6425. Adulteration and misbranding of brandy for Passover (grape), Wishniak (cherry cordial), and Slivowitz (prune brandy). U. S. * * * v. Solomon E. Rosenthal and Herman L. Rosenthal (Sam Rosenthal & Co.). Pleas of guilty. Fine, $50. (F. & D. No. 8600. I. S. Nos. 4951-m, 4952-m, 4953-m.)

On January 16, 1919, the United States attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Solomon E. Rosenthal and Herman L. Rosenthal, copartners, trading as Sam Rosenthal & Co., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, on March 19, 1917 (three shipments), from the State of New York into the State of New Jersey, of quantities of articles labeled in part, "Brandy * * * Grapes," "Wishniak," and "Slivowitz," which were adulterated and misbranded. There was blown in the glass "24 oz.," "30 oz.," and "30 oz.," respectively.

Analyses of samples of the article by the Bureau of Chemistry of this department showed the following results, expressed as parts per 100,000, 100 proof, unless otherwise specified:

THE GRAPE BRANDY.

Contents: 1 pint, 7.7 fluid ounces.

Proof at 60.0° F	92.7
Acids, total, as acetic	12.9
Esters, total, as ethyl acetate	24.7
Fusel oil as amyl alcohol	20.9

Flavor is not characteristic of a true brandy.

This is a liquor composed in part of distilled spirits.

THE WISHNIAK.

Contents: 1 pint, 13.6 fluid ounces.

Total solids (per cent)	32.50
Ash (per cent)	.082
Malic acid: None.	
Tartaric acid: None.	
Benzaldehyde (per cent)	.024
Sucrose by reduction (per cent)	22.23
Sucrose by Clerget (per cent)	22.13
Reducing sugars as invert (per cent)	8.58
Nonsugar solids (per cent)	1.69
Alcohol (per cent by volume)	32.14

Odor of steam distillate: Benzaldehyde.

Colored with orchil.

This is a cordial flavored to imitate cherry.

THE SLIVOWITZ.

Contents: 1 pint, 14.1 fluid ounces.

Proof at 60.0° F	92.7
Acids, total, as acetic	12.9
Esters, total, as ethyl acetate	17.1
Fusel oil, as amyl alcohol	32.3

Flavor: Not characteristic of true Slivowitz or prune brandy.

This is a liquor composed in part of distilled spirits.

Adulteration of the article labeled in part, "Brandy * * * Grapes," was alleged in the information for the reason that a substance, to wit, neutral spirits, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality, and had been substituted in whole or in part for grape brandy, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "Brandy * * * Grapes," borne on the labels attached to the bottles containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that the article was grape brandy; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was grape brandy; whereas, in truth and in fact, it was not; but was a product composed in part of neutral spirits. Misbranding of the article was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Adulteration of the Wishniak was alleged for the reason that an imitation cherry cordial had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality, and had been substituted wholly or in part for cherry cordial (Wishniak), which the article purported to be; and for the further reason that it was an imitation cherry cordial, a product inferior to genuine cherry cordial, and was colored with a certain dye, to wit, orchil, so as to assimulate [simulate] the appearance of genuine cherry cordial, and in a manner whereby its inferiority to genuine cherry cordial was concealed.

Misbranding of the article was alleged for the reason that the statement, to wit, "Wishniak," together with the pictorial device of a bunch of cherries, borne on the labels attached to the bottles containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that the article was, to wit, cherry cordial; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was, to wit, cherry cordial, whereas, in truth and fact, it was not cherry cordial, but was a product composed in whole or in part of neutral spirits artifically colored. Misbranding of the article was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

Adulteration of the Slivowitz was alleged for the reason that a substance, to wit, neutral spirits, had been mixed and packed therewith so as to lower or reduce and injuriously affect its quality, and had been substituted in whole or in part for grape [prune] brandy, which the article purported to be.

Misbranding of the article was alleged for the reason that the statement, to wit, "Brandy * * * Slivowitz," together with the pictorial device of prunes, borne on the labels attached to the bottles containing the article, regarding it and the ingredients and substances contained therein, was false and misleading in that it represented that the article was, to wit, prune brandy; and for the further reason that it was labeled as aforesaid so as to deceive and mislead the purchaser into the belief that it was, to wit, prune brandy, whereas, in truth and in fact, it was not, but was a product composed in whole or in part of neutral spirits. Misbranding of the article was alleged for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On January 22, 1919, the defendants entered pleas of guilty to the information, and the court imposed a fine of $50.