

'Packed by Fabro of Georgia, Inc., Atlanta, Ga. '; and that the case containing the Jacksonville cans had printed on it 'Fabro, Incorporated, Athens, Georgia' would authorize the jury to conclude that the dog food was packed where stated on the labels, in Athens.

"It follows that the introduction or *delivery for introduction* into interstate commerce of the dog food took place at the Athens branch. Even if the dog food was shipped to the Atlanta warehouse and from there to Jacksonville and Greenville, the *delivery for introduction* into interstate commerce occurred in Athens for when defendant manufactured the dog food in Athens and delivered it to the Atlanta warehouse, if it did so, it was contemplated that from Atlanta at least a substantial portion of it would be shipped in interstate commerce.

"Under these circumstances and this evidence, the court would not be authorized to rule that venue has not been proven as to Counts II and IV.

"The labels on the cat food alleged in count VI to be misbranded have printed on them 'Packed by Fabro of Georgia, Inc., Atlanta, Ga.' There is no evidence that this cat food ever entered the middle district of Georgia. Therefore it appears that as to count VI a judgment of acquittal should be entered. All of the other grounds of the motion have been considered and found to be without merit.

"SO ORDERED, this 29 day of November, 1963."

On 12-2-63, counts 1, 3, 5, and 6 having been previously dismissed upon order of the court, count 4 having been dismissed upon motion of the Government, and the defendant having pleaded nolo contendere to count 2, the defendant was fined \$100.

29454. Alfalfa hay. (F.D.C. No. 49498. S. Nos. 50-702 X, 78-261 X.)

QUANTITY: 158 tons at Auburn, Calif.

SHIPPED: Between 8-13-63 and 9-18-63, from Yerington, Nev., by George N. Cooper.

LIBELED: 11-6-63, N. Dist. Calif.

CHARGE: 402(a)(2)(B)—the article was a raw agricultural commodity and, when shipped, contained pesticide chemicals, namely, DDT (DDD, DDE) and heptachlor epoxide, which were unsafe within the meaning of 408(a) since no tolerance or exemption from the requirement of a tolerance for DDT (DDD, DDE) on alfalfa hay has been prescribed by regulations, and since the quantity of heptachlor epoxide on the article was not within the limits of the tolerance for such pesticide chemical on alfalfa prescribed by regulations.

DISPOSITION: 3-20-64. Consent—claimed by George Cooper and denatured for use as feed for nonfood producing animals.

29455. Vitamin-mineral supplement feed. (F.D.C. No. 49263. S. No. 76-953 V.)

QUANTITY: 35 25-lb. bags, at Cedar Rapids, Iowa.

SHIPPED: Prior to 4-4-63, from Peoria, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 30 percent of the declared amount of vitamin D₃.

LIBELED: 8-5-63, N. Dist. Iowa.

CHARGE: 402(b)(1)—while held for sale, the valuable constituent vitamin D₃ had been in part omitted or abstracted therefrom; and 403(a)—the label statement "Vitamin D₃ 190 I.C. Units Per Gram Equal to 86,000 I.C. Units Per Pound" was false and misleading.

DISPOSITION: 1-10-64. Default—destruction.