

28564. Dressed whiting. (F.D.C. No. 43318. S. No. 63-716 P.)

QUANTITY: 59 50-lb. cases, each containing 10 5-lb. ctns., at Roanoke, Va.

SHIPPED: 6-15-59, from Gloucester, Mass., by Empire Fish Co., Inc.

LABEL IN PART: (Ctn.) "Fres-shore Dressed Whole Whiting Pan Ready Net Wt. 5 Lbs. Thoroughly Cleaned Ready to Cook and Serve \* \* \* Distributed by the Kroger Co."

RESULTS OF INVESTIGATION: Examination showed that the article consisted in part of decomposed fish and fish with viscera only partly removed.

LIBELED: 7-29-59, W. Dist. Va.

CHARGE: 402(a)(3)—when shipped, the article contained decomposed fish; 402(b)(2)—partially eviscerated whiting had been substituted for "Dressed Whole Whiting" which the article was represented to be; 402(b)(4)—partially eviscerated whiting had been packed with the article so as to make it appear to be dressed whiting, which was better and of greater value than the article; and 403(a)—the label statement "Dressed \* \* \* Pan Ready \* \* \* Thoroughly Cleaned Ready to Cook and Serve" was false and misleading as applied to a product which consisted in part of fish only partly eviscerated.

DISPOSITION: 9-2-59. Default—destruction.

28565. Canned tuna. (F.D.C. No. 47960. S. Nos. 7-968/9 T.)

QUANTITY: 44 cases (Lily of the Valley brand) and 74 cases (Mrs. Lane's brand) at Newport, R.I., each case containing 48 cans.

SHIPPED: 5-26-62, from Seattle, Wash., by Whitney & Co.

LABEL IN PART: (Can) "Lily of the Valley Solid Pack White Tuna Fancy \* \* \* Packed in Japan \* \* \* Net Weight 7 Ounces Distributed by Lily of the Valley Food Corp., Newport, R.I." and "Mrs. Lane's Brand White Tuna Chunks and Flakes Contents 5¾ Oz. Avoir. \* \* \* Foodland, Inc., Distributors, Cleveland, Ohio."

RESULTS OF INVESTIGATION: Examination showed that the 44-case lot consisted of canned flaked tunafish and that the 74-case lot consisted of canned grated tunafish. The distributor's name and address on the label of the 74-case lot was in small block letters obscured by a background of red and green lines.

LIBELED: 8-15-62, Dist. R.I.

CHARGE: 44-case lot, 403(a)—when shipped, the label statement "Solid Pack White Tuna" and vignette depicting solid pack tunafish, were false and misleading as applied to a product consisting of canned flaked tunafish.

74-case lot, 403(a)—when shipped, the label statement "White Tuna Chunks and Flakes" was false and misleading as applied to a product consisting of grated tunafish; 403(f)—the information required to appear on the label under 403(e)(1), namely, the name and address of the manufacturer, packer or distributor, was not prominently placed on the label as compared with other words and statements on the label as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 9-11-62. Default—delivered to a charitable institution.

28566. Canned tuna. (F.D.C. No. 47906. S. No. 73-876 T.)

QUANTITY: 79 cases, 6 4-lb. 2½-oz. cans each, at New York, N.Y.

SHIPPED: 5-10-62, from St. Louis, Mo. This was a return shipment.

**LIBELED:** 8-1-62, S. Dist. N.Y.

**CHARGE:** 402(a) (3)—while held for sale, the article was unfit for food by reason of having a disagreeable odor and taste.

**DISPOSITION:** 8-31-62. Consent—claimed by Mondial Co., Inc., New York, N.Y. Segregated; 143 cans destroyed.

**28567. Frozen minced clams.** (F.D.C. No. 48058. S. No. 76-878 T.)

**QUANTITY:** 48 cases, each containing 10 5-lb. ctns., at Miami, Fla.

**SHIPPED:** 7-24-62, from Greenport, Long Island, N.Y., by Shelter Island Oyster Co.

**LABEL IN PART:** (Ctn.) "Minced Clams" and "The Shelter Island Oyster Co., L.I., N.Y."

**LIBELED:** On or about 9-13-62, S. Dist. Fla.

**CHARGE:** 402(a) (3)—contained *E. coli* when shipped.

**DISPOSITION:** 10-8-62. Default—destruction.

## FRUITS AND VEGETABLES

### CANNED FRUIT

**28568. Maraschino cherries.** (F.D.C. No. 43900. S. No. 5-636 P.)

**QUANTITY:** 8 cases, each containing 4 1-gal. jars, at Washington, D.C.

**SHIPPED:** 9-30-59, from North East, Pa., by Ohio Fruit Products Co., Inc.

**LABEL IN PART:** (Jar) "Sunshine Brand Maraschino Cherries \* \* \* Packed by Ohio Fruit Products Co., Inc., North East, Pa."

**LIBELED:** 11-12-59, Dist. Columbia.

**CHARGE:** 402(a) (3)—contained insects and insect fragments; and 402(a) (4)—prepared and packed under insanitary conditions.

**DISPOSITION:** 5-16-60. Consent—destruction.

**28569. Canned boysenberries.** (F.D.C. No. 47538. S. No. 58-946 T.)

**QUANTITY:** 61 cases, each containing 24 1-lb. cans, at Kansas City, Mo.

**SHIPPED:** 7-11-61, from Stilwell, Okla., by Stilwell Canning Co.

**LABEL IN PART:** (Can) "Can-D-Pak Brand Boysenberries in Heavy Syrup \* \* \* Packed by Stilwell Canning Co. Stilwell, Okla."

**RESULTS OF INVESTIGATION:** Examination showed that the article was packed in light syrup.

**LIBELED:** 6-7-62, W. Dist. Mo.

**CHARGE:** 403(g) (2)—when shipped, the article failed to bear, as required by the definition and standard of identity for canned boysenberries, the name of the optional packing medium present in the article, since the label bore the statement "In Heavy Syrup," whereas the article was packed in a medium designated "Light Syrup."

**DISPOSITION:** 8-20-62. Consent—claimed by Stilwell Canning Co. and relabeled.

### DRIED FRUITS

**28570. Prunes.** (F.D.C. No. 47010. S. Nos. 27-449/50 T.)

**QUANTITY:** 51 30-lb. cases at Kansas City, Mo.

**SHIPPED:** Between 4-12-61 and 11-22-61, from San Jose, Calif.