for any condition; that it would be effective for all worms and seasonal skin infections, poor condition, watery eyes, hair falling out, lack of pep, and poor appetite; and that it would maintain good health and guard against worms, whereas the article was not a product of the nature so represented and suggested, and would not accomplish the results claimed.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notices of judgment on drugs and devices, No. 1094.

DISPOSITION: On July 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

6600. Misbranding of Western Spinach Tablets. U. S. v. Harry Clayton House (Western Natural Foods Co.) Plea of guilty. Fine of \$100 on count 1, involving a drug product, and \$50 and costs on count 2, involving the spinach tablets. (F. D. C. No. 9653. Sample No. 30613-F.)

INFORMATION FILED: On July 30, 1943, in the Western District of Washington, against Harry Clayton House, trading as the Western Natural Foods Co., Seattle, Wash.

ALLEGED SHIPMENT: On or about September 3 and October 17, 1942, from the State of Washington into the State of Idaho.

PRODUCT: Analysis of the spinach tablets showed that they consisted essentially of dried or powdered spinach.

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the statement in the labeling of the article which represented and suggested that it would be efficacious in the cure, mitigation, treatment, or prevention of blood disorders and anemia was false and misleading since it would not be so efficacious.

The article was also alleged to be misbranded under the provisions of the law applicable to drugs as reported in notice of judgment on drugs, No. 1083.

DISPOSITION: On August 30, 1943, the defendant having entered a plea of guilty, the court imposed a fine of \$100 on count 1 of the information, relating to another drug product, and \$50 and costs on count 2, relating to the spinach tablets.