

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

24551-24625

[Approved by the Acting Secretary of Agriculture, Washington, D. C., March 24, 1935]

**24551. Misbranding of butter. U. S. v. Frederick F. Lowenfels, Albert Lowenfels, and Corinne B. Lowenfels (Frederick F. Lowenfels & Son). Pleas of guilty. Fine, \$50. (F. & D. no. 29455. Sample no. 10507-A.)**

This case involved shipments of butter which was short weight.

On March 5, 1935, 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 an information against Frederick F. Lowenfels, Albert Lowenfels, and Corinne B. Lowenfels, a partnership trading as Frederick F. Lowenfels & Son, New York, N. Y., alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about April 22 and April 26, 1932, from the State of New York into the State of New Jersey, of quantities of butter that was misbranded. The article was labeled in part: "1 Lb. Net Weight."

The article was alleged to be misbranded in that the statement, "1 Lb. Net Weight", borne on the package label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since each of a large number of the packages examined contained less than 1 pound net weight. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On April 8, 1935, the defendants entered pleas of guilty and the court imposed a fine of \$50 against Albert Lowenfels and ordered that fines be suspended as to the other defendants.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24552. Adulteration and misbranding of tomato juice. U. S. v. K. M. Davies Co., Inc. Plea of guilty. Fine, \$50. (F. & D. no. 30132. I. S. no. 43518.)**

This case was based on an interstate shipment of tomato juice that contained added water.

On November 13, 1933, the United States attorney for the Western District of New York, acting upon a report by the Secretary of Agriculture, filed in the district court an information against K. M. Davies Co., Inc., Williamson, N. Y., alleging shipment by said company in violation of the Food and Drugs Act, on or about January 12, 1932, from the State of New York into the State of Massachusetts, of a quantity of canned tomato juice that was adulterated and misbranded. The article was labeled in part: "Williamson Brand Tomato Juice \* \* \* A Pure Juice from Selected Red, Ripe Tomatoes \* \* \* Packed by K. M. Davies Co. Inc. Williamson, N. Y."

The article was alleged to be adulterated in that a substance, excessive water, had been mixed and packed with the article so as to lower, reduce, and injuriously affect its quality and strength and had been substituted in part for pure tomato juice which the article purported to be.

Misbranding was alleged for the reason that the statement, "Tomato Juice \* \* \* A Pure Juice from Selected Red, Ripe Tomatoes", borne on the can label, were false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the said statement represented that the article consisted wholly of pure tomato juice; whereas it did not so consist, but did consist in part of excessive water. Misbranding was alleged for the further reason that the article was offered for sale and sold under the distinctive name of another article, namely, pure tomato juice; and for the further reason that it was in liquid form and the package did not bear a plain and conspicuous declaration of the quantity of the contents by volume.

On May 14, 1935, a plea of guilty was entered on behalf of the defendant company to both counts of the information, and the court imposed a fine of \$50 on each count and ordered that the fine on the first count be suspended.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24553. Misbranding of canned peas. U. S. v. 70 Cases of Canned Peas. Consent decree of condemnation. Product released under bond to be relabeled.** (F. & D. no. 31114. Sample no. 57700-A.)

This case involved a shipment of canned soaked dry peas which were misbranded because of the presence on the label of a vignette showing succulent peas in pod.

On September 19, 1933, the United States attorney for the Western District of Arkansas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 70 cases of canned peas at Fayetteville, Ark., alleging that the article had been shipped in interstate commerce on or about August 31 and September 14, 1933, by the Griffin Manufacturing Co., from Muskogee, Okla., and charging misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Little Chief Prepared From Dry Peas \* \* \* Packed by Griffin Manufacturing Company Cannery Muskogee, Okla. [vignette of green peas in pod]."

The article was alleged to be misbranded in that the prominent designation "Peas" and the design of vignette of succulent peas in pod, borne on the label, were false and misleading, and deceived and misled the purchaser when applied to canned soaked dry peas.

On April 11, 1935, the Griffin Grocery Co., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond conditioned that it be relabeled under the supervision of this Department.

W. R. GREGG, *Acting Secretary of Agriculture.*

**24554. Adulteration and misbranding of butter. U. S. v. John N. Hall (Lexington Ice & Creamery Co.). Plea of guilty. Fine, \$50.** (F. & D. no. 31520. Sample nos. 39044-A, 46628-A, 46629-A, 46630-A.)

This case involved shipments of butter that contained less than 80 percent of milk fat. The product in certain of the shipments was also short weight.

On September 26, 1934, the United States attorney for the Southern District of Mississippi, acting upon a report by the Secretary of Agriculture, filed in the district court an information against John N. Hall, trading as the Lexington Ice & Creamery Co., Lexington, Miss., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, on or about June 16 and June 18, 1933, from the State of Mississippi into the State of Louisiana of quantities of butter which was adulterated and misbranded. The article in all shipments was labeled "Butter", portions being packed in cartons labeled "Glenwood Creamery Butter 1 Pound Net 1 Lb. Net Weight Distributed by Swift & Company U. S. A. General Offices, Chicago", each carton containing cubes labeled, "4 Oz. Net Weight."

The article was alleged to be adulterated in that a product containing less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923, which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", with respect to all lots, and the statements "1 Pound Net", "1 Lb. Net Weight", and "4 Oz. Net Weight", with respect to certain lots, appearing in the labeling, were false and misleading, and for the further reason that the article was labeled so as to deceive and mislead the purchaser, since it contained less than 80 percent by weight of milk fat, and the carton and wrapper in certain lots contained less than declared. Misbranding was alleged with respect to portions of the