

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]

25551-25650

[Approved by the Acting Secretary of Agriculture, Washington, D. C., September 9, 1936]

25551. Adulteration of tomato paste, tomato puree, and tomato catsup; and misbranding of tomato paste. U. S. v. Brocton Preserving Co., Inc. Plea of guilty. Fine, \$160. (F. & D. no. 34060. Sample nos. 68388-A, 71634-A, 14600-B, 21570-B, 25876-B, 25952-B, 26049-B, 29042-B.)

A decomposed substance was found in each of these products. One of them was so colored as to conceal damage, and the label of another bore an erroneous statement concerning its color.

On October 7, 1935, 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 the Brocton Preserving Co., Inc., Brocton, N. Y., alleging shipments in violation of the Food and Drugs Act as amended, in the period from October 18, 1933, to May 21, 1935, from Brocton, N. Y., in one instance, and from Fredonia, N. Y., in all the other instances, to places in Connecticut, Massachusetts, Rhode Island, and Vermont of quantities of tomato paste, tomato puree, and tomato catsup of which the tomato paste was adulterated and misbranded and the two other articles were adulterated. The articles were labeled in part: (Can) "Fedora Italian Style Tomato Paste * * * Contents 6 Oz. Avoir. * * * Salsa Pura Di Pomodoro Con Basilico Packed By Brocton Preserving Co. Brocton, New York"; (can) "Oswego Brand Tomato Puree Contents 6 Lb. 8 Oz. * * * Oswego Preserving Co. Oswego, N. Y. Distributors"; (can) "Brocton Brand Contents 7 Lbs. 2 Ozs. Net Tomato Ketchup Brocton Preserving Co., Brocton, N. Y."; (can) "Fedora Italian Style Tomato Paste Harmless Color Added."

Adulteration of the paste, puree, and the catsup was charged under the allegation, with respect to each, that it consisted in part of a decomposed vegetable substance. Adulteration of the paste was further charged (a) under the allegation that it was colored in a manner whereby its damage and inferiority were concealed; (b) under the allegation that a product containing no basil had been substituted for said article.

Misbranding of the paste was charged (a) under the allegations that there were borne on the cans the statements, to wit, "Tomato Paste * * * Salsa Pura Di Pomodoro", that the said statements represented the article to be naturally colored tomato paste, and that the said statements were false and misleading; and (b) under the allegation that the aforesaid statements were borne on the cans so as to deceive and mislead the purchaser of the article.

On January 14, 1936, a plea of guilty having been entered, a fine of \$160 was imposed.

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

25552. Misbranding of peanut butter. U. S. v. Martin Peanut Products Corporation. Plea of guilty. Fine, \$15. (F. & D. no. 34068. Sample nos. 3727-B, 3730-B.)

This case was based on a shipment of peanut butter which was short in weight.

On July 3, 1935, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Martin Peanut Products Corporation,

Chicago, Ill., alleging shipment by said company in violation of the Food and Drugs Act as amended, on or about August 1, 1934, from the State of Illinois into the State of Minnesota, of a quantity of peanut butter which was misbranded. The article was labeled in part: (Jar) "Two pounds Net Weight Economy Peanut Butter Manufactured by Martin Peanut Products Corporation, Chicago—New York."

The article was alleged to be misbranded in that the statement, "Two Pounds Net Weight", borne on the jar label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the jars contained less than 2 pounds of the article. 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 February 14, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$15.

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

25553. Adulteration and misbranding of butter. U. S. v. Downsville Cooperative Creamery Co. Plea of guilty. Fine, \$25. (F. & D. no. 34070. Sample no. 65725-A.)

This case was based on an interstate shipment of butter that contained less than 80 percent by weight of milk fat.

On August 5, 1935, the United States attorney for the Western District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Downsville Cooperative Creamery Co., a corporation of Downsville, Wis., alleging shipment by said company in violation of the Food and Drugs Act on or about June 2, 1934; from the State of Wisconsin into the State of Illinois of a quantity of butter that was adulterated and misbranded. The article was labeled "Sweet Butter."

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 must contain not less than 80 percent by weight of milk fat, as required by the act of Congress of March 4, 1923, and which the article purported to be.

Misbranding was alleged for the reason that the statement "Butter", borne on the label, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since the article was not butter in that it contained less than 80 percent by weight of milk fat, the standard for butter prescribed by law.

On March 6, 1936, a plea of guilty was entered on behalf of the defendant company and the court imposed a fine of \$25.

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

25554. Adulteration of butter. U. S. v. R. E. Cobb Co., a corporation. Plea of guilty. Fine, \$100. (F. & D. no. 34075. Sample no. 2218-B.)

Samples of this product were found to contain human hairs, a cow hair, rodent hairs; fragments of insects including wings, legs, and thoraxes; fragments of feathers; and numerous particles of nondescript dirt.

On October 15, 1935, the United States attorney for the District of North Dakota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the R. E. Cobb Co., a corporation, Valley City, N. Dak., alleging shipment in violation of the Food and Drugs Act, as amended, on or about July 30, 1934, from Valley City, N. Dak., to Chicago, Ill., of quantities of butter which was adulterated. The labels on the tubs bore various churn numbers and the statement "63 Pounds Net."

Adulteration of the article was charged (a) under the allegations that the article purported to be butter, that it did not contain 80 percent by weight of milk fat, that a product containing less than 80 percent by weight of milk fat had been substituted for butter, which the article purported to be; (b) under the allegation that the article consisted in whole and in part of a filthy animal substance.

On February 11, 1936, a plea of guilty having been entered, a fine of \$100 was imposed.

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