

LIBELED: 11-4-58, W. Dist. Ky.

CHARGE: 402(a)(3)—contained insects, insect-damaged nuts, and decomposed nuts while held for sale.

DISPOSITION: 1-30-59. Consent—claimed by Bradas & Gheens, Inc., Louisville, Ky., and converted into animal feed.

OILS AND FATS

25635. Crude cottonseed oil. (Inj. No. 271.)

COMPLAINT FOR INJUNCTION FILED: 12-14-53, W. Dist. Tex., against Seguin Cotton Oil Co., a corporation, Seguin, Tex.

CHARGE: The complaint alleged that the defendant corporation was in the business of manufacturing, preparing, and distributing crude cottonseed oil, an article of food, and had been and was then introducing and causing to be introduced into interstate commerce, at Seguin, Tex., the crude cottonseed oil adulterated under 402(a)(3) and 402(a)(4) by reason of the presence in the article of rodent and insect filth, and by reason of the use in the manufacture and preparation of the article of raw materials which were contaminated with bat excreta and rodent and insect filth; and by reason of being manufactured, prepared, and held at defendant's plant under insanitary conditions.

It was alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of bats and rats in the warehouse where cottonseed was stored; bat excreta and poisonous insecticides intermingled with cottonseed; infestation of the manufacturing plant with flies and beetles; rodent excreta pellets on the covers partially covering the storage tanks; rodent pellets in the oil foam in the storage tank; cottonseed meal containing bat excreta; beetle-infested cottonseed material above the screw conveyor where it carried rolled cottonseed meats into the press room; skimmings off the oil in the trough under the hydraulic presses which contained flies; cottonseed oil in the settling tank which contained several large insects; cottonseed oil in the storage tank which contained flies and rodent pellets; sweepings from the floor of the press room being used in the manufacture of the article, which sweepings contained flies, nondescript dirt, gnawed bones and food scraps discarded by the employees which were swept up and placed in the processing stream.

It was alleged further that the refining process of the expressed oil obtained from cottonseeds was such that the oil soluble portions of the insect and excreta filth remained in the cottonseed oil; that the insanitary conditions also resulted from and consisted of general carelessness on the part of the defendant and its employees; and that the defendant had in storage in the plant cottonseeds which were held under insanitary conditions and crude cottonseed oil which consisted of filthy substances and which constituted a menace to interstate commerce.

The complaint alleged also that the defendant was well aware that its activities were violative of the Act; that various inspections had been made by the Food and Drug Administration, at which times the insanitary conditions were called to the attention of the defendant; and, that despite such warnings, the defendant failed to improve the plant conditions and continued to introduce and cause to be introduced into interstate commerce, the crude cottonseed oil which was adulterated as described above.

DISPOSITION: On 12-14-53, the court issued a temporary restraining order without notice, restraining the defendants from introducing or causing to be introduced into interstate commerce, cottonseed oil which was adulterated within the meaning of 402(a) (3) and (4); the restraining order expired 12-24-53.

Thereafter, the Government filed a motion for a preliminary injunction. The defendant filed an answer denying that the Government was entitled to a preliminary injunction. On 1-17-55, the court entered the following order:

On December 13, 1954, came on to be heard plaintiff's motion for preliminary injunction, the plaintiff and the defendant appearing by and through their respective attorneys of record; and defendant, through its attorneys, having stipulated in open court as follows:

That defendant will not hereafter produce unrefined cottonseed oil nor operate its plant at Seguin, Texas, for such purpose, in any manner, until it has completed the remodeling and renovation of its plant in accordance with the standards set by sanitarians employed by it, and present said plant for further inspection by the United States Food and Drug Administration representatives; and further, that the crude, unrefined cottonseed oil produced in said plant and presently stored on said premises consisting of approximately 200,000 pounds of such unrefined cottonseed oil, and being all of the oil in its possession on its premises will not be sold, disposed of, or moved therefrom, but will remain impounded on said premises until such time as plaintiff shall have a hearing before this court for the purpose of passing upon whether or not said oil was produced under satisfactory sanitary conditions and, as unrefined cottonseed oil, is reasonably free from contamination so as to make it fit for refining for ultimate consumption as a food product; however, pending such hearing, both plaintiff and defendant shall have the right and privilege to take samples of said oil for analyses and use, in connection with said hearing and the trial of this cause.

And it appearing to the court that said stipulation sufficiently protects the public from danger of irreparable injury or damage pending hearing on said suit for permanent injunction, and that no benefit will accrue to plaintiff by the granting of a temporary injunction, said motion for temporary injunction is hereby refused and the stipulation as hereinabove set forth is hereby made the order of this court.

On 2-19-55, the defendant filed a motion to obtain a release of the oil impounded by the court's order of 1-17-55. The motion was heard by the court and, on 4-18-55, the court ordered that the impounded crude cottonseed oil, or oil refined therefrom, or any article made therefrom, should not be introduced or delivered for introduction into interstate commerce, for use as food for human consumption; and it ordered further that the impounded oil be released to the defendant subject only to the restriction stated above.

Thereafter on 1-3-58, on motion of the Government, the court entered an order dismissing the action without prejudice.

25636. Olive oil. (F.D.C. No. 42058. S. Nos. 40-046/8 P.)

QUANTITY: 139 cases, 24 2-oz. btls. each; 316 cases, 24 4-oz. btls. each; 203 cases, 24 8-oz. btls. each; 32 cases, 12 1-qt. btls. each; 16 cases, 4 1-gal. cans each; and 125 cases, 12 1-pt. btls. each, at San Francisco, Calif.

SHIPPED: Imported Tunisian olive oil was shipped in bulk drums, on 3-21-58 and 4-21-58, from Brooklyn or New York, N.Y., to the refining plant of the Leghorn Trading Co., at Lindsay, Calif., for blending with approximately 70