

TOMATOES AND TOMATO PRODUCTS

11803. Misbranding of canned tomatoes. U. S. v. 499 Cases, etc. (F. D. C. Nos. 21404, 21667. Sample Nos. 40018-H, 40021-H.)

LIBELS FILED: November 2 and 22, 1946, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 21, 1946, by the Blue Eye Canning Co., from Blue Eye, Ark.

PRODUCT: Canned tomatoes. 499 cases at Nevada, Mo., and 499 cases at Joplin, Mo. Each case contained 24 1-pound, 3-ounce cans, of tomatoes.

LABEL, IN PART: "Spring Creek Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes since the drained weight was less than 50 percent of the weight of water required to fill the container, and the article was not labeled as substandard, as required by the regulations.

DISPOSITION: January 13, 1947. The Blue Eye Canning Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

11804. Adulteration of tomato puree. U. S. v. Riverbank Canning Co., a corporation, and Lorenzo Zerillo and Samuel P. Cava. Pleas of nolo contendere. Corporation fined \$500; Lorenzo Zerillo, \$750; and Samuel P. Cava, \$250. (F. D. C. No. 21500. Sample No. 7331-H.)

INFORMATION FILED: March 14, 1947, Northern District of California, against the Riverbank Canning Co., Riverbank, Calif., and Lorenzo Zerillo and Samuel P. Cava, officers of the firm.

ALLEGED SHIPMENT: On or about November 23, 1945, from the State of California into the State of New Jersey.

LABEL, IN PART: "Zelo Brand Fancy Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 7, 1947. Pleas of nolo contendere having been entered on behalf of the three defendants, the court imposed a fine of \$500 against the corporation, and fines of \$750 and \$250, respectively, against the individual defendants, Lorenzo Zerillo and Samuel P. Cava.

11805. Adulteration of tomato puree. U. S. v. San Jose Canning Co. and Eugene J. Filice. Pleas of nolo contendere. Fines of \$150 against the firm and \$3 against Eugene J. Filice. (F. D. C. No. 21496. Sample Nos. 9140-H, 46629-H, 63381-H.)

INFORMATION FILED: December 5, 1946, Northern District of California, against the San Jose Canning Co., a partnership, San Jose, Calif., and Eugene J. Filice, a partner.

ALLEGED VIOLATIONS: On or about November 28, 1944, the defendants gave a guaranty to the Regent Canfood Co., San Francisco, Calif., a division of Safeway Stores, Inc., Oakland, Calif., which contained the provision, among others, that any article of food shipped or delivered by the defendants to the latter firm would not be adulterated or misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about November 15, 1945, the defendants delivered a quantity of adulterated canned tomato puree to the Regent Canfood Co.; and on or about December 11, 1945, a portion of the product so delivered by the defendants was shipped by the Regent Canfood Co., from the State of California into the State of Montana. On or about November 21, 1945, the defendants themselves shipped from the State of California into the State of New York certain consignments of adulterated tomato puree.

LABEL, IN PART: "Redpack Brand * * * Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: February 5, 1947. Pleas of nolo contendere having been entered by both defendants, the court imposed fines of \$150 against the partnership and \$3 against the individual defendant.