F. & D. No. 2809.
I. S. No. 12519-c.

Issued May 21, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2353.

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

ADULTERATION AND MISBRANDING OF CONFECTIONERY.

On June 26, 1912, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Herman W. Hoops, William F. Hoops, and Herman L. Hoops, trading under the firm name of Hawley & Hoops, New York, N. Y., alleging shipment by said defendants on January 14, 1911, from the State of New York into the State of Massachusetts, of a quantity of confectionery which was adulterated and misbranded. The product was labeled: "5 lbs Net A. No. 1 Serial No. 312. Guaranteed *** Trade Mark Chocolate Candy Brownies. The word 'Brownies' copyrighted Nov. 22, 1887, by Hawley & Hoops, N. Y."

An analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Average gross weight of 4 packages, 5 pounds 4⅝ ounces; average tare, 4 packages, 6 ounces; average net weight, 4 pounds 14⅝ ounces; shortage, 1.72 per cent. Arsenic as arsenous oxid, 3.2 parts per million; test for shellac, positive; test for rosin, negative; the predominating flavor not that of chocolate. Microscopical examination: Corn starch present. Adulteration of the product was alleged in the information for the reason that it contained an ingredient deleterious and detrimental to health, to wit, arsenic. Misbranding was alleged for the reason that the product was in package form and the contents purported to be stated on the package in terms of weight, to wit, the package bore a statement that the article was of the weight of 5 pounds, net, when, in truth and in fact, it was less than 5 pounds net by weight.

On December 16, 1912, a plea of guilty to the information was entered on behalf of the defendants and the court imposed a fine of $50.

W. M. Hays,
Acting Secretary of Agriculture.

Washington, D. C., *March 3, 1913.*

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