

SUGAR

26763. Sugar. (F.D.C. No. 44554. S. No. 3-799 R.)

QUANTITY: 10,000 100-lb. bags at Baltimore, Md., in possession of Pennsylvania Railroad.

SHIPPED: 8-4-59, from Cuba.

LIBELED: 5-3-60, Dist. Md.

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

DISPOSITION: 5-11-60. Consent—claimed by Lombard & Co., New York, N.Y. Segregated; 1,980 100-lb. bags re-refined.

DAIRY PRODUCTS

BUTTER

26764. Butter. (F.D.C. No. 43742. S. Nos. 11-845/6 R, 12-711/3 R.)

QUANTITY: 301 64-lb. cubes at Chicago, Ill.

SHIPPED: 7-9-60 and 7-23-60, from Odebolt, Iowa, by Langle's Dairy.

LIBELED: 8-3-60, N. Dist. Ill.

CHARGE: 402(b) (2)—when shipped, a product containing less than 80 per cent by weight of milk fat had been substituted for butter.

DISPOSITION: 8-15-60. Consent—claimed by Berkshire Foods, Inc., Chicago, Ill., and reworked.

MILK

26765. Nonfat dry milk solids. (F.D.C. No. 44671. S. No. 6-910 R.)

QUANTITY: 78 50-lb. bags of nonfat dry milk solids, and 2 unlabeled 50-lb. drums of the article which had been taken from bags broken in transit, at Boston, Mass.

SHIPPED: 4-25-60, from Jersey City, N.J.

LABEL IN PART: (Bag) "Non-Fat-Dry-Milk Solids (S.C.) * * * Distributed by Packers' Lab. Inc. Boston, Mass."

RESULTS OF INVESTIGATION: The article was shipped to Boston, Mass., as described above in bags labeled in part "Sodium Caseinate," and after its arrival was sold to Packers' Laboratory, Inc., South Boston, Mass., who then relabeled and resold the article.

LIBELED: 6-20-60, Dist. Mass.

CHARGE: 402(b) (2)—while held for sale, another substance had been substituted in whole or in part for nonfat dry milk solids; and 403(a)—the name "Non-Fat-Dry-Milk Solids" was false and misleading as applied to a product which was not nonfat dry milk solids.

DISPOSITION: 7-21-60. Consent—claimed by Boston Sausage & Provision Co., Boston, Mass., and relabeled.

EGGS

26766. Incubator reject eggs. (F.D.C. No. 40462. S. No. 68-664 M.)

INFORMATION FILED: 3-17-58, Dist. N.J., against Harry Cohen t/a Commonwealth Oil Associates, Goshen, N.Y., and Carlstadt, N.J., and Richard Cozze.

SHIPPED: 6-6-57, from Maine to New Jersey.

CHARGE: 402(a)(3)—when shipped, contained decomposed eggs and was otherwise unfit for food because the eggs consisted in part of embryos in various stages of development.

PLEA: Guilty.

DISPOSITION: 1-16-59. Cohen—fine of \$1,000 and a 1-year suspended jail sentence with probation for 5 years. 2-13-59. Cozze—fine of \$500 and probation for 5 years.

On July 2, 1959, an application was filed for revocation of probation imposed against Harry Cohen. It was alleged in the petition that in connection with the establishment and operation of an egg-breaking, packing and freezing plant under the name of the Raymond Packing Co., at the Arthur Vinton farm, Brittany Hills, Station Road, Rock Tavern, N.Y., Harry Cohen had done the following acts:

(a) On or about January 20, 1959, Harry Cohen gave to Lena J. Margiotte, 140 Third Street, Newburgh, N.Y., a cashier's check for \$1,500 in payment of the rent for the property which was located on the Arthur Vinton farm, Brittany Hills, Station Road, Rock Tavern, N.Y., and occupied by the Raymond Packing Co.

(b) On or about February 18, 1959, Harry Cohen gave to said Lena J. Margiotte an additional cashier's check for \$1,500 in payment of the rent for the property on the Arthur Vinton farm which was occupied by the Raymond Packing Co.

(c) Within the period from on or about January 16, 1959, to on or about March 5, 1959, Harry Cohen, trading as Commonwealth Oil Associates, caused incubator reject shell eggs to be purchased from various hatcheries in the State of Connecticut.

(d) Within the period from on or about January 16, 1959, to on or about March 5, 1959, Harry Cohen, trading as Commonwealth Oil Associates, caused to be shipped in interstate commerce, from the State of Connecticut to the State of New York, incubator reject shell eggs which were adulterated within the meaning of 21 U.S.C. 342(a)(3) in that they consisted in part of a decomposed substance, and were otherwise unfit for food.

(f) On or about February 14, 1959, Harry Cohen personally asked Glenn Graham, R.D. #2, Box 345, Newburgh, N.Y., to haul egg shells for him.

(g) On or about February 17, 1959, Harry Cohen appeared at the office of the Coleman Gas Service, Rt. 94, Washingtonville, N.Y., and informed Lillian Coleman that a business was being started at the Vinton farm, and that he wanted some second-hand gas heaters and bottled gas.

(h) On or about February 17, 1959, Harry Cohen discussed his need for bottled gas and gas heaters with Ernest Coleman, the owner of the Coleman Gas Service, and said that he would meet Ernest Coleman at 3 p.m. that day at his (Cohen's) place of business at the Vinton Farm, Brittany Hills, Station Road, Rock Tavern, N.Y.

(i) On or about February 17, 1959, Harry Cohen called the telephone company from the office of the Coleman Gas Service and asked to have telephone service installed at the Raymond Packing Co. plant.

(j) On or about February 21, 1959, Harry Cohen called Glenn Graham to come to Brittany Hills and pick up a load of egg shells.

(k) On or about February 27, 1959, Harry Cohen paid the freight charges for a shipment of empty 30-lb. size cans in car No. C017767, consigned by Modern Egg Products Co., Nashville, Tenn., to the Raymond Packing Co.

(l) Harry Cohen came to the Raymond Packing Co. plant on the Vinton

Farm almost every day within the period from on or about February 12, 1959, to on or about March 17, 1959.

(o) On or about February 27, 1959, Harry Cohen paid to Hilda Compton, Brittany Hills, N.Y., the sum of \$110 for electricity used at the Raymond Packing Co. plant.

(p) Within the period from on or about February 16, 1959, to on or about March 17, 1959, Harry Cohen telephoned the Highland Telephone Co., Monroe, N.Y., and guaranteed payment of the bills for telephone service furnished to the Raymond Packing Co.

On 9-2-59, Harry Cohen pled guilty to the commission of the above-mentioned acts and on 11-9-59, the court ordered that Harry Cohen serve 3 months of the 1-year jail sentence originally suspended, that the balance of the 1-year jail sentence, namely 9 months, be suspended and that he be continued on probation following the expiration of his 3 months imprisonment.

26767. Frozen eggs. (F.D.C. No. 44764. S. No. 25-967 R.)

QUANTITY: 242 30-lb. cans at Los Angeles, Calif.

SHIPPED: 6-2-60, from Lubbock, Tex., by Clary Poultry & Egg Co.

LIBELED: 8-3-60, S. Dist. Calif.

CHARGE: 402(a)(3)—contained decomposed eggs when shipped.

DISPOSITION: 9-20-60. Default—destruction.

FEEDS AND GRAINS

26768. No. 2 tallow. (F.D.C. No. 43091. S. Nos. 15-061 P, 15-562 P.)

INFORMATION FILED: 6-1-60, S. Dist. Ohio, against Kentucky Chemical Industries, Inc., Cincinnati, Ohio, and Emery Industries, Inc., Cincinnati, Ohio.

SHIPPED: 11-14-57 and 12-5-57, from Ohio to Kentucky and Tennessee.

CHARGE: 402(a)(1)—when shipped, the article contained an added poisonous and deleterious substance which may have rendered it injurious to health.

PLEA: Guilty.

DISPOSITION: 6-1-60. Each defendant fined \$2,000.

FISH

26769. Canned tuna. (F.D.C. No. 43560. S. No. 82-785 P.)

QUANTITY: 243 cases, 48 6½-oz. cans each, at Grand Island, Nebr.

SHIPPED: 7-24-59, from Hoquiam, Wash., by Whiz Fish Products Co., Inc.

LABEL IN PART: (Can) "Our Family Chunk Style Tuna * * * Distributed by Nash-Finch Co., Minneapolis, Minn."

LIBELED: 9-28-59, Dist. Nebr.

CHARGE: 403(f)—when shipped, the information required by 403(e)(1) to appear on the label, namely, the name and address of the distributor, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use; and 403(h)(2)—the article fell below the standard of fill of container for canned tuna since the standard of fill of container for canned tuna is a fill such that the average weight of the pressed cake from 24 cans in a container designated as 307 x 113 is not less than 3.92