

On December 8, 1939, the United States attorney for the District of Utah filed a libel against 17 cases, each containing 24 boxes of chocolate-covered cherries, at Salt Lake City, Utah, alleging that the article had been shipped in interstate commerce on or about November 13, 1939, by Crystal Candies, Inc., from Denver, Colo.; and charging that it was misbranded.

The article was alleged to be misbranded in that the statement on the box, "Net Weight 1 Pound," was false and misleading since it was incorrect. It was alleged to be misbranded further in that the container was so made, formed, or filled as to be misleading. It was alleged to be misbranded still further in that it was in package form and did not bear on the label an accurate statement of the quantity of the contents.

On January 27, 1940, no claimant having appeared, a decree of condemnation and forfeiture was entered and the product was ordered destroyed.

**500. Misbranding of candy. U. S. v. 517 Boxes of Gold Crest Confections and 206 Boxes of Nuts & Fruits Creams. Default decree entered. Product ordered distributed to charitable institutions. (F. D. C. No. 732. Sample Nos. 68026-D, 68027-D.)**

The Gold Crest Confections were contained in a flat rectangular box wrapped in cellophane and opened at both ends, the candy occupying less than 40 percent of the available space in the box. The boxes containing the Nuts & Fruits Creams had extension edges, were wrapped in colored cellophane and had false bottoms  $\frac{3}{4}$ -inch in depth. The latter boxes contained two layers of candy, the bottom layer containing fewer pieces than did the upper layer. The quantity of contents declarations on the boxes of both kinds were inconspicuously placed upon one end of the boxes and were covered with several thicknesses of cellophane. The article was also short in weight.

On or about October 16, 1939, the United States attorney for the District of Connecticut filed a libel against 517 2-ounce boxes and 206 1-pound boxes of candy at Ridgefield, Conn., alleging that the article had been shipped in interstate commerce on or about September 27 and October 3, 1939, by Delight Sweets, Inc., from New York, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that the statements on the boxes, (Gold Crest Confections) "2 Oz. or over," and "Nuts & Fruits Creams Net Weight One Pound," were false and misleading when applied to an article that was short in weight. It was alleged to be misbranded further in that the containers were so made, formed, or filled as to be misleading; in that it was in package form and did not bear an accurate statement of the quantity of the contents; in that the statement of the quantity of the contents, required by the act to appear on the label, was not prominently placed thereon with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

On November 14, 1939, no claimant having appeared, judgment was entered ordering that the product be delivered to charitable institutions.