

**CEREALS AND CEREAL PRODUCTS\*****BAKERY PRODUCTS**

**29901. Various bakery products. (Inj. No. 457.)**

**COMPLAINT FOR INJUNCTION FILED:** 4-5-63, E. Dist. Tex., against Burl's Pie Shop, a partnership, Denison, Tex., J. Zenn Taylor, Bonnie Taylor, Jesse L. Coker, and Ivybelle Coker, partners, and Frank L. Nix, plant manager.

**NATURE OF BUSINESS:** The defendants were engaged in operating at Denison, Tex., a shop in which pan pies, fried pies, donuts, and cakes were prepared and packed.

**CHARGE:** The complaint alleged that the defendants were introducing and causing to be introduced and delivering and causing to be delivered for introduction into interstate commerce, in violation of the law, the above foods which were adulterated within the meaning of 402(a)(3) and 402(a)(4); that such foods consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs in the foods; that the foods had been and were being prepared and packed at the defendants' shop at Denison, Tex., under insanitary conditions whereby they may have become contaminated with filth, and whereby they may have become injurious to health as a result of the careless use of a rodenticide, thereby rendering the foods adulterated within the meaning of 402(a)(3) and 402(a)(4); that the insanitary conditions of the defendants' shop at Denison, Tex., resulted from and consisted of the following: widespread rodent infestation throughout the storage and manufacturing areas; roach infestation; innumerable excreta pellets on the floor, on the cooling and storage racks, and on table tops and shelves; dead and decomposing mice in the shop; extensive insect, rodent, and other filth near the dough mixer in the manufacturing area; as well as several insanitary habits of employees which included failure to wash and sanitize hands before starting work and after work-breaks, failure to clean working tables, sitting and placing unclean objects on the tables, and using materials which had been contaminated in some instances by being dropped on the floor; many holes and spaces in the walls and at doorways which permit rodent entry; and open and unprotected paper cups containing the highly dangerous rodenticide known as "1080" scattered throughout raw material storage areas, some of which were found approximately 6 to 8 inches from the food and some of which had been overturned.

The complaint alleged also that the defendants had been made aware of the insanitary conditions which existed in the shop by inspections by Federal Food and Drug Inspectors; that during inspections on 1-17-63 and 1-31/2-1-63, Food and Drug Inspectors pointed out to Frank L. Nix and Mrs. J. Zenn Taylor specific insanitary conditions which existed at that time; that very few improvements were made in the 2-week period between these inspections; and that prior to the above inspections, previous inspections on 1-30-62 and 8-8-62, revealed similar insanitary conditions; and that despite the warnings which were conveyed to the defendants through such inspections, the defendants failed to correct in any material way the insanitary conditions at the shop and continued to introduce and cause to be introduced and deliver and cause to be delivered for introduction into interstate commerce, bakery goods which were adulterated as above.

\*See also No. 29957.

DISPOSITION: On 4-8-63, a temporary restraining order was filed, and on 4-23-63, a consent decree of preliminary injunction was entered. On 6-25-63, a consent decree of permanent injunction was entered which perpetually restrained and enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction, into interstate commerce, in violation of the law, pan pies, fried pies, donuts, and cakes, and any similar article of food, which had been or was prepared and packed at the defendants' shop in Denison, Tex., unless and until:

(a) the shop was thoroughly cleaned, renovated, and rendered suitable for use in connection with the preparation and packing of bakery goods for human consumption and any similar article of food, namely, unless and until all filth was removed from the shop; all rodent, roach, and other insect infestation in and about the shop was eliminated; the means of ingress and egress of the shop by rodents, roaches, and other insects were closed; and any similar insanitary conditions which may result in bakery goods for human consumption and any similar article of food being contaminated with filth while being prepared and packed at the shop were eliminated;

(b) provisions were taken which would preclude careless use of rodenticides and which would include that all containers of liquid rodenticides and any other bait stations used in the shop for the dispensing of any rodenticide either were firmly attached to the building at a reasonable distance from foods or were constructed so as to prevent overturning of the rodenticide or were equipped with a leak-proof receptacle or with a means of blotting any rodenticide which might be spilled; and any other conditions which might result in bakery goods for human consumption being prepared and packed under insanitary conditions whereby they might have been rendered injurious to health were removed;

(c) adequate cleaning and sanitizing procedures were instituted which included the following:

(i) washing and sanitizing all equipment used in the preparation and baking or frying of bakery goods before each use;

(ii) employees required to wash and sanitize their hands before beginning work and after work-breaks;

(iii) containers which were used to store ingredients for the bakery goods were clean and tightly covered and, if necessary, kept under adequate refrigeration; and

(iv) floors and other surrounding areas were kept clean and free from trash; and

(d) all of the bakery goods, which were on hand at the shop at the time that the shop was cleaned, renovated, and rendered suitable for use in connection with the preparation and baking of bakery goods for human consumption, were destroyed or otherwise brought into compliance with the law under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and all expenses of such supervision paid by the defendants.

The consent decree of permanent injunction further perpetually restrained and enjoined the defendants from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered for introduction into interstate commerce, in violation of the law, pan pies, fried pies, donuts, and cakes and any similar article of food hereafter prepared and packed at the shop, which food was adulterated within the meaning of 402(a)(3) in that

it consisted in part of a filthy substance and within the meaning of 402(a) (4) in that it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth and whereby it may have been rendered injurious to health.

### FLOUR

29902. Flour. (F.D.C. No. 47492. S. Nos. 55-502/03 T.)

QUANTITY: 100 100-lb. bags at Santurce, P.R.

SHIPPED: Between 10-17-61 and 12-12-61, from Wichita, Kans.

LIBELED: 6-5-62, Dist. P.R.

CHARGE: 402(a) (3)—contained insects, insect larvae, and insect parts while held for sale.

DISPOSITION: 6-21-62. Consent—claimed by Antonio Jimenez, Inc., San Juan, P.R., and denatured for use as animal feed.

29903. Flour. (F.D.C. No. 49899. S. Nos. 12-802 A, 12-805 A.)

QUANTITY: 64 100-lb. bags of Spring Wheat flour and 28 100-lb. bags of First Patent flour, at Providence, R.I., in possession of Crugnale's Bakery, Inc.

SHIPPED: 11-25-63 (64-bag lot) and 12-18-63 (28-bag lot), from Grand Forks, N. Dak.

LIBELED: 3-10-64, Dist. R.I.

CHARGE: 402(a) (3)—contained rodent excreta pellets (First Patent flour) and rodent hairs (Spring Wheat flour); and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 3-25-64. Default—destruction.

29904. Flour. (F.D.C. No. 50416. S. No. 41-922 A.)

QUANTITY: 800 100-lb. bags, at Fort Worth, Tex.

SHIPPED: 7-9-64, from St. Louis, Mo., by Missouri, Kansas & Texas Railroad Co.

LABEL IN PART: "Hard Wheat Flour, \* \* \* Denver, Colorado."

LIBELED: 7-29-64, N. Dist. Tex.

CHARGE: 402(a) (3)—contained insects when shipped.

DISPOSITION: 8-31-64. Consent—claimed by More-Hardeman Salvage Co., and denatured.

29905. Flour. (F.D.C. No. 50505. S. No. 2-803 A.)

QUANTITY: 336 100-lb. bags at Fort Valley, Ga.

SHIPPED: 6-12-64 and 6-30-64, from Shawnee, Okla.

RESULTS OF INVESTIGATION: Examination showed that the article was being held under insanitary conditions by Happyvale Flour Mills, Fort Valley, Ga.

LIBELED: 8-13-64, M. Dist. Ga.

CHARGE: 402(a) (3)—contained rodent urine and excreta and live insects while held for sale.

DISPOSITION: 9-28-64. Default—destruction.