

weight. Misbranding was further alleged in that the circular cardboard box and fruit basket were so made, formed, and filled as to be misleading since the heart-shaped or egg-shaped window exposed to view only candy, whereas the package also contained cookies and jelly; the basket contained an excessive amount of paper stuffing, and the ingredient statement for the "Mar-Zee-Pon," appearing on the outside container, furthered the misleading impression that the contents consisted of the marzipan candy fruits, an almond paste product, whereas it consisted also of cookies and jelly. The grape flavor apple jelly was alleged to be misbranded in that the name "Grape Flavor Jelly" was false and misleading as applied to an artificially flavored imitation grape jelly, and in that it was an imitation of another food, grape jelly, and its label failed to bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated. The fruit basket, jar of "Grape Flavor Apple Jelly," and jar of "Damson Plum Jelly" were alleged to be misbranded in that they were food in package form and the jars of jelly and the fruit basket failed to bear a label containing an accurate statement of the quantity of the contents.

On May 8, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

5099. Misbranding of gift packages. U. S. v. 19 Gift Packages (and 4 additional seizure actions against gift packages). Default decrees of condemnation. A portion of the product ordered distributed to charitable institutions; the remainder ordered destroyed. (F. D. C. Nos. 9123, 9124, 9183, 9204, 9488. Sample Nos. 9777-F, 9983-F, 19616-F, 19617-F, 20121-F, 31913-F, 32699-F.)

Between January 3 and March 10, 1943, the United States attorneys for the District of Ohio, the District of Massachusetts, and the Northern District of Texas filed libels against 56 gift packages at Cincinnati, Ohio, 18 packages at Springfield, Mass., 15 packages at Boston, Mass., and 51 packages at Dallas, Tex., alleging that the article had been shipped in interstate commerce within the period from on or about October 16 to 30, 1942, by R. L. Albert & Son, Inc., from New York, N. Y.; and charging that it was misbranded. The article was labeled in part: "Send-A-Song Gift Package * * * 1 lb. 9 oz.," or "Library of Games * * * Net 2 lb. 4 oz."

The article was alleged to be misbranded in that the statements "1 lb. 9 oz.," or "2 lb. 4 oz." were false and misleading as applied to an article that was short weight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

Between February 10 and April 19, 1943, no claimants having appeared, judgments of condemnation were entered. The lots located at Cincinnati, Ohio, and Dallas, Tex., were ordered distributed to charitable institutions and the remainder was ordered destroyed.

5100. Misbranding of gift packages. U. S. v. 39 Boxes and 8 Boxes of Gift Packages (and 3 additional seizure actions against gift packages). Default decrees of condemnation and destruction. (F. D. C. Nos. 9108 to 9110, incl., 9128. Sample Nos. 8855-F, 8857-F to 8860-F, incl., 9570-F, 9760-F.)

On January 6, 1943, the United States attorney for the Eastern District of Louisiana filed libels against a total of 420 gift packages at New Orleans, La., alleging that the article had been shipped in interstate commerce within the period from on or about November 11 to 20, 1942, by A. Newberg & Co. from Babylon and Lindenhurst, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that its containers were so made, formed, and filled as to be misleading in that the packages contained excessive packing medium.

The various shipments of the article were alleged to be misbranded further in one or more of the following respects: (1) The statements "Net Weight 3½ lbs.," or "3¾ Lbs." in the labeling were false and misleading since the packages contained less than those amounts. (2) The article was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (3) The statement of the quantity of the contents and the name and place of business of the manufacturer, packer, or distributor, 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. (4) The article was in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor. (5) It was fabricated from two or more ingredients and their labels failed to bear the common or usual name of each such ingredient.

On March 22, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.