PLEA: Guilty.

DISPOSITION: 10–8–63. $600 fine.

**29215. Pastry flour.** (F.D.C. No. 47121. S. Nos. 12–793 R, 20–090 R, 13–501 T, 25–223 T, 25–508 V.)

INFORMATION FILED: 4–26–63, E. Dist. Mich., against Addison Flouring Mill Co., a partnership, Addison, Mich.

SHIPPED: Between 12–1–60 and 11–15–62, from Michigan to Ohio and Illinois.

LABEL IN PART: (Bag) "25 Lbs. Bleached * * * Bartley's Pastry Flour * * * Distributed by The Bartley Co. * * * Toledo, Ohio; 100 Lbs. * * * Peacemaker Flour * * * Addison Flouring Mill Co., Addison, Michigan."

CHARGE: 402(a)(4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12–5–63. $500 fine.

## MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

**29216. Wheat.** (Inj. No. 403.)

COMPLAINT FOR INJUNCTION FILED: 5–12–61, Dist. S. Dak., against Emil Perman Elevator, a partnership, Greenway, S. Dak., and Edward Odenbach, manager.

CHARGE: The complaint for injunction alleged that the defendants were engaged in the operation, at Greenway, S. Dak., of a grain storage facility consisting of two elevators, each of a wooden crib construction and a steel quonset storage building, for the storage and distribution of wheat for human consumption, and were shipping in interstate commerce wheat which was adulterated within the meaning of 402(a)(3) and 402(a)(4) in that the wheat consisted in part of a filthy substance by reason of the presence of rodent excreta and rodent urine in it, and was being held at the defendants' grain storage facility at Greenway, S. Dak., under insanitary conditions whereby it might have become contaminated with filth.

The complaint alleged further that the insanitary conditions of the defendants' grain storage facility at Greenway, S. Dak., resulted from and consisted of the presence in the elevator designated as No. 2 House of the following: bird feathers and approximately 50 rodent pellets in the southwest corner of the headhouse; bird excreta under the north window of the headhouse and less than 6 inches from a spout leading into a storage bin; approximately 200 rodent pellets along the walls of the southeast corner of the headhouse; approximately 150 rodent pellets on the floor at bin-top level and at the edge of an opening leading directly into bin No. 2; residues of spilled grain beneath the elevator which all appeared to have been leveled by animal traffic; trails caused by rodent activity on the surface of the wheat in every bin; hundreds of rodent pellets on the surface of the wheat in every bin; approximately 100 mouse pellets scattered over the entire floor at bin-top level; and the presence in samples of surface wheat from the bins of rodent urine and of rodent pellets ranging in number from 33 to 370 pellets.

The complaint alleged further that the defendants were well aware that their activities were in violation of the Act; that inspections of the defendants' grain storage facility at Greenway, S. Dak., were made on 2–19–59, 5–7–59,

*See also No. 29236.

and 3-8/9-61, by inspectors of the Food and Drug Administration; that at each inspection evidence of rodent activity was readily visible in the part of the grain storage facility designated No. 2 House; that the defendants had been aware from the first inspection that wheat for human consumption was being stored under insanitary conditions in their grain storage facility; and that despite the warning conveyed to the defendants by the inspections, the defendants had failed to correct the insanitary conditions at the grain storage facility and continued to ship into interstate commerce, wheat which was adulterated as specified above.

DISPOSITION: On 5-12-61, a temporary restraining order was issued by the court and on 5-29-61, a consent decree of permanent injunction was filed which 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 Act, wheat for human consumption and any similar article of food which 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 held under insanitary conditions whereby it may have become contaminated with filth; and 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 Act, wheat for human consumption and any similar article of food held at defendants' grain elevator designated as No. 2 House, at Greenway, S. Dak.; and all of such prohibition remaining in full force and effect until

(a) the elevator was thoroughly cleaned and renovated and rendered suitable for use in connection with the storage of wheat for human consumption and any similar article of food, namely, until all rodent and bird filth was removed from the elevator and the equipment used in storing such food was cleaned; all rodent and bird infestation in and about the elevator was eliminated; the means of ingress and egress of the elevator by rodents and birds were closed; and any similar insanitary conditions which might result in the contamination of wheat for human consumption or any similar article of food while held at the elevator were eliminated;

(b) all of the wheat which was on hand at the elevator at the time the elevator was cleaned, renovated and rendered suitable for the storage of food for human consumption was destroyed, denatured for use as animal feed, or cleaned and otherwise reconditioned under the supervision of a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare; and

(c) an inspection was made of the elevator by a duly authorized representative of the Food and Drug Administration, Department of Health, Education, and Welfare, and a report made to the court which showed that the above-described, or any similar insanitary conditions, no longer existed, and that the foods for human consumption described in subparagraph (b) above had been destroyed, denatured, or brought into compliance with the law as provided in subparagraph (b) above.

On 7-13-62, an inspection was made in accordance with the terms of the injunction. On 8-14-62, pursuant to stipulation between the parties, it being made to appear that the defendants had complied with all of the terms of the consent decree of permanent injunction and had paid all costs, the court ordered the dissolution of the consent decree of permanent injunction.