

NATURE OF CHARGE: Adulteration, Section 402 (c), the articles bore and contained a coal-tar color or colors which have not been listed for use in foods and were other than those certified in accordance with the regulations.

Misbranding, Section 403 (i), the Green Leaf Shade colors were fabricated from 2 or more ingredients, and the labels failed to bear the common or usual name of each ingredient; and, Section 403 (k), the flavors bore and contained artificial flavoring and artificial coloring, and the labeling failed to reveal that fact.

DISPOSITION: On April 11, 1945, the United States district court for the District of Massachusetts ordered that the cases be consolidated and removed to the United States district court for the Southern District of New York. David Kleckner & Sons, Inc., claimant, having withdrawn the answers filed in each of the proceedings and having consented to the entry of a decree on January 14, 1947, judgment of condemnation was entered and the products were ordered destroyed, with the exception of the seizure action against one bottle of Tipo Grassos, in which case, owing to the destruction of the article itself, the proceeding was dismissed without costs.

MISCELLANEOUS FOODS*

10883. Adulteration and misbranding of coal-tar colors. U. S. v. Marion K. Summers (Marion-Kay Products Co.). Plea of nolo contendere. Imposition of sentence suspended; defendant placed on probation for 1 year. (F. D. C. No. 17874. Sample No. 13221-H.)

INFORMATION FILED: June 12, 1946, Eastern District of Missouri, against Marion K. Summers, trading as the Marion-Kay Products Co., St. Louis, Mo.

ALLEGED SHIPMENT: On or about January 25, 1945, from the State of Missouri into the State of Ohio.

LABEL, IN PART: "Marion Kay Products Company * * * Green [or "Yellow," or "Red"] Food Coloring."

NATURE OF CHARGE: Adulteration, Section 402 (c), the articles contained coal-tar colors other than ones from batches that had been certified in accordance with the regulations.

Misbranding, Section 403 (a), the label statements "Certified Food Colors" and "Certified by the U. S. Food and Drug Administration" were false and misleading since they represented and suggested that the articles consisted of coal-tar colors from batches that had been certified in accordance with the regulations, whereas the articles consisted of coal-tar colors other than ones from batches that had been so certified.

DISPOSITION: September 19, 1946. A plea of nolo contendere having been entered, the court suspended the imposition of sentence and placed the defendant on probation for 1 year.

10884. Adulteration and misbranding of Saframol (food color). U. S. v. 16 Cartons * * * (and 1 other seizure action). (F. D. C. Nos. 15118, 15311. Sample Nos. 63819-F, 103-H.)

LIBELS FILED: On or about February 3 and March 1, 1945, Southern District of Florida.

ALLEGED SHIPMENT: On or about October 31 and November 2, 1944, by David Kleckner and Sons, Inc., from Ozone Park, Long Island, N. Y.

PRODUCT: 16 cartons and 10 boxes, each containing 100 envelopes, of Saframol food color at Tampa, Fla. Analysis showed that this product did not contain saffron, but that it contained sodium bicarbonate and coal-tar colors such as FD&C Yellow No. 5 and FD&C Orange No. 1. One lot of the product contained annatto.

LABEL, IN PART: "Pure Spanish Saffron * * * Kleckner's Saframol Improves Your Food For * * * Color."

NATURE OF CHARGE: Adulteration, Section 402 (c), the article bore and contained coal-tar colors other than those from batches certified in accordance with the regulations.

*See also Nos. 10720, 10882.

Misbranding, Section 403 (a), the label statement "Pure Spanish Saffron * * * Made from Extract of Pure Saffron" was false and misleading as applied to this article which contained no saffron; and, Section 403 (b), the article was offered for sale under the name of another food.

DISPOSITION: On April 11, 1945, by order of the United States district court for the District of Massachusetts, these 2 actions were consolidated with others involving similar products and removed to the United States district court for the Southern District of New York. On January 14, 1947, David Kleckner and Sons, Inc., claimant, having withdrawn its answer filed in each of the proceedings and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

10885. Misbranding of food preservative tablets. U. S. v. 28,300 * * *
(F. D. C. No. 18191. Sample No. 4567-H.)

LIBEL FILED: October 18, 1945, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 14, 1945, by the Burrough Brothers Manufacturing Co., from Baltimore, Md.

PRODUCT: 28,300 food preservative tablets at Reading, Pa. Examination showed that each tablet contained 20 grains of salicylic acid and a small proportion of tartaric acid.

LABEL, IN PART: (Sticker inside bulk container) "Private Formula No. 6006 * * * Rx For B. S. Bergey * * * Reading, Pennsylvania Acid Salicylic 20 grains and Tartaric Powder 2 grains."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling was misleading since it failed to reveal that the article contained an added poisonous and deleterious substance, salicylic acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: January 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

10886. Adulteration of mincemeat. U. S. v. Walter A. Vellguth (Velco - E. W. Products Co.). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 18600. Sample Nos. 26764-H, 28871-H, 28873-H, 28885-H, 29931-H.)

INFORMATION FILED: February 27, 1946, Northern District of California, against Walter A. Vellguth, an individual, trading as Velco - E. W. Products Co., San Francisco, Calif.

ALLEGED SHIPMENT: Between the approximate dates of June 15 and October 1, 1945, from the State of California into the States of Colorado and Washington and the Territory of Hawaii.

LABEL, IN PART: "California's Best E-W [or "Ideal Brand"] Mince Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of whole insects, insect fragments, worm fragments, and rodent hairs, and (2 shipments) of a decomposed substance by reason of the presence of fermenting mincemeat; and, Section 402 (a) (4), (1 shipment) it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1946. A plea of nolo contendere having been entered, a fine of \$1,000 was imposed.

10887. Adulteration of mincemeat. U. S. v. 98 Tubs * * *. (F. D. C. No. 18080. Sample No. 29931-H.)

LIBEL FILED: On or about November 7, 1945, District of Hawaii.

ALLEGED SHIPMENT: On or about October 1, 1945, by Theo H. Davies and Co., Ltd., from San Francisco, Calif.

PRODUCT: 98 25-pound tubs of mincemeat at Honolulu, T. H.

LABEL, IN PART: "Ideal Brand Mince Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs.

DISPOSITION: January 23, 1946. Theo H. Davies and Co., Ltd., claimant, having admitted that the product was adulterated as alleged in the libel, judgment of condemnation was entered and the product was ordered destroyed.