

The decree of permanent injunction also noted that the defendant had appeared and had filed affidavits from which it appeared that it voluntarily, on 1-29-60, prior to the filing of this action, closed its plant, suspended all manufacturing therein and suspended all sales and shipments, and that all manufacturing and sales and shipments since then were voluntarily suspended, and it further appeared that defendant had, during the voluntary closure of its plant, exercised great effort to remove all objectionable matter from and objectionable conditions in the plant, and that the plant might then be ready for resumption of manufacturing subject to an official inspection which had tentatively been arranged for on the day following the entry of this order, and that it further appeared that the defendant had voluntarily undertaken an analysis of all codes of foodstuffs manufactured by it and then in its stock, and had to date submitted four reports on such analysis of a number of such codes, and that it had been tentatively arranged that the defendant was to be advised promptly as to which codes so analyzed were thereby ready to be released for shipment into trade channels.

Thereafter, Food and Drug Administration inspectors inspected the defendant's plant and witnessed the destruction of 40,271 lbs. of chocolate and cocoa products. On 8-4-61, the defendant filed a motion to dissolve the injunction. On 4-10-62, by consent of all parties, and the defendant having fully and completely complied with the requirements of the Food and Drug Administration in removing all objectionable matter from, and all objectionable conditions in, the defendant's plant, the permanent injunction was dissolved and dismissed.

CONFECTIONERY*

28922. Candy. (Inj. No. 349.)

COMPLAINT FOR INJUNCTION FILED: 12-22-58, N. Dist. Ga., against Beckham Candy Co., a corporation, Atlanta, Ga., and Louis S. Horowitz, president and treasurer.

CHARGE: The complaint alleged that the defendants engaged at Atlanta, Ga., in the business of preparing, packing, and distributing various types of candy, such as hard candy, suckers, beads, and apple pops, that they were shipping in interstate commerce, candy which was adulterated within the meaning of 402(a)(1), 402(a)(3) and 402(a)(4); and that the candy consisted in part of a deleterious substance which might render it injurious to health by reason of the presence of glass fragments and metal fragments, that the candy was unfit for food by reason of the presence of glass fragments and metal fragments and that the candy was prepared and packed under insanitary conditions whereby it might have become contaminated with filth or whereby it might have been rendered injurious to health.

The complaint alleged further that the violative conditions in the defendants' plant at Atlanta, Ga., where the candy was prepared and packed, resulted from and consisted of a plant maintained in a generally cluttered, crowded and messy condition; the presence of pools of water, discarded sucker sticks, broken pieces of glass, broken bits of candy, empty soft drink bottles and other miscellaneous debris on the floor; the presence of uncovered containers of starch and coloring, open sugar bags, lunch bags and empty soft drink bottles on the tables in the manufacturing area; unused equipment left in a messy condition and containing pieces and lumps of candy, bottles,

*See also No. 28993.

broken glass, broken glass thermometers and other miscellaneous debris; the presence of cigarette butts on candy machines; glass salt shakers, glass drinking glasses, glass milk bottles and lunch bags on shelves over candy conveyer belts under which unwrapped candy passed; and untidy and unsupervised employees.

The complaint alleged further that the defendants were well aware that their activities were in violation of the law, that since 1942, numerous inspections had been made of defendants' plant by inspectors of the Food and Drug Administration; that the defendants had been warned by these inspections against the interstate shipment of adulterated foods and about the inherent danger of maintaining their generally cluttered, crowded and messy plant; that the defendants pleaded guilty to the interstate shipment of filthy candy prepared under insanitary conditions on 10-13-47, and were fined \$500; that in 1946, defendant Louis S. Horowitz was temporarily enjoined against the preparation of adulterated candy under insanitary conditions; that the defendants were also warned by a hearing in October 1957; and that despite the warnings conveyed by the inspections, criminal prosecution, temporary injunction, and hearing, the defendants continued to ship into interstate commerce, candy adulterated in the above manner.

DISPOSITION: On 1-6-59, a consent decree of permanent injunction was entered which enjoined the defendants from directly or indirectly, introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, candy, such as hard candy, suckers, beads, apple pops, or any other such article of food which:

(a) consisted in part of a deleterious substance which may render it injurious to health by reason of the presence in the candy of glass fragments, metal fragments, or any other deleterious substance; or

(b) was unfit for food by reason of the presence in the candy of glass fragments, metal fragments, or any other similar substance; or

(c) had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth or whereby it may have been rendered injurious to health, namely, conditions resulting from and consisting of a plant maintained in a generally cluttered, crowded and messy condition; the presence of pools of water, discarded sucker sticks, broken pieces of glass, broken bits of candy, empty soft drink bottles and other miscellaneous debris on the floor; the presence of uncovered containers of starch and coloring, open sugar bags, lunch bags and empty soft drink bottles on the tables in the manufacturing area; unused equipment left in a messy condition and containing pieces and lumps of candy, bottles, broken glass, broken glass thermometers and other miscellaneous debris; the presence of cigarette butts on candy machines; glass salt shakers, glass drinking glasses, glass milk bottles and lunch bags on shelves over candy conveyer belts under which unwrapped candy passed; untidy and unsupervised employees; or any other insanitary conditions.

28923. Candy. (F.D.C. No. 47276. S. No. 62-816 T.)

QUANTITY: 1,014 7½-oz. boxes of milk chocolate peanuts, at Minneapolis, Minn., in possession of Leo Singer Candy & Tobacco Co.

SHIPPED: 1-4-62, from East Cambridge, Mass.

LABEL IN PART: (Box) "Ver-E-Best Candies Milk Chocolate Peanuts * * *
Singer Candy Co. Minneapolis Minn."