

labeled as containing 9 ounces rather than $8\frac{1}{4}$ ounces; that new wrappers on the individually wrapped pieces of candy were not put in use until May 1961; and that the "Multi-Pak" carton showing 9 ounces as the net weight of the contents of the package was still being used at the time of the filing of the complaint.

The complaint alleged also that the defendants were aware that their activities were in violation of the Act; that they had informed inspectors of the Food and Drug Administration that it was their intention to continue to use the "Multi-Pak" labels as described above until their supply was exhausted as they had used their supply of wrappers for the individual pieces; that a seizure had been instituted against a shipment of such candy charging that the article under seizure was misbranded under 403(e)(2) in that it was a food in package form which failed to bear a label containing an accurate statement of the quantity of contents; and that some packages of "Tootsie Rolls" designated as vend-packs and labeled " $1\frac{1}{4}$ ounces" or " $1\frac{3}{4}$ ounces" were collected by inspectors of Food and Drug Administration and found to be short of the declared weight.

The complaint alleged also that despite the warnings conveyed to the defendants by such inspections and seizure, the defendants continued to distribute in interstate commerce in violation of the Act, candy which was misbranded within the meaning of 403(e)(2) in the manner described above.

DISPOSITION: On 8-8-61, a temporary restraining order was entered and on 8-17-61, the defendants having consented, a decree of permanent injunction was entered restraining 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, any "Tootsie Rolls" Multi-Pak or "Tootsie Rolls" vend-packs and so distributing or otherwise disposing of "Tootsie Rolls" then being held at any of the defendants' plants, warehouses, or otherwise under their control, which were misbranded within the meaning of 403(e)(2) as alleged in the complaint unless and until the net weight statement was corrected.

29238. Candy. (F.D.C. No. 48856. S. Nos. 82-514 V, 82-516 V.)

QUANTITY: 11 10-lb. bulk cases and 35 cases, each containing 12 7-oz. bags of licorice rolls; and 66 cases, each containing 24 $5\frac{1}{2}$ -oz. bags of Rocket Pops, at Linden, N.J., in possession of Eljay Service.

SHIPPED: Between 1-4-63 and 3-21-63, the Rocket Pops from Middletown, Pa., by Pennbrook Candy Co., Inc., and the licorice rolls from New York, N.Y.

LABEL IN PART: (Bag) "Eljay Imported Licorice Rolls Ingredients * * * U.S. Certified Colors * * * M'fd. for Eljay Service Linden, N.J."; (bag) "Eljay Rocket Pops * * * Ingredients * * * Artificial Flavors, U.S. Certified Color * * * Mfd. For Eljay Service, Linden, N.J."

RESULTS OF INVESTIGATION: The licorice rolls had been shipped in bulk and had been intended to be repacked by the dealer into bags labeled as described above; the 35-case lot of licorice rolls had been repacked by the dealer. The Rocket Pops had been packed by the shipper in bags supplied by the dealer. The licorice rolls (bulk and repacked) consisted of individually wrapped pieces of candy; each wrapper had a silver-and-black foil overwrap bearing the name "Licorice Rolls." The Rocket Pops consisted of variously colored, individually cellophane wrapped lollipops on white cardboard sticks. The Rocket Pops and the repacked licorice rolls were packed and the bulk licorice

rolls were intended to be packed in clear cellophane bags on which the distributor's name and address, the quantity of contents, ingredients statements and statements of artificial flavoring and coloring were printed in small type, in colors which were similar to the colors of the product and which did not afford adequate contrast with the candies and candy wrappers in the background.

LIBELED: 4-25-63, Dist. N.J.

CHARGE: 403(f)—the Rocket Pops when shipped, and the licorice rolls (bulk and repacked) while held for sale, were misbranded in that the information required to appear on the label and labeling under 403(e) (1) and (2), 403(i) (2) and 403(k), namely, the name and address of the manufacturer, packer, or distributor, an accurate statement of quantity of the contents, the statement of ingredients, and the declaration of artificial flavoring and coloring, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 11-15-63. Default—destruction.

SUGAR AND HONEY

29239. Sugar. (F.D.C. No. 49098. S. No. 54-158 V.)

QUANTITY: 30 50-lb. bags and 341 100-lb. bags at Salina and Smolan, Kans.

SHIPPED: 3-14-63, from Juniata, Nebr., by CB&Q Railroad, Freight Claims Dept.

RESULTS OF INVESTIGATION: Analysis showed that the sugar contained approximately 3 parts per million of arsenic compound and approximately 3,020 parts per million of boron compound. Investigation disclosed that the article was salvaged sugar from a train wreck in which rail cars containing sugar and borax were involved, and that the sugar had been dumped on the ground where it may have become contaminated with an arsenical weed killer used to treat the track right-of-way.

LIBELED: 7-2-63, Dist. Kans.

CHARGE: 402(a) (2) (A)—when shipped, contained added poisonous deleterious substances, namely, arsenic and boron compounds, which were unsafe within the meaning of 406.

DISPOSITION: 8-23-63. Default—destruction.

29240. Sugar. (F.D.C. No. 47631. S. No. 20-653 T.)

QUANTITY: 14,736 110-lb. bags, at Brownsville, Tex., in possession of Gulfside Warehouse, Inc.

SHIPPED: Between 12-1-61 and 12-31-61, from Mexico.

LIBELED: 6-6-62, S. Dist. Tex.

CHARGE: 402(a) (3)—contained rodent urine and bird excreta; and 402(a) (4)—held under insanitary conditions.

DISPOSITION: 6-27-63. Consent—claimed by M. Golodetz & Co., New York, N.Y., and reconditioned.

29241. Sugar and various dried peas and beans. (F.D.C. No. 48983. S. Nos. 76-884/93 V, 76-895 V.)

QUANTITY: 84 25-lb. bags, 162 100-lb. bags, and 53 50-lb. bags of sugar; 15 100-lb. bags and 100 25-lb. bags of pinto beans; 15 100-lb. bags of red beans;