

4632. Misbranding of brandy. U. S. * * * v. Fialla & Eppler, a corporation. Plea of guilty. Fine, \$10. (F. & D. No. 6988. I. S. No. 1495-k.)

On March 6, 1916, the United States attorney for the Southern 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 Fialla & Eppler, a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on October 27, 1914, from the State of New York into the State of New Jersey, of a quantity of brandy which was misbranded. The article was labeled: (Main label) "Edouard Riviere Brand. Brandy. This Brandy is made in California from carefully selected grapes and bottled under our own supervision. Guaranteed by Fialla & Eppler, New York, under the Pure Food and Drugs Act, June 30, 1906. Serial Number 17231." (Representation of grapes and vines.) (By rubber stamp) "Contents 1 Pint." (Neck label) (Crescent with three gold stars) "Edouard Riviere Brand." (Streamer running from neck label to main label bearing initials "ER.") (On cap) "Brandy."

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

Contents of three bottles: (1) 12.34 fluid ounces, (2) 12.45 fluid ounces, (3) 12.17 fluid ounces. None of the three bottles examined contained 1 pint but contained, respectively, 77.13, 77.81, and 76.06 per cent of a pint, an average shortage of 23 per cent.

Misbranding of the article was alleged in the information for the reason that the statement, to wit, "Contents 1 pint," borne on the label attached to the bottle, regarding the article, was false and misleading in that it indicated that the bottle contained not less than 1 pint, and was such as to deceive and mislead the purchaser into the belief that the bottle contained not less than 1 pint, whereas, in truth and in fact, it did not contain 1 pint but contained a less amount. Misbranding was alleged for the further reason that the article was in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On March 10, 1916, the defendant company entered a plea of guilty to the information, and the court imposed a fine of \$10.

C. F. MARVIN, *Acting Secretary of Agriculture.*