

DISPOSITION: November 7, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold to the highest bidder, conditioned that it be denatured so that it could not be disposed of for human consumption.

10248. Adulteration of popcorn. U. S. v. 26 Bags of Popcorn. Default decree of condemnation. Product ordered delivered to a county officer, to be disposed of for animal feed. (F. D. C. No. 17675. Sample No. 23787-H.)

LIBEL FILED: September 27, 1945, Southern District of Texas.

ALLEGED SHIPMENT: On or about May 28, 1945, from Fort Smith, Ark.

PRODUCT: 26 100-pound bags of popcorn at Houston, Tex., in possession of the Houston Terminal Warehouse and Cold Storage Co. The product was stored under insanitary conditions after shipment. Rodent excreta and urine stains were observed on the bags, and examination showed that the product contained rodent excreta and rodent hairs.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 31, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a county officer, to be used for animal feed by county charitable institutions.

10249. Adulteration of granulated rice. U. S. v. 160 Bags of Granulated Rice. Decree of destruction. (F. D. C. No. 17493. Sample No. 14205-H.)

LIBEL FILED: September 19, 1945, Southern District of Ohio.

ALLEGED SHIPMENT: On or about June 7, 1945, by Champion Rice Mills of Tennessee, from Memphis, Tenn.

PRODUCT: 160 100-pound bags of granulated rice at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect fragments.

DISPOSITION: September 25, 1945. The consignee having consented to the entry of a decree, judgment was entered ordering the product destroyed.

CANDY AND CHOCOLATE SIRUP*

10250. Adulteration of candy. U. S. v. Melba Sweets Co. and Fred Malzone. Pleas of guilty. Fred Malzone fined \$500 and placed on probation for 2 years. Partnership fined \$1,000; payment suspended. (F. D. C. No. 12539. Sample Nos. 66152-F to 66155-F, incl., 76207-F.)

INFORMATION FILED: August 14, 1944, District of New Jersey, against the Melba Sweets Co., a partnership, West New York, N. J., and Fred Malzone, a partner.

ALLEGED SHIPMENT: Between the approximate dates of January 31 and February 16, 1944, from the State of New Jersey into the State of New York.

LABEL, IN PART: "Melbits," or "Melba's Chocolate Peanut Bar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, human hair fragments, and cat hair fragments; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 1, 1944. Pleas of guilty were entered on behalf of both defendants. Fred Malzone was fined \$2,500 (\$500 on each of 5 counts) of which \$2,000 was suspended. In addition, he was sentenced to 3 months in jail, which sentence was suspended, and he was placed on probation for a period of 2 years. The partnership was fined \$1,000, but payment was suspended.

10251. Adulteration of candy, pretzels, and salted almonds. U. S. v. Howard W. Neal (Party Snax Food Products Co.). Plea of nolo contendere. Fine, \$750. (F. D. C. No. 16563. Sample Nos. 27518-F, 80882-F, 83896-F.)

INFORMATION FILED: September 21, 1945, Southern District of California, against Howard W. Neal, trading as the Party Snax Food Products Co., Los Angeles, Calif.

*See also No. 10329.

ALLEGED SHIPMENT: November 24 and December 7, 1944, and January 6, 1945, from the State of California into the States of Oregon and Washington.

LABEL, IN PART: "10¢ Candy 10¢," "10¢ Pretzels 10¢," or "New Crop California 10¢ Almonds 10¢."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, and a hair fragment resembling a rodent-type hair fragment; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 5, 1946. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$250 on each of 3 counts.

10252. Adulteration and misbranding of candy. U. S. v. Joe Franklin Myers (Joe Franklin Myers Industries). Plea of nolo contendere. Fine, \$100 on count 1; imposition of sentence withheld on count 2. (F. D. C. No. 14298. Sample No. 60938-F.)

INFORMATION FILED: On or about June 21, 1945, Northern District of Texas, against Joe Franklin Myers, trading as the Joe Franklin Myers Industries, Dallas, Tex.

ALLEGED SHIPMENT: On or about June 12, 1944, from the State of Texas into the State of Louisiana.

LABEL, IN PART: "Smile Sticks * * * net weight: 8 oz. or over."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, carotene (vitamin A), had been in whole or in part omitted or abstracted from the article, since it was represented to contain in each pound 800 or more U. S. P. Units of carotene, whereas it contained in each pound not more than 50 U. S. P. Units of carotene.

Misbranding, Section 403 (a), the statement in the labeling of the article, "800 or more U. S. P. units of carotene (vitamin A) * * * to each pound," was false and misleading; and the label statement "Ingredients: * * * Vitamins A" was false and misleading since it represented and created the impression that the article would supply the user with substantial amounts of vitamin A, whereas the article would not supply substantial amounts of vitamin A, since 8 ounces of the article would supply not more than 1 percent of the minimum adult daily requirement for vitamin A.

Further misbranding, Section 403 (e) (1), the label of the article bore no statement containing the name and place of business of the manufacturer, packer, or distributor. Section 403 (j), the article purported to be and was represented for special dietary uses by reason of its vitamin properties in respect to vitamin A, vitamin B₁ (thiamine), vitamin C (ascorbic acid), riboflavin (vitamin B₂ and vitamin G), niacin, and pantothenic acid, and by reason of its mineral properties in respect to calcium, phosphorus, and iron; and its label did not bear, as required by regulations, a statement of the proportion of the minimum daily requirement of vitamin A, vitamin B₁, vitamin C, riboflavin, calcium, phosphorus, and iron, and a statement of the quantity of niacin and pantothenic acid, which would be supplied by the article when consumed in an amount customarily or usually consumed during a period of one day, or a quantity reasonably suitable for and practicable for consumption in such period.

DISPOSITION: June 21, 1945. A plea of nolo contendere having been entered, the court imposed a fine of \$100 on count 1 of the information charging adulteration and withheld the imposition of sentence on count 2 charging misbranding.

10253. Adulteration of candy. U. S. v. The Mackenzie Candy Co. Plea of guilty. Fine, \$4,000. (F. D. C. No. 16624. Sample Nos. 10547-H, 12818-H, 12819-H, 14698-H, 17649-H.)

INFORMATION FILED: December 29, 1945, Northern District of Ohio, against the Mackenzie Candy Co., a corporation, Cleveland, Ohio.

ALLEGED SHIPMENT: Between the approximate dates of July 2 and 19, 1945, from the State of Ohio into the States of Pennsylvania, Indiana, and Michigan.

LABEL, IN PART: "Mackenzie's Old Hickory Fudge," or "Mackenzie's Nut-Mac Chocolate Covered Nut Fudge."