

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1762.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF SORGHUM AND CORN SYRUP.

On or about April 20, 1912, the United States Attorney for the District of Kansas, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district informations against the Fort Scott Sorghum Syrup Co., a corporation, Fort Scott, Kans., alleging shipment by said company, in violation of the Food and Drugs Act—

(1) On or about May 16, 1911, from the State of Kansas into the State of Missouri, of a consignment of so-called "Beauty Brand Sorghum and Corn Syrup," which was misbranded. The product was labeled: "Beauty Brand Sorghum & Corn Syrup. Distributed by Ridenour-Baker Grocery Co., Kansas City, Mo. 2½ lbs., 51% pure sorghum, 49% corn syrup is used in preparation of this compound. Beauty Brand Sorghum & Corn Syrup."

Analysis of samples of the product by the Bureau of Chemistry of this Department showed the following results: (Sample No. 1) Solids (refractometer), 80.9 per cent; polarization direct 27° C., +122.0°; polarization invert 27° C., +98.4°; polarization invert 87° C., +100.0°; sucrose (Clerget), 18.2 per cent; commercial glucose (163), 61.3 per cent; reducing sugars before inversion, 29.7 per cent; non-sugar solids, 33 per cent; ash, 1.93 per cent. Can No. 1, net weight, 38⅞ ounces; shortage, 2.81 per cent; can No. 2, net weight, 39 ounces; shortage, 2.5 per cent; can No. 3, net weight 38¼ ounces; shortage, 4.38 per cent; can No. 4, 38⅜ ounces; net weight, shortage, 4.53 per cent; average shortage, 3.55 per cent. (Sample No. 2) Can No. 1, net weight, 39⅛ ounces; shortage, 2.19 per cent; can No. 2, net weight, 39⅝ ounces; shortage, 1.72 per cent; can No. 3, net weight, 38¾ ounces; shortage, 3.12 per cent; can No. 4, net weight, 38⅝

ounces; shortage, 4.22 per cent; can No. 5, net weight, $38\frac{3}{8}$ ounces; shortage, 3.59 per cent; can No. 6, net weight, $38\frac{7}{8}$ ounces; shortage, 2.81 per cent; can No. 7, net weight, $39\frac{3}{8}$ ounces; shortage, 2.03 per cent; can No. 8, net weight, $38\frac{3}{8}$ ounces; shortage, 4.06 per cent; can No. 9, net weight, $39\frac{1}{8}$ ounces; shortage, 2.19 per cent; can No. 10, net weight, $39\frac{1}{4}$ ounces; shortage, 1.88 per cent; average shortage, 2.78 per cent.

Misbranding was alleged in the information for the reason that the product was put up and offered for sale in package form and the contents thereof were stated in terms of weight or measure, but not correctly and plainly stated on the outside of each of the cans or packages; that each of said cans or packages was so labeled as to mislead and deceive the purchaser or consumer, in that the label stated that the cans or packages contained $2\frac{1}{2}$ pounds of so-called sorghum and corn syrup, when in truth and in fact they contained a lesser amount or weight of the product. Misbranding was alleged for the further reason that the product bore a statement, design, or device regarding it and the ingredients or substances contained therein, and the proportion of each of said ingredients, and was so labeled or branded as to deceive and mislead the purchaser in that the label set forth that the product contained 49 per cent of corn syrup, which was false and misleading, as it conveyed the impression that this percentage of corn syrup only was present, when in truth and in fact the product contained a greater amount of corn syrup than stated on the label, to wit, 62 per cent in part, and 69 per cent in other portions thereof, and was further misbranded in that the label misled and deceived the purchaser into the belief that the product contained but 49 per cent of corn syrup or glucose, when in truth and in fact it contained a greater amount of glucose or corn syrup than that stated upon the label.

(2) On or about July 27, 1911, from the State of Kansas into the State of Missouri, of a consignment of Beauty Brand Sorghum & Corn Syrup, which was misbranded. One hundred and fifty cases of the product are labeled: "Beauty Brand Sorghum & Corn Syrup Compound." (Design: Cut of rose.) "Beauty Brand Sorghum & Corn Syrup." (Design: Cut of field of cane.) (Stencil on end): "Six 10 lb. cans. Distributed by Ridenour-Baker Grocery Co., Kansas City, Mo. 51% pure sorghum, 49% corn syrup is used in the preparation of this compound." (Label on shipping case: # stamped on top): "Six 10 lb. cans. This side up with care. 7 — 27." Two hundred and fifty cases were labeled as set forth above, with the exception that the statement of weight on the cans was 5 pounds. Fifty cases of the product were labeled as above, with the exception that the statement of weight on the cans was $2\frac{1}{2}$ pounds.

Analysis of samples of the product by the Bureau of Chemistry showed the following results: (Sample No. 1) Twenty-four samples showed shortages from 2.81 per cent to 6.72 per cent, with an average shortage of 4.92 per cent, and commercial glucose present 66 per cent. (Sample No. 2) Examination of twelve samples showed shortages from 1.80 per cent to 3.98 per cent, with an average shortage of 2.85 per cent, and commercial glucose present 69 per cent. (Sample No. 3) Examination of six samples showed shortages from 2.30 per cent to 4.01 per cent, with an average shortage of 3.01 per cent, and commercial glucose present 71 per cent.

Misbranding was alleged in the information for the reason that the product bore a statement, design, or device regarding it, and the ingredients or substances contained therein, and the proportion of said ingredients, and was so labeled or branded as to deceive and mislead the purchaser, and that the label or brand set forth that the so-called sorghum and corn syrup contained 49 per cent of corn syrup, which was false and misleading, as it conveyed the impression that this percentage of corn syrup only was present therein, whereas in fact, some portions of the product contained as much as 66 per cent, others 69 per cent, and others 71 per cent of corn syrup. Misbranding was alleged for the further reason that the product was put up and offered for sale in package form, and the contents thereof were stated in terms of weight or measure, but were not correctly and plainly stated on the outside of each of said cans or packages. That each of the cans were labeled so as to mislead and deceive the purchaser or consumer in that the label stated that each of the cans contained, in some portions of the product, $2\frac{1}{2}$ pounds of the so-called sorghum and corn syrup, in other portions 10 pounds, and in still others 5 pounds, when in truth and in fact a large number of the cans in each portion of the product contained a lesser amount of the so-called sorghum and corn syrup.

(3) On or about October 22, 1910, from the State of Kansas into the State of Iowa, of a quantity of sorghum and corn syrup which was misbranded. The product was labeled: "Farmer Jones Pride Brand (2 lbs. net) Pure Country Sorghum and Corn Syrup with cane flavor Put up for Warfield-Pratt-Howell Co., Des Moines, Iowa. Trade Mark Registered. None genuine without this label and signature. Yours truly, Farmer Jones."

Examination of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Shortage, can No. 1, 3.5 per cent; can No. 2, 3.5 per cent; can No. 3, 3.9 per cent; can No. 4, 2 per cent; can No. 5, 0.4 per cent; can No. 6, 2.3 per cent; estimated shortages, can No. 7, 2.5 per cent; can No. 8, 3.9 per cent; can No. 9, 2.1 per cent; can No. 10, 2 per cent; estimated over-weight, can No. 11, 1 per cent.

Misbranding was alleged in the information for the reason that the product was in package form and the contents thereof stated in terms of weight or measure, but were not correctly stated on the outside of the packages; that the labels and quotations thereon were misleading and deceptive, and false, in that they led the purchaser or consumer to believe that each of the cans contained two pounds net of the product, whereas in truth and in fact they contained a lesser amount than two pounds.

On May 6, 1912, the defendant company entered a plea of guilty to the informations and the court imposed a fine of \$25 and costs in each case, aggregating a total fine of \$75, and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 21, 1912.*

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