

SPICES, FLAVORS, AND SEASONING MATERIALS

28690. Mint flakes, sweet basil, and instant onion. (F.D.C. No. 46678. S. Nos. 93-407 R, 93-414 R, 93-552 R.)

INFORMATION FILED: 4-12-62, E. Dist. Mo., against Jas. H. Forbes Tea & Coffee Corp., St. Louis, Mo.

ALLEGED VIOLATIONS: Between 1-23-61 and 7-17-61, while quantities of mint leaves, sweet basil, and sliced onion were being held for sale after shipment in interstate commerce, the defendant caused the mint to be repackaged into metal cans labeled "Net Wt. $\frac{3}{8}$ Oz." and the sweet basil and onion into glass jars labeled " $\frac{3}{4}$ Oz. Net" and "Net Weight $2\frac{5}{8}$ Oz." respectively, which statements were inaccurate since the containers of the articles were short weight, and which acts caused the articles to be misbranded within the meaning of 403(e) (2).

LABELS IN PART: (Can) "Dehydrated MINT FLAKES Net Wt. $\frac{3}{8}$ Oz."; (jar) "FORBES SWEET BASIL $\frac{3}{4}$ Oz. Net."; (jar) "QUICK; INSTANT ONION Net Weight $2\frac{5}{8}$ Oz."

PLEA: Guilty.

DISPOSITION: On 5-25-62, the defendant filed two motions. One was a motion to dismiss one count of the information, which alleged that the article labeled "Mint Flakes Net Wt. $\frac{3}{8}$ Oz." was misbranded, on the grounds that the information did not contain facts sufficient to constitute an offense against the United States, and on the grounds that under 403(e) (2) exemptions as to small packages may be made by the commissioner and that the commissioner had specifically exempted packages containing less than $\frac{1}{2}$ oz. from the requirements of this section under 21 CFR 1.8(m). The defendant's other motion was one to suppress all evidence obtained by the Government from the premises of the defendant between 7-7-61 and 7-21-61 when Food and Drug Administration inspectors inspected the defendant's plant. On 10-2-62, the court entered an order overruling both of the defendant's motions. On 11-9-62, the defendant was fined \$850, after a plea of guilty.

28691. Mushroom sauce. (F.D.C. No. 48258. S. No. 12-538 V.)

QUANTITY: 98 cases, each containing 24 $5\frac{3}{4}$ -oz. cans, at River Grove, Ill.

SHIPPED: 9-21-62, from Kennett Square, Pa., by Kennett Canning Co.

LABEL IN PART: (Can) "Richelieu Ready To Serve Mushroom Sauce With Sliced Mushrooms Ingredients: * * * Sliced Hothouse Mushrooms * * * Consolidated Foods Corporation Distributors Chicago, Ill."

RESULTS OF INVESTIGATION: Examination showed that the article was a gravy-like sauce containing mushroom pieces $\frac{1}{4}$ inch or less in size.

LIBELED: 10-29-62, N. Dist. Ill.

CHARGE: 402(b) (2)—when shipped, small mushroom pieces had been substituted in whole or in part for mushroom slices; 403(a)—the name of the article, the label vignette depicting mushroom slices, the statement of ingredients, and other statements in the labeling contained false and misleading representations in that they represented that the article contained sliced mushrooms, which was contrary to fact.

DISPOSITION: 11-21-62. Default—destruction.