

LIBELED: 12-19-62, S. Dist. Tex.

CHARGE: 403(f)—when shipped, the information required by 403(j), namely, the enrichment statement, was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 1-21-63. Default—delivered to charitable institutions.

28818. Buckwheat flour and pancake mix. (F.D.C. No. 48420. S. Nos. 42-031 V, 42-034 V.)

QUANTITY: 10 unlabeled 100-lb. bags of buckwheat flour, and 39 25-lb. bags of pancake mix, at Bordentown, N.J.

SHIPPED: 9-28-62, from Churchville, N.Y., by Cooperative Grange League Federation Exchange, Inc.

LABEL IN PART: (Bag) "G.L.F. Patrons'—Self-Rising Pancake Mix * * * 25 Lbs. Net Packed By Cooperative Grange League Federation Exchange * * * Ithaca, New York."

LIBELED: On or about 1-11-63, Dist. N.J.

CHARGE: 402(a) (3)—when shipped, the articles contained insect parts, insect fragments, and rodent hairs; 402(a) (4)—the articles were prepared and packed under insanitary conditions; 403(e)—the buckwheat flour failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) a statement of the quantity of contents; and 403(i) (1)—the buckwheat flour failed to bear a label containing the common or usual name of the food.

DISPOSITION: 1-25-63. Default—destruction.

MACARONI AND NOODLE PRODUCTS

28819. Lasagna and twist macaroni. (F.D.C. No. 48738. S. Nos. 51-235/6 V.)

QUANTITY: 33 cases, 12 12-oz. pkgs. each, of lasagna and 48 cases, 12 12-oz. pkgs. each, of twist macaroni, at Great Falls, Mont.

SHIPPED: 2-19-63 and 2-28-63, from Spokane, Wash., by U.S. Macaroni Manufacturing Co., Inc.

LABELS IN PART: (Pkg.) "Taystee Brand Lasagna," and "Taystee Brand Twist."

LIBELED: 4-5-63, Dist. Mont.

CHARGE: 403(e) (1)—when shipped, the article (both lots) failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: 5-13-63. Default—delivered to a charitable institution.

28820. Egg noodles. (F.D.C. No. 46692. S. Nos. 81-741/2 R.)

INFORMATION FIELD: 2-7-62, S. Dist. Fla., against Delmonico Foods, Inc., of Florida, Tampa, Fla., and Peter S. Viviano, president and manager.

SHIPPED: 5-12-61 and 5-22-61, from Florida to Alabama.

LABEL IN PART: (Ctns.) "Afco Med. Egg Noodles 10 Pounds Net Weight American Foods, Inc. Mobile, Alabama"; and "Delmonico Medium Egg Noodles 10 Pounds Net Weight When Packed Delmonico Foods Inc. Of Florida Tampa, Florida."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, egg solids, had been in part omitted from the article; and 403(g)(1)—the article failed to conform to the definition and standard of identity for egg noodles since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Not guilty.

DISPOSITION: On 3-26-62, the defendants filed a motion to dismiss the information, and on 9-6-62, the court denied such motion. Thereafter, trial of the case was had before the court and was concluded with the jury's verdict of guilty against the defendants with respect to 4 of the 6 counts of the information. On 2-1-63, the court fined each defendant \$2,000.

28821. Egg noodles. (F.D.C. No. 47894. S. Nos. 16-033 T, 24-233 T.)

INFORMATION FILED: 11-19-62, W. Dist. Ky., against Delmonico Foods, Inc., Louisville, Ky., and Peter J. Viviano, president.

SHIPPED: 11-21-61 and 12-21-61, from Louisville, Ky., to Cincinnati and Cleveland, Ohio.

LABEL IN PART: (Bags) "DELMONICO Vitamin Enriched 12 Ounces Net PURE EGG NOODLES MADE BY DELMONICO FOODS, INC., LOUISVILLE, KENTUCKY Made from Fancy Flour and 5½% Egg Yolk Solids" and "NET WEIGHT 1 LB. FISHER'S ENRICHED PURE EGG NOODLES 5½% Egg Solids DISTRIBUTED BY THE FISHER BROS. CO."

CHARGE: 402(b)(1)—when shipped, a valuable constituent, namely, egg solids, had been in part omitted from the article; and 403(a)—the statements "Made from Fancy Flour and 5½% Egg Yolk Solids" and "5½% Egg Solids" which appeared on the labeling were false and misleading in that they represented and suggested that the article contained 5½ percent egg or egg yolk solids whereas the food contained less than 5½ percent egg or egg yolk solids; and 403(g)(1)—the article purported to be and was represented as egg noodles, a food for which a definition and standard of identity had been prescribed by regulations, and it failed to conform to such definition and standard since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk.

PLEA: Nolo contendere.

DISPOSITION: 3-25-63. \$1,000 fine.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

28822. Wheat. (Inj. No. 331.)

COMPLAINT FOR INJUNCTION FILED: 2-13-58, Dist. N. Dak., against Equity Elevator & Trading Co. of Hickson, a corporation, Hickson, N. Dak., and Oscar Gilbertson, plant manager.

CHARGE: The complaint alleged that the defendants were engaged in the operation of a plant at Hickson, N. Dak., for the storage and distribution of a food, wheat for human consumption, and were shipping into interstate commerce at Hickson, N. Dak., wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4); that the food consisted in part of filthy substances by reason of the contamination of the food with rodent, insect, and bird filth, and of a decomposed substance by reason of the presence of moldy wheat; and the food was being held at the defendant's plant at Hickson, N. Dak., under insanitary conditions whereby it may have become contaminated with filth.