5831. Adulteration and misbranding of candy. U. S. v. 10 Cases and 50 Cases of Candy. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. Nos. 10947, 11158. Sample Nos. 41550–F, 38600–F.)

LIBELS FILED: October 18, 1943, Eastern District of Wisconsin; November 22, 1943, Western District of Texas.

ALLEGED SHIPMENT: On or about August 24 and September 25, 1943, by King Cole Candies, Inc., Chicago, Ill.

PRODUCT: 50 cases of candy bars at Milwaukee, Wis., and 10 cases of peanut butter kisses at San Antonio, Tex.

LABEL, IN PART: (Portion at Milwaukee) "Mfd. By King Cole Candies, Inc., Chicago Peanut Bar," (the label of this portion bore a statement of the quantity of the contents and a list of ingredients which, however, were printed in fine blue type on clear cellophane, and were practically illegible). (Portion at San Antonio) "Lady Helen Peanut Butter Kisses."

VIOLATIONS CHARGED: Adulteration (Milwaukee lot), Section 402 (b) (1), a valuable constituent, peanuts, had been in part omitted; Section 402 (b) (2), puffed rice had been substituted in whole or in part for peanuts; Section 402 (b) (3), inferiority had been concealed by the use of puffed rice; and, Section 402 (b) (4), puffed rice had been added to or mixed or packed with the article so as to increase its bulk or weight or make it appear better or of greater value than it was.

Misbranding (Milwaukee lot), Section 403 (a), in that the name, "Peanut Bar," was false and misleading as applied to a product containing puffed rice; and, Section 403 (f), in that the statement of the quantity of the contents and the common or usual name of each ingredient, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use.

Misbranding (San Antonio lot), Section 403 (a), in that the statement, "One Pound Net Weight," appearing on the label, was false and misleading as applied to an article that was short-weight; and, Section 403 (e) (2), in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: December 4 and April 5, 1944. No claim having been entered, the product was condemned and ordered delivered to a charitable institution.

5832. Adulteration and misbranding of candy bars. U. S. v. 8 Cases of Candy Bars. Default decree of condemnation. Product ordered delivered to a Government agency for its use and not for sale. (F. D. C. No. 11703. Sample No. 930–F.)

LIBEL FILED: January 29, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about December 24, 1943, by the Melster Candy Co., Cambridge, Wis.

PRODUCT: 8 cases, each containing 100 candy bars, at Chicago, Ill.

LABEL, IN PART: "Melster's Nut Lunch."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), a valuable constituent, peanuts, had been in whole or in part omitted from the article; Section 402 (b) (2), puffed wheat had been substituted in whole or in part for peanuts; Section 402 (b) (3), inferiority had been concealed by the use of puffed wheat; and, Section 402 (b) (4), puffed wheat had been added to the article or mixed or packed with it so as to increase its bulk, or make it appear better or of greater value than it was.

Misbranding, Section 403 (a), the name of the article, "Nut Lunch," was misleading as applied to a product containing 8 times as much puffed wheat as peanuts; Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient since "cereal" is not the common or usual name for puffed wheat; and, Section 403 (k), it contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: March 9, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a Government agency for its use, and not for sale.