

United States Department of Agriculture

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

27751-27875

[Approved by the Acting Secretary of Agriculture, Washington, D. C., February 18, 1938]

27751. Adulteration of canned tuna. U. S. v. 147 Cases and 1,018 Cases of Canned Tuna. Portions of product released unconditionally; remainder condemned and released under bond. (F. & D. No. 37532. Samples Nos. 34784-B, 34795-B, 62725-B.)

This product was in part decomposed.

On April 3, 1936, the United States attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 1,165 cases of canned tuna at Baltimore, Md., alleging that the article had been shipped in interstate commerce on or about January 9, 1936, by Cohn-Hopkins, Inc., from San Diego, Calif., and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Sun Harbor Brand California Tuna * * * Packed by Cohn-Hopkins, Inc., * * * San Diego, California."

It was alleged to be adulterated in that it consisted in whole or in part of a decomposed mineral substance.

On June 29, 1937, upon a petition filed by the claimant, the Sun Harbor Packing Corporation (formerly Cohn-Hopkins, Inc.), the libel was dismissed insofar as the product identified by certain code marks was concerned, and the goods so coded were released. Subsequently three other codes were released unconditionally. On September 20, 1937, judgment of condemnation was entered with respect to the remaining codes and the product so coded, amounting to 258 cases, was ordered released to the claimant under bond conditioned that it should not be disposed of in violation of the Food and Drugs Act.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

27752. Adulteration of canned salmon. U. S. v. Premier Salmon Co. Plea of guilty. Fine, \$25. (F. & D. No. 37937. Sample No. 65136-B.)

This product was in part decomposed.

On September 24, 1936, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Premier Salmon Co., a corporation having a place of business at Seattle, Wash., alleging shipment by said company in violation of the Food and Drugs Act on or about July 28, 1935, from Stevens Creek, Alaska, into the State of Washington of a quantity of canned salmon that was adulterated.

The article was alleged to be adulterated in that it consisted in part of a decomposed animal substance.

On August 10, 1937, a plea of guilty was entered on behalf of the defendant and the court imposed a fine of \$25 and costs.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

27753. Adulteration and misbranding of olive oil. U. S. v. DeLuca Olive Oil Co., Inc., and Arthur J. Capone. Pleas of guilty. Corporation fined \$2,200 of which \$2,100 was remitted. Arthur J. Capone fined \$1,100 of which \$550 was remitted. (F. & D. No. 38005. Sample Nos. 43866-B, 44160-B, 44161-B, 44162-B, 52160-B, 52161-B, 52162-B, 61024-B, 61025-B, 61205-B, 65607-B to 65613-B, incl., 65626-B, 65627-B, 65710-B, 65712-B, 65713-B, 65714-B, 65841-B, 65878-B, 65879-B, 65880-B, 66017-B, 66039-B, 67402-B to 67408-B, incl.)

This product was adulterated with tea-seed oil.

On February 25, 1937, 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 an information against the DeLuca Olive Oil Co., Inc., New York, N. Y., and Arthur J. Capone, president and treasurer of the company, charging that said defendants had shipped in interstate commerce from New York, N. Y., the following lots of olive oil, which was adulterated and misbranded: One shipment into the State of Rhode Island on or about June 28, 1935; several shipments into the State of Massachusetts on or about July 5, August 9, 24, and 27, September 11, 19, 20, and 27, October 31, November 15, 1935, January 7, 9, and 10, February 4, and February 13, 1936; two lots into the State of Connecticut on or about September 28, 1935, and February 14, 1936; one lot into the State of Maine on or about November 6, 1935; and several lots into the State of Pennsylvania on or about January 3, 20, 28, and 31, and February 14, 1936.

The article was labeled in part variously: "Pure olive oil * * * De Luca Brand * * * Guaranteed by De Luca Olive Oil Co., Inc., New York City"; "Cora Pure Imported Olive Oil * * * Guaranteed by Cora Products Co., New York, N. Y."; "Olivo D' Oliva Marca De Luca * * * De Luca & Co., New York & Geneva"; "Pure Imported Olive Oil De Luca Brand * * * De Luca & Co., New York"; "United Brand * * * Pure Imported Olive Oil * * * United Wholesale Grocery Co., Distributor Worcester Mass."; "Clover Farm Brand Pure Imported Olive Oil * * * Clover Farm Stores Distributors * * * Cleveland, Ohio."

The article was alleged to be adulterated in that tea-seed oil had been substituted in part for olive oil, which it purported to be, and in that tea-seed oil had been mixed and packed with it so as to reduce or lower its quality and strength.

It was alleged to be misbranded in that the following statements and designs borne on the cans and bottles, "Pure Olive Oil De Luca * * * The Best Quality Imported from Italy * * * This Olive Oil is guaranteed to be absolutely pure under chemical analysis because it is pressed only from selected ripe olives * * * Puro Olio Di Oliva De Luca * * * Qualita Sublimi Importato dall Italia * * * Questo Olio di Oliva e garantito puro sotto qualsiasi analisi chimica perche ricavato soltanto da olive mature scelte e confezionato nelle migliori condizioni igieniche [design of olive branches]" with respect to certain lots; the statements, "Pure imported Olive Oil * * * Importato Puro Olio d'Oliva * * * This Olive Oil is guaranteed to be absolutely pure and indisputably better than that of any other origin both for its natural goodness and exceptional purity. * * * Questo olio a garantito di para oliva e indiscutibilmente superiore a quello di qualsiasi altra origine sia per la sua naturale bonta che per la sua speciale raffinatezza [design of olive branches]" with respect to certain lots, the statements "Olio D'Oliva * * * De Luca * * * Pure Olive Oil" with respect to certain lots; "Pure Imported Olive Oil * * * De Luca * * * Olivo D'Oliva * * * De Luca * * * Pure Olive Oil" with respect to certain lots; the statement "Pure Imported Olive Oil" with respect to certain other lots were false and misleading; and were borne on the labels of the cans and bottles containing the article so as to deceive and mislead the purchaser; since they represented that the article consisted wholly of olive oil and that portions thereof consisted of olive oil imported from Italy; whereas the article consisted in part of tea-seed oil not imported from Italy. It was alleged to be misbranded further for the reason that it was a mixture composed in part of tea-seed oil and was offered for sale and sold under the distinctive name of another article.

On August 2, 1937, pleas of guilty were entered on behalf of the defendants and on October 13, 1937, the court fined the defendant company \$2,200 but suspended payment of \$2,100 thereof, and fined Arthur J. Capone \$1,100 and suspended payment of \$550 thereof.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

27754. Adulteration and misbranding of olive oil. U. S. v. A. J. Capone Co., Inc., and Arthur J. Capone. Pleas of guilty. Corporation fined \$1,400 of which \$1,300 was remitted. Arthur J. Capone fined \$700 of which \$350 was remitted. (F. & D. No. 38007. Sample Nos. 55262-B, 55546-B to 55550-B, incl., 57018-B, 57201-B, 57202-B, 57203-B, 62311-B, 66040-B, 66041-B, 66042-B.)

This product was adulterated with tea-seed oil.

On February 25, 1937, 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 an information against the A. J. Capone Co., Inc., New York, N. Y., and Arthur J. Capone, president of the company, alleging shipment by said defendants in violation of the Food and Drugs Act on or about October 31, 1935,