

fragile bones, anemia, scurvy, and rickets; Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its vitamin A, D, C, B<sub>1</sub>, B<sub>2</sub>, B<sub>6</sub>, calcium pantothenate, and nicotinic acid content, and its label failed to bear, as the regulations require, a statement of the proportion of the minimum daily requirements for vitamins A, D, C, and B<sub>2</sub> supplied by the article when consumed in a specified quantity during the period of 1 day; it failed to bear a statement of the quantity of vitamin B<sub>6</sub>, calcium pantothenate, and nicotinic acid supplied by a specified quantity of the article which would customarily or usually be consumed during a period of 1 day; and it failed to bear a statement that the need for calcium pantothenate and vitamin B<sub>6</sub> in human nutrition has not been established.

The articles were 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. 1123.

**DISPOSITION:** On July 26, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**6791. Adulteration and misbranding of Derbetain Number 3 Tablets. U. S. v. 8 Cases of Derbetain Number 3 Tablets. Consent decree of condemnation. Product ordered released under bond. (F. D. C. No. 11080. Sample No. 57104-F.)**

**LIBEL FILED:** November 10, 1943, Southern District of New York; amended libel on January 28, 1944.

**ALLEGED SHIPMENT:** On or about September 6, 1943, by Dermetics, Inc., Seattle, Wash.

**PRODUCT:** 8 cases, each containing 24 cans, of Derbetain Number 3 Tablets. The article was approximately 50 percent deficient in vitamin D and 35 percent deficient in vitamin A.

**LABEL, IN PART:** "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."

**VIOLATIONS CHARGED:** Adulteration, Section 402 (b) (2), valuable constituents, vitamins A and D, had been in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the 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 article purported to be and was represented as a food for special dietary uses by man by reason of its vitamins A, B<sub>1</sub>, D, and G content, and by reason of its use as a means of regulating the intake of protein, fat, carbohydrate, and calories for the purpose of controlling body weight, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements for the vitamins supplied by the article when consumed in a specified quantity during the period of 1 day; and it failed to bear a statement of the percent by weight of protein, fat, and carbohydrates it contained, and the number of available calories supplied by a specified quantity.

**DISPOSITION:** May 8, 1944. The Heller-Runnels Laboratories, Inc., claimant having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Federal Security Agency.

**6792. Misbranding of DPS Formulae. U. S. v. 11 Bottles of DPS Formula 52, 16 Bottles of DPS Formula 57, 12 Bottles of DPS Formula 58, 11 Bottles of DPS Formula 61, and 25 Bottles of DPS Formula 100. Default decree of condemnation and destruction. (F. D. C. No. 10098. Sample Nos. 15357-F to 15360-F, incl., 36124-F.)**

**LIBEL FILED:** June 25, 1943, District of Colorado.

**ALLEGED SHIPMENT:** From on or about March 23 to May 8, 1943, from the Dartell Laboratories, Los Angeles, Calif.

**PRODUCT:** The above-mentioned quantities of DPS Formulae at Denver, Colo.

**LABEL, IN PART:** (Formula 52) "Ingredients: Fish Liver Oil concentrate, Soya Oil containing lecithin, Wheat germ oil, mixed natural tocopherols, treated linseed oil containing the fatty unsaturates, principally linoleic and linolenic acids \* \* \* Each perle contains not less than Vitamin A \* \* \* 5000 U. S. P. Units Vitamin E (a-tocophoerol activity) 5000 Gammas with 200 Mg. free fatty acids of linseed oil (flaxseed oil) principally linoleic and linolenic acids"; (For-

mula 57) "Ingredients: Fishliver oil concentrate, dehydrated garlic and alfalfa, lac-sulphur, and chlorophyll \* \* \* Four tablets provide 2000 I. U. of Vitamin A, \* \* \* 14 grains of dehydrated Garlic, 4 grains of Sulphur; and 2000 gammas of Chlorophyll"; (Formula 58) "Ingredients: Powdered kelp, dicalcium phosphate, fishliver oil concentrate, yeast, rice polishings, wheat germ \* \* \* One tablet before each meal and upon retiring provides: Iodine \* \* \* 0.7 Mg. Phosphorus \* \* \* 144 Mg. Calcium \* \* \* 176 Mg. Vitamin A \* \* \* 1000 U. S. P. Units"; (Formula 61) "Ingredients: Mixed natural tocopherols and wheat germ oil \* \* \* Each perle contains not less than 5000 Gamma Vitamin E (a-tocopherol activity)"; and (Formula 100) "Each Containing: Iron (Ferrous) Sulphate (Dried), 2½ grs; Liver (Desiccated 1-5), 2 grs.; Stomach Substance (Hog), ½ gr.; Pepsin (1-3000), 0.25 grs.; Spleen Subst., ½ gr.; Red Bone Marrow, ½ gr.; Kelp (Laminaria Bulbosa), ½ gr.; Hemoglobin, ¼ gr.; Vitamin C, 1000 gammas; Vitamin B<sub>1</sub>, 83 gammas; Vitamin B<sub>2</sub>, 24 gammas."

**VIOLATIONS CHARGED:** Misbranding, Section 403 (a), the names "DPS Formula 52," "DPS Formula 57," "DPS Formula 58," "DPS Formula 61," and "DPS Formula 100," appearing on the labels of the respective articles, were false and misleading as applied to articles of the compositions stated, since such names were devices which represented and suggested to the purchaser thereof that the articles were efficacious for the conditions set forth in the booklet entitled "DPS Dartell Formulæ," that is: (Formula 52) impotency, sexual apathy, and menopause, loss of muscular tone, anterior pituitary deficiency, and tendency to abort; (Formula 57) hypertension, toxic conditions, and bowel putrefaction; (Formula 58) lowered fat and protein metabolism, low B. M. R., thyroid deficiency, low calcium metabolism, pregnancy and lactation, nervous disorders, obesity, and skin conditions; (Formula 61) sterility, tendency to miscarriage, mental dullness, muscular weakness, skin lassitude, weakness of female organs, lack of motility of eye lens, paralysis, and anterior pituitary deficiency; and (Formula 100) anemias, toxic changes in blood, fatigue, low blood pressure, underweight, hypofunctions of adrenals, pregnancy, and preoperative and postoperative conditions. The articles were not efficacious for those purposes. The said devices (names) acquired those meanings by reason of the fact that the manufacturer of the articles had supplied and, together with his agents and employees and distributors, had disseminated to prospective purchasers of the articles the aforesaid booklet, and such printed matter disclosed the uses for which the articles were designed and intended.

Further misbranding, Section 403 (a), the statement appearing on the label of the Formula 52, "Each perle contains not less than \* \* \* With 200 Mg. free fatty acids of linseed oil (flaxseed oil) principally linoleic and linolenic acids," was misleading since it represented and suggested that the free fatty acids of linseed oil, consisting principally of linoleic and linolenic acids in the amount of 200 milligrams, were of appreciable nutritional and therapeutic significance when the article was consumed in accordance with the directions on the label, whereas those acids, when so consumed, had no appreciable nutritional or therapeutic significance.

The articles were 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. 1124.

**DISPOSITION:** On October 16, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

**6793. Misbranding of Dwarfies Wheatmix and Dwarfies Wheat Germ. U. S. v. Dwarfies Corporation. Plea of guilty. Fine, \$150 and costs. (F. D. C. No. 10553. Sample Nos. 3130-F, 3226-F, 3227-F.)**

**INFORMATION FILED:** On December 30, 1943, in the Southern District of Iowa, against the Dwarfies Corporation, Council Bluffs, Iowa.

**ALLEGED SHIPMENT:** On or about September 30, 1942, and January 29, 1943, from the State of Iowa into the State of Nebraska.

**LABEL, IN PART:** "Dwarfies Wheatmix," or "Dwarfies Toasted Wheat Germ."

**VIOLATIONS CHARGED:** Misbranding of Wheatmix, Section 403 (a), the statements in the labeling which represented and suggested that the article contained 25 times more wheat germ than whole wheat contains were false and misleading since it contained not more than from 5 to 7 times more wheat germ than whole wheat contains.

Misbranding of wheat germ, Section 403 (a), because of false and misleading statements appearing in its labeling which represented and suggested that con-