

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

---

## NOTICE OF JUDGMENT NO. 2615.

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

---

**U. S. v. Eli H. Dunn and T. H. Dunn. Plea of guilty. Fine, \$50 and costs.**

---

### ADULTERATION AND MISBRANDING OF GRAPE-ALL AND GRAPE CIDER.

On March 13, 1913, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Eli H. Dunn and T. H. Dunn, co-partners, doing business under the firm name and style of E. H. Dunn & Son, Kansas City, Mo., alleging shipment by said defendants, in violation of the Food and Drugs Act, on August 14, 1912, from the State of Missouri into the State of Kansas of consignments of Grape-all and grape cider, which was adulterated and misbranded. The Grape-all was labeled: "Best of all 5¢ Grape-all Trade Mark. Made from Choice Concord Grapes. E. H. Dunn & Son, K. C., Mo. 1/10 of 1% Benzoate of Soda. Artificial Color and Flavor added."

Analysis of a sample of this product by the Bureau of Chemistry of this Department showed the following results: Saccharin, negative; color, amaranth; alcohol, negative; total solids, 19.35 per cent; ash, 0.1 per cent; polarization direct at 34° C. (°V.), +14; polarization invert at 34° C. (°V.), -6; polarization invert at 87° C. (°V.), 0; sucrose, Clerget, 15.9 per cent; commercial glucose (factor 163), none; reducing sugars as invert, 3.0 per cent; sodium benzoate, 0.025 per cent. Adulteration of the product was alleged in the information for the reason that a substance, to wit, a dilute sugar solution artificially colored and flavored, had been substituted wholly or in part for a product made wholly from grapes which the labels upon the bottles stated the contents to be; and further, said product was colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the statement "Grape-all made from choice Concord grapes" borne on the label was false and misleading

because it conveyed the impression that the product was made exclusively from the juice of grapes, whereas, in truth and in fact, it consisted in part of a dilute sugar solution artificially colored and flavored. Misbranding was alleged for the further reason that the product was labeled and branded so as to deceive and mislead the purchaser, the label bearing the statement "Grape-all—made from choice Concord grapes," thereby creating the impression that the product was made exclusively from the juice of grapes, whereas, in truth and in fact, it was not made exclusively from the juice of grapes but consisted in part of a dilute sugar solution artificially colored and flavored.

The grape cider was labeled: "Real Grape Cider Made from Dunn's Fruit Juice, Added Color and Flavor. 1/10 of 1% Benzoate of Soda. Capacity 7 Ounces." (Neck label) "Grape-all, Trade Mark." Analysis and measurement of samples of the product by the Bureau of Chemistry of this Department showed the following results: Saccharin, negative; color, amaranth; alcohol, negative; total solids, 19.7 per cent; ash, 0.1 per cent; polarization direct at 34° C. (°V.), +14; polarization invert at 34° C. (°V.), -6; polarization invert at 87° C. (°V.), 0; sucrose, Clerget, 15.9 per cent; commercial glucose (factor 163), none; reducing sugars as invert, 3.0 per cent; sodium benzoate, 0.03 per cent.

*Measurements.*

Bottle.	Capacity. cc.	Shortage. cc.	Shortage. per cent.
1	175	32	15.4
2	185	22	10.6
3	175	32	15.4
4	185	22	10.6
5	170	37	17.8
6	180	27	13.0

Average shortage, 13.8 per cent.

Adulteration of the product was alleged in the information for the reason that a dilute sugar solution artificially colored and flavored had been substituted wholly or in part for grape cider which the product purported to be, and in that it was colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the statement "Real grape cider" borne on the label was false and misleading because it conveyed the impression that the product was grape cider, whereas, in truth and in fact, it was not such but a product consisting in part of a dilute sugar solution artificially colored and flavored; and further, in that the statement "7 ounces" borne on the label was false and misleading because it conveyed the impression that the bottle contained 7 ounces of the product, whereas, in truth and in fact, it did not contain 7 ounces of the

product and did not contain to exceed 6.25 ounces of the product. Misbranding was alleged for the further reason that the product was in package form and the contents of said packages, and each of them, was stated in terms of weight, but the weight of the contents of the packages was not plainly and correctly stated on the outside thereof, it being stated on the label that the contents of the packages was 7 ounces, whereas, in truth and in fact, each of the packages contained much less than 7 ounces of the product, to wit, from 5.91 ounces to 6.25 ounces thereof.

On March 24, 1913, defendant E. H. Dunn entered a plea of guilty to the information and the court imposed a fine of \$50 and costs. The information was dismissed as to T. H. Dunn.

B. T. GALLOWAY,  
*Acting Secretary of Agriculture.*

WASHINGTON, D. C., *September 22, 1913.*

2615

