

**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 24951-25000**

Adulteration, Section 402(a)(2), the article, in one case, contained an added poisonous or deleterious substance which is unsafe within the meaning of Section 406; and, in another case, the article was a raw agricultural commodity and contained a pesticide chemical which is unsafe within the meaning of Section 408(a); Section 402(a)(3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted wholly or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402(c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 406(a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents in terms of weight, measure, or numerical count; Section 403(f), words, statements, or other information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g)(1), the article purported to be and was represented as a food for which a standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403(i)(2), the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

CEREALS AND CEREAL PRODUCTS

FLOUR

24951. Flour, bakery mixes, cornmeal, sugar, salt, and shortening. (Inj. No. 328.)

COMPLAINT FOR INJUNCTION FILED: 2-12-58, W. Dist. of Pa., against Schomaker Co., a partnership, Pittsburgh, Pa.

CHARGE: The complaint alleged that the defendant was engaged in the business of storing and selling various food products, such as flour, bakery mixes, cornmeal, sugar, salt, and shortening; that the defendant had been and was, at the time of filing of the complaint, receiving such articles which had been shipped in interstate commerce; and that the defendant had been and was placing and causing to be placed in a building infested with insects and rodents, and had been and was exposing and causing to be exposed to contamination by insects and rodents, such articles of food while they were held for sale after shipment in interstate commerce.

The complaint alleged further that the acts of placing and causing the foods to be placed in such building and of exposing and causing the foods to be exposed to such contamination, resulted in the foods being adulterated within the meaning of 402(a) (3) in that the foods consisted in part of insect and rodent filth; and within the meaning of 402(a) (4) in that the foods were held under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged also that the insanitary conditions resulted from and consisted of an old building with loose walls; wide cracks between floor boards; openings along the wall approximately one foot wide, through which insects, rodents and larger animals could and did enter and leave the building at will; holes throughout the building; rodent excreta pellets throughout the building; spilled rodent-bait dishes in areas near stored food; spilled flour, mixed with dirt, rodent excreta pellets, and miscellaneous debris, along the wall ledges, and other similar insanitary conditions.

DISPOSITION: On 2-13-58, a temporary restraining order was issued, and on 3-7-58, a hearing was held on the question of issuing a permanent injunction. Thereafter, on 3-21-58, the court issued a decree of permanent injunction and its findings of fact and conclusions of law in support thereof. The decree enjoined the defendant (1) from doing or causing any act to be done with respect to any article of food while held for sale after shipment in interstate commerce, which act would result in the food being adulterated as alleged in the complaint, and (2) from placing or causing to be placed in its warehouse, any articles of food after shipment in interstate commerce, unless, and until, the warehouse was rendered suitable for the storage of food; an inspection was made by an authorized representative of the Department of Health, Education, and Welfare, and a report submitted showing that the insanitary conditions in the warehouse no longer existed, and the adulterated food being held in the defendant's warehouse, after shipment in interstate commerce, was removed from human food channels by destruction or otherwise.

24952. Flour. (F.D.C. No. 41597. S. No. 21-286 P.)

QUANTITY: 64 50-lb. bags at Kansas City, Kans., in possession of Lee Foods, Div. of Consolidated Foods Corp.

SHIPPED: 11-1-57 and 1-24-58, from St. Joseph, Mo.

LIBELED: 3-7-58, Dist. Kans.

CHARGE: 402(a) (3)—contained rodent urine and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 5-9-58. Default—consumption by animals.