

**13665. Misbranding of canned tomatoes. U. S. v. Iken's Market Basket, Inc.**  
**Plea of nolo contendere. Fine, \$200.** (F. D. C. No. 24240. Sample No.  
 86553-H, 86554-H.)

**INFORMATION FILED:** April 8, 1948, Eastern District of Missouri, against Iken's Market Basket, Inc., St. Louis, Mo.

**ALLEGED VIOLATION:** Between the dates of April 21 and May 14, 1947, the defendant caused a quantity of canned tomatoes to be misbranded while they were held for sale after shipment in interstate commerce. These tomatoes had originally been shipped from Westville, Okla., to St. Louis, Mo., bearing a standard label. They were, however, substandard and were seized at St. Louis, Mo., condemned as misbranded, and released under bond for relabeling. The tomatoes were relabeled by pasting a strip label bearing the substandard legend "Below Standard in Quality Good Food—Not High Grade" over the original label. On or about April 21, 1947, the defendant purchased 50 cases of these tomatoes, and subsequent to such purchase caused the substandard legend to be removed from certain cans of the product and sold them to various purchasers as standard tomatoes.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality prescribed by the regulations, because of poor color and excessive peel; and when sold by the defendant, the product was not labeled to show that it was substandard.

**DISPOSITION:** April 28, 1948. A plea of nolo contendere having been entered the defendant was fined \$200.

**13666. Misbranding of canned tomatoes. U. S. v. 2,190 Cases \* \* \*** (F. D. C. No. 24184. Sample No. 26123-K.)

**LABEL FILED:** On or about December 19, 1947, Western District of Missouri.

**ALLEGED SHIPMENT:** On or about September 9, 1947, by the Roberts Canning Co. from Fayetteville, Ark.

**PRODUCT:** 2,190 cases, each containing 24 1-pound, 3-ounce cans of tomatoes, Springfield, Mo.

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the article was substandard in quality since it failed to meet the requirements of the standard for strength and redness of color, and its label failed to bear a statement that the product fell below such standard.

**DISPOSITION:** April 5, 1948. The Roberts Canning Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

**13667. Misbranding of canned tomatoes. U. S. v. 34 Cases \* \* \* (and 2 other seizure actions).** (F. D. C. Nos. 22532, 23803, 24300. Sample Nos. 62281-E, 7005-K, 13038-K.)

**LIBELS FILED:** February 13 and October 13, 1947, and January 5, 1948, District of Montana, Northern District of Ohio, and Eastern District of Pennsylvania.

**ALLEGED SHIPMENT:** On or about October 16, 1946, and August 1 and September 10, 1947, from Easton, Longwoods, and Cambridge, Md., by A. W. Sisk & Son.

**PRODUCT:** Canned tomatoes. 34 cases at Helena, Mont., 163 cases at Youngstown, Ohio, and 1,999 cases at Philadelphia, Pa. Each case contained 24 1-pound, 3-ounce cans of tomatoes. Examination showed that the Montana lot contained excessive tomato peel and that the other lots were in part decomposed.

**LABEL, IN PART:** "Longwoods Brand Tomatoes \* \* \* Packed in U. S. A. by Longwoods Canning Co. Factory Longwoods, Md." or "Pine Cone Brand Tomatoes \* \* \* Albert W. Sisk & Son Distributors—Not Manufactured by Sisk & Son."

**NATURE OF CHARGE:** Misbranding, Section 403 (g) (1), the Ohio and Pennsylvania lots failed to conform to the definition and standard of identity for canned tomatoes since they had not been processed by heat so as to prevent spoilage.

Misbranding, Section 403 (h) (1), the Montana lot fell below the standard of quality for canned tomatoes since it contained tomato peel, per pound of canned tomatoes in the container, which covered an area of more than one square inch; and its label failed to bear a statement that it fell below such standard.

**DISPOSITION:** April 17, 1947, and January 8 and 29, 1948. Edgar W. Wrightson of Albert W. Sisk & Son, representing Leonard A. Simmons, the owner of the merchandise, having appeared as claimant for the Pennsylvania lot and consented to the entry of a decree, and no claimants having appeared for the other lots, judgments of condemnation were entered. The Montana lot was ordered delivered for the use of a State institution; the Ohio lot was ordered destroyed; and the Pennsylvania lot was ordered released under bond for the segregation of the unfit portion, under the supervision of the Federal Security Agency. Of the 1,999 cases seized at Philadelphia, Pa., 111 $\frac{1}{2}$  cases were segregated as unfit and were subsequently destroyed.

**13668. Misbranding of canned tomatoes. U. S. v. 219 Cases \* \* \*. (F. D. C. No. 24761. Sample No. 15159-K.)**

**LIBEL FILED:** May 7, 1948, Western District of Michigan.

**ALLEGED SHIPMENT:** On or about September 11 and 13, 1947, by A. W. Sisk & Son, from Pocomoke City, Md.

**PRODUCT:** 219 cases, each containing 24 1-pound, 12-ounce cans, of tomatoes at Grand Rapids, Mich.

**LABEL, IN PART:** "Somerset Brand Tomatoes \* \* \* Packed by Somerset Packing Co., Inc., Pocomoke City, Maryland."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard for canned tomatoes because of the low drained weight, as determined by the sieve test set forth in the standard, and since it contained excessive tomato peel; and the label failed to bear the statement that the product was below standard.

**DISPOSITION:** August 6, 1948. The Somerset Packing Co., Inc., claimant, having admitted the allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

**13669. Misbranding of canned tomatoes. U. S. v. 245 Cases \* \* \*. (F. D. C. No. 23685. Sample No. 76665-H.)**

**LIBEL FILED:** September 11, 1947, Western District of Louisiana.

**ALLEGED SHIPMENT:** On or about June 19 and July 22, 1947, by Quality Products, Inc., La Feria, Tex.

**PRODUCT:** 245 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Shreveport, La.

**LABEL, IN PART:** "Curtis Tomatoes."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes since it failed to meet the requirements for color, since peel per pound of canned tomatoes in the container covered an area of more than 1 square inch, and since it failed to bear the statement that it fell below the standard.

**DISPOSITION:** October 27, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

**13670. Misbranding of canned tomatoes. U. S. v. 145 Cases \* \* \*. (F. D. C. No. 23717. Sample No. 94151-H.)**

**LIBEL FILED:** On or about September 22, 1947, Eastern District of Missouri.

**ALLEGED SHIPMENT:** On or about August 16, 1947, by the Rogers Canning Co., from Rogers, Ark.

**PRODUCT:** 145 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at St. Louis, Mo.

**LABEL, IN PART:** "Red Raven Hand Packed Tomatoes \* \* \* Distributed By Cannery Exchange, Inc. Springfield, Mo."

**NATURE OF CHARGE:** Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes because of the low drained weight, as determined by the sieve test set forth in the standard, and it failed to bear the substandard legend.

**DISPOSITION:** November 10, 1947. The Rogers Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be sorted and relabeled under the supervision of the Food and Drug Administration.