

29632. Pancake, waffle, and cake mixes, ice cream cones, and bread crumbs. (F.D.C. No. 49682. S. Nos. 26-272/73 X, 26-276/77 X, 26-522 X, 26-524 X.)

INFORMATION FILED: 3-5-64, N. Dist. Ind., against Allen County Food Distributors, Fort Wayne, Ind., a partnership, and John Schmitz and Max T. Schmitz, partners.

ALLEGED VIOLATIONS: Between 6-20-59 and 8-14-63, while the articles were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects, which acts resulted in the articles being adulterated.

CHARGE: 402(a) (3)—contained insects; and 402(a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-24-64. Each defendant fined \$600, plus costs.

29633. Hot roll mix and macaroni. (F.D.C. No. 47064. S. Nos. 16-000 R, 63-338 R.)

INFORMATION FILED: 6-11-62, E. Dist. Tenn., against Cas Walker's Cash Stores, Inc., Knoxville, Tenn.

ALLEGED VIOLATIONS: Between 9-3-59 and 6-2-61, while quantities of hot roll mix and elbow macaroni were being held for sale after shipment in interstate commerce, the defendant caused the articles to be held in a building that was accessible to insects and to be exposed to contamination by insects which acts resulted in the articles being adulterated.

CHARGE: 402(a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-1-63. \$200 fine.

29634. Cake mix, flour, pie flour, and cornmeal. (F.D.C. No. 49679. S. Nos. 93-442/3 X, 93-445 X, 93-447 X.)

QUANTITY: 12 50-lb. bags of cake mix; 171 100-lb. bags of flour; 328 100-lb. bags of pie flour, and 83 100-lb. bags of cornmeal; at Cambridge, Mass., in possession of Allied Bakers Supply, Inc.

SHIPPED: Between 9-6-63 and 10-23-63, from Buffalo, N.Y., Sheridan, Wyo., Portland, Oreg., and Nappanee, Ind.

LIBELED: 1-9-64, Dist. Mass.

CHARGE: 402(a) (3)—the articles contained rodent urine, a dead rodent, and rodent excreta pellets; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-25-64. Consent—claimed by Allied Bakers Supply, Inc. Segregated; 9 bags of cake mix, 41 bags of flour, 57 bags of pie flour, and 14 bags of cornmeal denatured.

29635. Popcorn, cornmeal, grits, wheat gluten, flour, dried beans, sugar, salt, and animal feeds. (Inj. No. 486.)

COMPLAINT FOR INJUNCTION FILED: 4-28-64, N. Dist. Ga., against Cochran Exterminating Co., Inc., Atlanta, Ga., and Claude Cochran, president.

CHARGE: The complaint alleged that the defendants were engaged in the business of providing exterminator and pest-control services for food storage warehouses, wholesale grocery firms, and other food establishments which store and sell articles such as popcorn, cornmeal, grits, wheat gluten, flour, dried

beans, sugar, salt, and animal feeds; that defendants' services were provided in Atlanta and elsewhere within the State of Georgia; that in the providing of those services, the defendants were causing quantities of a water solution of a poisonous rodenticide, sodium fluoroacetate, commonly known as compound "1080" to be placed in and about food establishments in Atlanta, and elsewhere within the State of Georgia, under conditions whereby foods in such food establishments may become contaminated with poison; and that this poison had no known antidote.

The complaint alleged further that the act of causing such water solution of compound "1080" to be placed in such food establishments resulted in such foods being adulterated within the meaning of Section 402(a)(4) in that such foods were being held under insanitary conditions whereby they may have been rendered injurious to health; that insanitary conditions in such food establishments in Atlanta, and elsewhere in the State of Georgia, whereby such foods may have been rendered injurious to health resulted from and consisted of the placement of uncovered paper bait cups containing a water solution of compound "1080" in and about such food establishments and in close proximity to such foods; that the defendants violated the law by their acts of causing a water solution of compound "1080" to be placed in and about such food establishments, in that such acts were done while such foods in such food establishments were being held for sale after shipment in interstate commerce and resulted in such foods being adulterated within the meaning of Section 402(a)(4) because of being held under insanitary conditions whereby they may have been rendered injurious to health.

The complaint alleged that the defendants were well aware that their activities were in violation of the Federal Food, Drug, and Cosmetic Act, that between 1-13-59 and 1-14-64, inspectors of the Food and Drug Administration made four inspections of three different food establishments serviced by the defendants in Atlanta and Toccoa, Ga., that each inspection disclosed open unprotected paper cups containing residues of compound "1080," that on 5-3-60 and 11-27-63, notices of hearing were issued to the defendants, pursuant to which the hearings prescribed by law were held; that the defendant, Claude Cochran, was present at both such hearings and was advised concerning the inherent dangers in the careless use of compound "1080" in food establishments; and that despite the warnings conveyed by the aforesaid inspections, notices of hearing, and hearings, the defendants failed to correct the careless use of compound "1080."

DISPOSITION: On 5-18-64, a consent decree of permanent injunction was entered which provided that the defendants be perpetually enjoined and restrained from doing any of the following acts in food establishments serviced by the defendants with respect to foods held for sale after shipment in interstate commerce:

(1) Doing or causing to be done any act which resulted in foods being held under insanitary conditions whereby they may be rendered injurious to health, and

(2) Placing or causing to be placed in any building any quantity of the rodenticide compound "1080" while such building is being used for the storage of foods unless and until:

(a) All personnel in the buildings serviced were made fully aware that the rodenticide compound "1080" was being used and were fully informed of its highly toxic nature and of the necessity for protecting stored foods from contamination by it;

(b) Compound "1080" was dispensed only in protected bait stations, firmly attached to the building or otherwise secured against being overturned; the bait stations were kept locked or serviced regularly with written records maintained concerning the servicing operations; the bait stations were constructed so as to provide for the adequate and secure containment, by blotting, by a leak-proof receptacle, or by other means, of any compound "1080" which might be spilled and to provide that no compound "1080" would come in contact with or be mingled with any article of food;

(c) Compound "1080" was prepared by the defendants and their officers, agents, servants, employees, representatives, and all persons in active concert or participation with them or any of them, at their place of business and was colored with 0.5% Nigrosine black dye;

(d) Responsibility for control of compound "1080" in use in such buildings was vested in one person of established reliability, and this person was fully informed as to the acceptable procedures for use of compound "1080" and as to the potential hazards of careless use; and

(e) Such other precautions were taken by the defendants as were necessary to keep all foods in such buildings safe from contamination by compound "1080"; and

That all foods held in food establishments serviced by the defendants be examined and that the portions thereof which were contaminated with such rodenticide be destroyed under the supervision of the Food and Drug Administration, Department of Health, Education, and Welfare, and thus brought into compliance with the provisions of the Act, all costs to be borne by the defendants.

29636. Unpopped popcorn. (F.D.C. No. 49836. S. Nos. 6-424/25 A.)

QUANTITY: 77 cases of 12 2-lb. bags each, and 22 cases of 6 4-lb. bags at Roanoke, Va.

SHIPPED: 10-22-62, from Murray, Ky.

LIBELED: 3-17-64, W. Dist. Va.

CHARGE: 402(a)(3)—contained live and dead insects, insect fragments, and insect frass, while held for sale.

DISPOSITION: 4-24-64. Default—ordered delivered to a public institution for use as animal feed.

29637. Unpopped popcorn. (F.D.C. No. 49385. S. Nos. 31-073/4 X.)

QUANTITY: 131 50-lb. bags, and 13 100-lb. bags at Los Angeles, Calif.

SHIPPED: From 6-29-63 to 7-23-63, from Milford, Ill., by Alver Bros. Co.

LABEL IN PART: (Bag) "Premier 404 Popcorn Alver Brothers Company Distributors Milford, Illinois [or "Processed by Alver Popcorn Company, Watseka, Ill."]."

LIBELED: 10-8-63, S. Dist. Calif.

CHARGE: 402(a)(3)—contained insects and/or rodent excreta pellets; and 402(a)(4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 11-20-63. Default—destruction.