

7190. Adulteration and misbranding of Gumbo File (a food flavoring). U. S. v. 31 Cases of Gumbo File. Default decree of condemnation and destruction. (F. D. C. No. 12272. Sample No. 41460-F.)

LIBEL FILED: May 1, 1944, Western District of Louisiana.

ALLEGED SHIPMENT: On or about January 25, 1944, by Gold Medal Coffee Co., Houston, Tex.

PRODUCT: 31 cases, each containing 24 jars, of Gumbo File at Lake Charles, La. The article consisted of sassafras and thyme.

LABEL, IN PART: (Jars) "Victory Brand Genuine Gumbo File 1½ oz. Net Wt."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and insect excreta; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), the statement, "1½ oz. Net Wt.," on the label, was false and misleading as applied to the article, which was short-weight; Section 403 (e) (2), the article was in package form and failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: August 14, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

7191. Misbranding of vanilla dessert powder. U. S. v. 516 Packages of Vanilla Dessert Powder. Default decree of condemnation and destruction. (F. D. C. No. 12871. Sample No. 52126-F.)

LIBEL FILED: July 5, 1944, District of Massachusetts.

ALLEGED SHIPMENT: On or about June 3, 1944, by the 6 O'Clock Co., from Norristown, Pa.

PRODUCT: 516 3-ounce packages of vanilla dessert powder, at South Boston, Mass.

LABEL, IN PART: "Vanilla 6 O'Clock Dessert."

VIOLATION CHARGED: Misbranding, Section 403 (d), the container was so filled as to be misleading since the dessert powder occupied less than half the volume of the box.

DISPOSITION: August 8, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. Destruction was effected by delivery of the product to a charitable institution.

7192. Misbranding of gift packages. U. S. v. 149 Gift Packages. Counterclaim praying for a declaratory judgment denied and exceptions to the libel overruled. Decree of condemnation and destruction. (F. D. C. No. 10095. Sample No. 11905-F.)

LIBEL FILED: June 14, 1943, Northern District of California; transferred to the Eastern District of New York on August 19, 1943.

ALLEGED SHIPMENT: On or about April 13, 1943, by R. L. Albert & Son, Inc., from New York, N. Y.

PRODUCT: 149 1-pound, 2-ounce gift packages at San Francisco, Calif. The package measured 7½ x 12½ x 1¾ inches and contained 15 fluted paper cups or cookies, candies, nuts, crackers, and a jar of peanut butter. The 3 cups containing cookies were well filled, but the candies and nuts were wrapped in cellophane which increased the bulk. Three cups containing crackers and 1 containing a small jar of peanut butter, which occupied a corner of the package, were covered by an inverted cardboard box and over that a cardboard checker board with a small sticker label reading "Crackers and Peanut Butter Underneath." The peanut butter was in a small ointment jar with thick walls, and did not fill the cup.

VIOLATION CHARGED: Misbranding, Section 403 (d), the container was so filled as to be misleading in that more candy and nuts could have been packed in the individual paper cups, and because the crackers, which were cheaper than the remainder of the package, and the deceptive jar of peanut butter were concealed in a corner covered by an inverted box.

DISPOSITION: August 9, 1943. R. L. Albert & Son, Inc., claimant, instituted in the District Court for the Southern District of New York an action for a declaratory judgment, and filed a petition for an injunction pendente lite with respect to the libel proceedings in the Northern District of California. An