

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

48,877 bags, more or less, of kratom powder in 30 gram,
100 gram, and 250 gram configurations labeled in part:
“Earth Kratom . . . Supplement Facts . . . Distributed by
Fire Wholesale”

6,681 bags, more or less, of kratom capsules in 30 count,
65 count, 100 count, 150 count, and 300 count
configurations, labeled in part: “Earth Kratom . . .
Supplement Facts . . . Distributed by Fire Wholesale”

17,772 kilograms, more or less, of bulk kratom powder
in 1 kilogram, 5 kilogram, 10 kilogram, 20 kilogram, 25
kilogram, 30 kilogram packages

836 kilograms, more or less, of bulk kratom capsules

400 bottles, more or less, of 72 and 75 count kratom
capsules, labeled in part: “Earth Kratom . . . Supplement
Facts . . . Distributed by Fire Wholesale”

and

all other quantities of the aforesaid articles of food with
any lot number and in any size or type container that are
labeled or otherwise appear to contain, or are, kratom,
located at 706 Seaboard Street, Myrtle Beach, South
Carolina or 710-B Seaboard Street, Myrtle Beach, South
Carolina.

Defendants.

Civil Action No.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

NOW COMES the United States of America, by its attorneys, Sherri A. Lydon, United
States Attorney for the District of South Carolina, and Carrie A. Fisher Sherard, Assistant United
States Attorney, respectfully stating as follows:

NATURE OF THE ACTION

1. This is a civil forfeiture action *in rem* brought by the United States of America pursuant to 21 U.S.C. § 334 to seize and condemn the Defendant Articles, located on the premises of MBBR International, Inc., (“MBBR”), 706 Seaboard Street, Myrtle Beach, South Carolina, and 710-B Seaboard Street, Myrtle Beach, South Carolina, because they violate the Federal Food, Drug, and Cosmetic Act (“Act”), 21 U.S.C. §§ 301 *et seq.*

JURISDICTION AND VENUE

2. This Court has jurisdiction over seizures brought by the United States under 28 U.S.C. § 1345 and under 21 U.S.C. § 334.

3. The Defendant Articles are articles of food located on the premises of MBBR, 706 Seaboard Street, Myrtle Beach, South Carolina, and 710-B Seaboard Street, Myrtle Beach, South Carolina.

4. This Court has *in rem* jurisdiction over the Defendant Articles, and venue is proper under 28 U.S.C. § 1395(b) and 21 U.S.C. § 334(a)(1), because the Defendant Articles are located in the District of South Carolina.

5. The Defendant Articles consist in whole or in part of components that were shipped in interstate commerce from outside the state of South Carolina.

FACTS

6. MBBR receives, holds, and distributes dietary supplements containing *Mitragyna speciosa*, also known as kratom, and bulk kratom that is used in the production of dietary supplements.

7. Investigators from the United States Food and Drug Administration (FDA) conducted an inspection of MBBR between October 17 and October 26, 2018. During the

inspection, FDA investigators observed large quantities of finished kratom powder and capsule products labeled as supplements containing kratom in various sizes and type containers, as well as large quantities of bulk kratom powder and capsules packaged in various sizes and type containers.

8. During the inspection, MBBR's representative informed FDA investigators that he purchases and receives large quantities of bulk kratom from "kratom farmers" located overseas that are used by MBBR for repackaging into smaller packages, which are labeled and distributed as dietary supplements in both powder and capsule forms. MBBR's owner also showed FDA investigators the physical international shipping invoices attached to the bulk kratom.

9. Serious concerns exist regarding the effect of kratom on multiple organ systems. Consumption of kratom can lead to a number of health impacts, including respiratory depression, vomiting, nervousness, weight loss, and constipation. Kratom consumption has been linked to neurologic, analgesic and sedative effects, addiction, and hepatic toxicity.

10. Mitragynine, the major alkaloid identified from kratom, has been reported as a partial opioid agonist, producing effects that are similar to morphine. Furthermore, a minor alkaloid of kratom, 7-hydroxymitragynine, has been reported to be even more potent than morphine. *Mitragyna speciosa* preparations have significant effects on cognition in humans.

11. *Mitragyna speciosa* has been indicated to have both narcotic and stimulant-like effects, which substantiates its potential for abuse. Chronic exposure to *Mitragyna speciosa* preparations can be followed by withdrawal symptoms in humans, some typical withdrawal symptoms include hostility, aggression, excessive tearing, inability to work, arching of muscle, bones, and jerk limb movements.

12. By reason of the foregoing, the defendant articles are held illegally within the jurisdiction of this Court and are liable to seizure, condemnation, and forfeiture pursuant to 21 U.S.C. § 334.

BASIS FOR FORFEITURE

13. The allegations in the preceding paragraphs are re-alleged and incorporated by reference.

14. The Defendant Articles are dietary supplements and dietary ingredients within the meaning of the Act, 21 U.S.C. §§ 321(ff) and 321(ff)(1), that may not be introduced or delivered for introduction into interstate commerce pursuant to 21 U.S.C. § 331(a) because they are adulterated within the meaning of 21 U.S.C. § 342(f)(1)(B).

15. The Defendant Articles are adulterated under 21 U.S.C. § 342(f)(1)(B) in that they contain or are a new dietary ingredient, *Mitragyna speciosa*, for which there is inadequate information to provide reasonable assurance that this ingredient does not present a significant or unreasonable risk of illness or injury.

16. Based on the foregoing, the Defendant Articles are held illegally within the jurisdiction of this Court and are liable to seizure, forfeiture, and condemnation pursuant to 21 U.S.C. § 334.

CLAIM FOR RELIEF

WHEREFORE, the United States requests that a warrant of arrest for the Defendant Articles be issued; that notice be given to all persons having any interest in the articles to appear herein and show cause why the seizure and condemnation should not be decreed; that judgment be entered declaring that the Defendant Articles be condemned and disposed of according to law, and that the United States be granted such other and further relief as this Court may deem just

and proper, together with costs and disbursement of this action.

DATED: November 5, 2018

Respectfully submitted,

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