

"It should be observed that the attitude of the Federal Security Agency in not sending its representative to supervise the relabeling of appellant's seized and condemned food articles was not cooperative and is not to be commended. The course pursued by the agency appears to have been either arbitrary or neglectful, but this afforded appellant no right to violate the law. The appellant's appropriate course would have been to move the district court for an order directing the Federal Agency to perform forthwith its function under the decree. The aid of the court was not thus invoked. To the contrary, appellant deliberately violated the court's order by its own admission.

"The order of the district court of June 28, 1943, is affirmed."

A petition for a rehearing, subsequently filed by the appellant, was denied.

6940. Misbranding of grape jelly and jam. U. S. v. 390 Cases of Grape Jelly and Jam. Consent decree of condemnation. Product released under bond.
(F. D. C. No. 13670. Sample No. 70685-F.)

LIBEL FILED: September 25, 1944, Western District of Washington.

ALLEGED SHIPMENT: On or about March 25, 1944, by the Southwest Food Products Co., from Long Beach, Calif.

PRODUCT: 390 cases, each containing 12 jars, of grape jelly and jam at Seattle, Wash.

Examination disclosed that the article was short-weight.

LABEL, IN PART: "Dude Ranch Pure Concord Grape Jelly [or "Jam"] Net Weight 2 Lbs."

VIOLATIONS CHARGED: Misbranding, Section 403 (a), the label statement on some jars, "Pure Concord Grape Jam," was false and misleading as applied to grape jelly, which those jars contained; and, Section 403 (e) (2), the article was food in package form and failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: November 1, 1944. The Southwest Food Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and product was ordered released under bond, for relabeling under the supervision of the Food and Drug Administration.

6941. Adulteration and misbranding of jam and preserves. U. S. v. 24 Cases of Blackberry Preserves, 24 Cases of Black Cap Jam, and 24 Cases of Blueberry Preserves (and 2 other seizure actions against youngberry preserves or jam, loganberry preserves, raspberry preserves, damson plum preserves, apricot-pineapple preserves, blackcap jam, blueberry preserves, and blackberry jam and preserves). Decrees of condemnation. Portion of products ordered released under bond; remainder ordered destroyed.
(F. D. C. Nos. 12372, 12443, 12499. Sample Nos. 60377-F, 71425-F to 71431-F, incl., 73204-F to 73206-F, incl.)

LIBELS FILED: Between May 18 and June 21, 1944, Northern District of California and Western District of Washington.

ALLEGED SHIPMENT: From on or about March 15 to April 28, 1944, by the Dickinson Co., Portland, Oreg.

PRODUCT: 268 cases, each containing 24 1-pound jars, of the aforementioned products at San Francisco, Calif., and Seattle, Wash.

LABEL, IN PART: (Jars) "Dickinson's Pure Wild Blackberry Preserves," or corresponding labeling for the other products.

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (2), products containing less soluble solids than required by the definitions and standards (68 percent in the cases of the blackcap jam, blackberry and youngberry preserves and jam, and blueberry, loganberry, and raspberry preserves, and 65 percent in the cases of the damson plum preserves and apricot-pineapple preserves) had been substituted in whole or in part for the articles.

Misbranding, Section 403 (a), the names, "Pure Youngberry Preserves [or "Pure Seedless Youngberry Jam"]," "Pure Loganberry Preserves," "Pure Raspberry Preserves," "Pure Damson Plum Preserves," "Pure Seedless Blackberry Jam," "Pure Apricot-Pineapple Preserves," "Pure Seedless Black Cap Jam," "Pure Blueberry Preserves," and "Pure Wild Blackberry Preserves," borne on the labels, were false and misleading; and, Section 403 (g) (1), the articles failed to conform to the definitions and standards of identity prescribed by the regulations since they had been insufficiently concentrated by heat.

Further misbranding (apricot-pineapple preserves), Section 403 (a), the label statement, "Net Weight 1 Lb.," was false and misleading since the article was short-weight; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.