

F. & D. Nos. 2468, 2837, 2838, 3266, 3353, 3470.

I. S. Nos. 8120-c, 17033-c, 14416-c, 16308-c, 15089-c, 11852-c.

Issued September 27, 1912.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1672.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF GIN CUCURBITA; ADULTERATION AND MISBRANDING OF EXTRACT OF WINTERGREEN; MISBRANDING OF CREME DE MENTHE CHERRIES; MISBRANDING OF KUMMEL; MISBRANDING OF ECLIPSE PHOSPHATES, GIN AND CELERY; MISBRANDING OF CURAÇAO.

On January 25, January 31, February 13, and March 28, 1912, the United States Attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district six informations against the Bettman-Johnson Co., a corporation, Cincinnati, Ohio, alleging shipment by it, in violation of the Food and Drugs Act—

(1) On November 4, 1909, from the State of Ohio into the State of Kentucky of a consignment of Gin Cucurbita which was misbranded. The product was labeled: "Gin Cucurbita. The Extract of Watermelon Seeds. Juniper Berry and Hypophosphites. A Diuretic and tonic, both gentle and sure in its remedial effects. * * * Gin Cucurbita Company, Sole Proprietors, 310 E. 9th St., Cincinnati, Ohio. Watermelon Gin. Guaranteed by Serial No. 2161 to comply with the National Pure Food and Drugs Act of June 30, 1906."

An analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Specific gravity, 15.6/15.6° C., 0.9543; alcohol (per cent by volume), 40.1; solids (gram per 100 cc), 0.85; sucrose (gram per 100 cc), 0.50; reducing sugar, negligible, less than 0.01 gram per 100 cc; ash (gram per 100 cc), 0.27; oil of juniper, present; total P_2O_5 after oxidation of hypophosphites, 0.112; about two-thirds of above P_2O_5 was estimated to

be present as hypophosphites. Misbranding was alleged in the information for the reason that the product contained 40.1 per cent by volume of alcohol and the label on the product failed to bear a statement as to the quantity or proportion of the alcohol so contained in the product.

(2) On November 17, 1910, from the State of Ohio into the State of Pennsylvania of a consignment purporting to be wintergreen extract, which was adulterated and misbranded. The product was labeled: "Extract of Wintergreen. Rheinstrom, Bettman, Johnson Company, Cincinnati, Ohio. Guaranteed by Serial No. 2161 to comply with the National Pure Food and Drugs Act of June 30, 1906."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: "Alcohol, 45.56 per cent; oil of wintergreen, trace, color, Light Green S. F. and Naphthol Yellow S." Adulteration was alleged in the information for the reason that another substance, to wit, a dilute solution of alcohol, containing only a trace of the oil of wintergreen, the whole having added thereto an artificial coloring matter known as Light Green S. F. and Naphthol Yellow S, which was substituted wholly for the product purporting by its brand and label to be extract of wintergreen. Further, that a dilute solution of alcohol containing only a mere trace of oil of wintergreen and having added thereto certain artificial coloring matters was mixed and packed with said article purporting to be extract of wintergreen so as to reduce, lower, and injuriously affect its quality and strength, and further that the product was artificially colored in a manner whereby its inferiority was concealed, that is to say, the product did not contain more than a mere trace of oil of wintergreen. Misbranding was alleged for the reason that the product was labeled and branded in such manner as to deceive and mislead the purchaser thereof because the label was calculated and intended to and did create the impression and belief in the mind of the purchaser thereof that it was extract of wintergreen, which conformed to the known and recognized standard of quality and strength, whereas in truth and in fact it was not such extract of wintergreen. Further, the label on the product bore a statement regarding it and the ingredients, and substances contained therein which was false, misleading, and deceptive, because said statement represented the product to be genuine extract of wintergreen, whereas such was not the fact and said statement was untrue and false.

(3) On February 23, 1911, from the State of Ohio into the State of Colorado of a consignment of Creme de Menthe Cherries which were misbranded. The product was labeled: "Extra Fancy Select Creme de Menthe Cherries Artificially colored Warranted not to spoil in any climate."

Analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Alcohol, 0.15; iodoform test, positive; peppermint oil, trace; total reducing sugars after inversion, 13.5 per cent; preservative: Benzoic acid, negative; salicylic acid, negative; boric acid, negative; colors: Mixture Naphthol Yellow S and light Green S. F. Misbranding was alleged in the information for the reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof, because the label was calculated and intended to and did create the impression and belief in the mind of the purchaser that the product contained or was flavored with a liqueur commonly known as creme de menthe or that it was packed or preserved in said liqueur, whereas in truth and in fact it did not contain said liqueur and was not flavored with nor packed nor preserved in it. Further, the label on the product bore a statement regarding it and the ingredients and substances contained therein which was false, misleading, and deceptive, in that said statement represented it to contain, to be flavored with, or to be packed or preserved in a certain liqueur commonly known as creme de menthe, whereas in truth and in fact it did not contain said liqueur and was not flavored with nor packed nor preserved in said liqueur, but was packed and put up in a liqueur consisting of sugar syrup slightly flavored with peppermint and artificially colored in imitation of the liqueur commonly known as creme de menthe and the said statement therefore was untrue and false.

(4) On or about March 27, 1911, from the State of Ohio into the State of Texas of a consignment of a product purporting to be a liqueur of foreign origin and manufacture which was misbranded. The product was labeled: "Onkel Karl's aechter, guter, alter, deutscher Getreide Kummel. Doppelt Destillirt. Guaranteed by the manufacturers under Serial No. 2161 to comply with the National Pure Food and Drugs Act of June 30th, 1906."

Examination of the product by the Bureau of Chemistry of this Department showed that it was not of foreign origin or manufacture, but was an American product. Misbranding was alleged in the information for the reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof in that by said label and brand the product purported and was represented to be a foreign product and of German origin and manufacture when in truth and in fact it was a domestic product and of American origin and manufacture, and further, the label on the product bore statements, designs, and devices regarding it and the ingredients and substances contained therein which were false and misleading because they purported and represented it to be a foreign product when such was untrue and false.

(5) On October 22, 1910, from the State of Ohio into the State of Virginia of a consignment of Eclipse Phosphates, Gin and Celery, which were misbranded. The product was labeled: "Eclipse Phosphates, Gin & Celery. Superior Quality thoroughly matured. A pure and wholesome stimulant for the kidneys and bladder—delightful in flavor and aroma. Alcoholic strength. The contents of this package are guaranteed to comply with the National Pure Food and Drugs Act of June 30th, 1906. Our general guarantee has been filed with the Secretary of Agriculture, Washington, D. C., and number assigned us is 2161."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Petroleum ether extract (oils), 0.003 per cent; celery oil (odor), none; phosphates P_2O_5 , 0.026 per cent; sugar, 1 per cent; alcohol by volume, 29 per cent. Misbranding was alleged in the information for the reason that the product was labeled and branded so as to deceive and mislead the purchaser thereof because the label was calculated and intended to and did create the impression and belief in the mind of the purchaser that it contained as ingredients celery, or the essential oil of celery, and a substantial amount of phosphates, whereas in truth and in fact it did not contain celery nor the essential oil of celery or a substantial amount of phosphates, but contained only an inappreciable amount of said phosphates. Further, the label bore statements regarding the product and the ingredients and substances contained therein which were false and misleading and deceptive because they represented the product to contain as ingredients celery or the essential oil of celery and a substantial amount of phosphates, whereas in truth and in fact it did not contain celery or the essential oil of celery and contained only an inappreciable amount of such phosphates. Further, the label on the product failed to bear a statement as to the quantity or proportion of alcohol contained therein.

(6) On or about October 12, 1910, from the State of Ohio into the State of New York of a quantity of curaçao which was misbranded. The product was labeled: "Amsterdam Process Curaçao Double Distilled. Guaranteed to comply with the National Pure Food & Drugs Act of June 30, 1906. Serial No. 2161." "Curaçao Amsterdam Process B. J. C." "1 doz. Quart Jugs. Glass. This side up with care. The contents of this package are guaranteed to comply with the National Pure Food and Drugs Act of June 30, 1906. Our general guarantee has also been filed with the Secretary of Agriculture, Washington, D. C., and number assigned to us is 2161. Daniel Quinn Co., Utica, N. Y."

Examination of the product by the Bureau of Chemistry of this Department showed that its general appearance was such as to resem-

ble curacao of foreign origin. Misbranding was alleged in the information for the reason that the product was labeled so as to deceive and mislead the purchaser thereof in that by said label the product purported and was represented to be a foreign product and of foreign origin, to wit, Dutch origin and manufacture, when in truth and in fact it was a domestic product and of American origin and manufacture, and further, the labels and brands on the product bore statements, designs, and devices regarding it which were false, misleading, and deceptive, because they purported and represented it to be a foreign product when such was untrue and false.

On April 1, 1912, the defendant company entered a plea of nolo contendere to the charges in the various informations and the court imposed fines of \$50 and costs in each case, aggregating a total of \$300 in fines and \$96.75 in costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *July 23, 1912.*

