

5082. Adulteration and misbranding of "Pastifico Electrico Moderno" (macaroni). U. S. * * * v. Alphonse Gioia, Antonio Gioia and Philip Bellanca. (Gioia, Bellanca & Co.) Plea of nolo contendere. Fine, \$25. (F. & D. No. 7290. I. S. No. 2004-1.)

On July 12, 1916, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Alphonse Gioia, Antonio Gioia, and Philip Bellanca; trading as Gioia, Bellanca & Co., Rochester, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on or about April 9, 1915, from the State of New York into the State of Pennsylvania, of a quantity of spaghettini (macaroni) which was adulterated and misbranded. The article was labeled: "Pastifico Electrico Moderno uso Gragnano Italy. Qualita Extra di Lusso. Artificially colored. Marca Italia, Naples (picture of map of Italy) Manufactured by Gioia Bellanca & Co., Rochester N. Y."

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following result:

Moisture (per cent)_____	13.24
Ash (per cent)_____	0.53
Nitrogen (per cent)_____	2.00
Protein (nitrogen x 5.7) (per cent)_____	11.40
Semolina: Absent.	

Color of residue from the ammoniacal alcoholic extract: Clear.

This product was made from a straight grade of flour of a hard wheat. It was artificially colored.

Adulteration of the article was alleged in the information for the reason that it was an inferior product, to wit, macaroni produced from wheat inferior in the preparation of macaroni to durum wheat semolina, and was colored in a manner whereby its inferiority to macaroni produced from durum wheat semolina was concealed.

Misbranding was alleged for the reason that the following statements regarding the article and the ingredients and substances contained therein, appearing on the label aforesaid, to wit, "Gragnano Italy," together with other statements in the Italian language and the general appearance of the label, not corrected by the words "uso" and "Manufactured by Gioia Bellanca & Co., Rochester, N. Y." appearing in inconspicuous type on the said label, were false and misleading, in that it indicated to purchasers thereof that the said article was macaroni produced in Gragnano, Italy; and for the further reason that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that the said article was macaroni produced in Gragnano, Italy, when, in truth and in fact, it was not, but was macaroni produced in the United States of America, to wit, the city of Rochester, State of New York. Misbranding was alleged for the further reason that the article was, to wit, macaroni produced in the city of Rochester, State of New York, United States of America, and purported to be of foreign origin, to wit, a product of the Kingdom of Italy.

On November 24, 1916, the defendant company entered a plea of nolo contendere to the information, and the court imposed a fine of \$25.

CLARENCE OUSLEY, *Acting Secretary of Agriculture.*