

DISPOSITION: 11-13-64. Default—destruction.

30300. Dia-Mel dietetic banana tea cookies. (F.D.C. No. 47674. S. No. 73-941 T.)

QUANTITY: 448 15-lb. boxes and 209 cases, each containing 12 2½-oz. pkgs., at Brooklyn, N.Y., in possession of Dietetic Food Co., Inc.

SHIPPED: 5-23-62, from Clifton, N.J.

LABEL IN PART: (Pkg.) "Be Diet-wise with Dia-Mel dietetic banana tea cookies No Salt Added Lower in calories \* \* \* Ingredients: \* \* \* Packed by Dietetic Food Co., Inc., Brooklyn, N.Y."

RESULTS OF INVESTIGATION: The article had been shipped as above in 15-lb. boxes and, in part, had been repacked into 2½-oz. packages labeled as above.

LIBELED: 6-22-62, E. Dist. N.Y.

CHARGE: 403(a)—while held for sale, the repack label bore the false and misleading statements and vignette of a slim woman which represented and suggested that the article was significantly lower in calories than similar cookies, and that it was of significant value for use in calorie restricted diets for reducing because it was saccharin sweetened.

DISPOSITION: On 7-23-62, Dietetic Food Co., Inc., filed a claim to the article and filed an answer to the libel denying that the article was misbranded. Subsequently, the Government served written interrogatories upon the claimant. Thereafter, the claimant answered the Government's interrogatories and on 4-9-63, served written interrogatories upon the Government.

On 4-19-65, the claimant filed a withdrawal of its claim and answer; and on 6-10-65, a default decree of condemnation and destruction was entered by the court.

### INDEX TO NOTICES OF JUDGMENT F.N.J. NOS. 30201 TO 30300

PRODUCTS		N.J. No.
Artichokes, frozen	30264	Cereals and cereal products
Beans, Great Northern, dried	30270, 30273	30204-30240
green, cut, canned	30274	Chicken(s), broth, canned
lima, dried	30269	frozen
navy, dried	30270	30287-30286
pinto, dried	30237, 30271-30273	Chili Con Carne, without beans
small, red, dried	30275	30285
Beverages and beverage materials	30201-30203	Coffee beans, green
Brewer's yeast	30295, 30296	30201
		Cornmeal mix
		30239, 30240
		Corn, white, dried
		30268
		Cranberry juice cocktail
		30262
		Dia-Mel dietetic banana tea
		cookies
		30300 <sup>1</sup>
		Diet-All
		30297

<sup>1</sup> (30258,30300) Seizure contested.

# U.S. Department of Health, Education, and Welfare

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

30301-30400

#### FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were alleged to be adulterated or misbranded within the meaning of the Act, when introduced into and while in interstate commerce, or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered after default, or consent; and (2) criminal proceedings which were terminated upon pleas of guilty and nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

JAMES L. GODDARD, *Commissioner of Food and Drugs.*

WASHINGTON, D.C., *May 12, 1966.*

#### CONTENTS

	Page		Page
Cereals and cereal products.....	520	Fish and shellfish.....	534
Flour.....	520	Fruits and vegetables.....	537
Macaroni and noodle products.....	522	Dried fruit.....	537
Miscellaneous cereals and cereal products.....	524	Fresh fruit.....	537
Confectionery, sirup, and related products.....	525	Frozen fruit.....	538
Confectionery.....	525	Miscellaneous fruit products..	538
Sirup and related products....	528	Vegetables and vegetable products.....	540
Dairy products.....	530	Nuts and nut products.....	542
Butter.....	530	Vitamin, mineral, and other products of special dietary significance.....	546
Cheese.....	531	Index.....	549
Eggs.....	531		
Feeds and grains.....	534		

519

**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN ALLEGED VIOLATIONS REPORTED IN F.N.J. NOS. 30301-30400**

*Adulteration*, Section 402(a)(1), the article contained a poisonous or deleterious substance which might render it injurious to health; Section 402(a)(2)(B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a)(2)(C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a)(3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a)(4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth or might have been rendered injurious to health; Section 402(b)(1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402(b)(2), a substance had been substituted in whole or in part for the article; Section 402(b)(4), a substance had been added to the article or mixed or packed therewith so as to make it appear better or of greater value than it was; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical not generally recognized, among qualified experts as safe for use, added to a raw agricultural commodity, was deemed to be unsafe because no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

*Misbranding*, Section 403(a), the labeling of the article was false and misleading; Section 403(e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(g)(1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations and it failed to conform to such definition and standard; Section 403(h), the article purported to be or was represented as (1) a food for which a standard of quality had been prescribed by regulations, and its quality fell below such standard or (2) a food for which a standard of fill of container had been prescribed by regulations and it fell below the applicable standard of fill of container; Section 403(i), the article was not subject to the provisions of Section 403(g) and (1) its label failed to bear the common or usual name of the article, and (2) the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

**CEREALS AND CEREAL PRODUCTS****FLOUR\***

30301. Flour. (F.D.C. No. 50796. S. Nos. 37-865/6 X, 73-059/60 A.)

INFORMATION FILED: 3-24-65, W. Dist. La., against Louisiana Wholesale Distributors, a partnership, Alexandria, La.

\*See also No. 30318.