

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

---

## NOTICE OF JUDGMENT NO. 468, FOOD AND DRUGS ACT.

---

### ADULTERATION AND MISBRANDING OF STOCK FEED—"BOSS CHOP FEED."

On or about October 19, 1909, the Great Western Cereal Company, of Chicago, Ill., shipped from the State of Virginia to the State of Pennsylvania 800 bags of a food product labeled "Boss Chop Feed." Analyses of samples of this product by the Bureau of Chemistry, United States Department of Agriculture, showed that it was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906. As it appeared from the findings of the analyst and report made that the shipment was liable to seizure under section 10 of the act, the Secretary of Agriculture reported the facts to the United States attorney for the Eastern District of Pennsylvania. In due course a libel was filed against the said 800 bags of feed, in the District Court of the United States for said district, and subsequently amended, charging the above shipment and alleging the product to be adulterated, in that oat hulls had been mixed and packed therewith so as to reduce, lower, and injuriously affect its quality and strength, and that said oat hulls had been substituted in part for the product; and further charging the product to be misbranded, in that the label thereon represented the product to be made from corn feed, oats, oat middlings, and oat feed, whereas, in truth and in fact, the said product was not made wholly from these ingredients, but contained in addition thereto upward of 10 per cent of oat hulls in excess of the proportion of said oat hulls which would normally be present from the proportion of whole oats actually contained in the said feed product, and in that the label thereon represented the product to contain 10 per cent crude protein and 9 per cent crude fiber, when, as a matter of fact, it contained less than 9 per cent crude protein and upward of 10 per cent crude fiber, such statements being false and misleading and tending to deceive the purchaser. Thereupon the Great Western Cereal Company filed an answer setting up claim to the 800 bags of feed in question, admitting the allegations above set forth, except the one as to the discrepancy

between the amount of protein and fiber represented in the label and that actually found by analysis, averring, however, that there was no intention of violating the laws of the United States in such admitted misbranding, and praying that the 800 bags be delivered to said claimant upon the payment by it of the costs of this action, and the filing of a good and sufficient bond, conditioned that said 800 bags of feed should not be sold, shipped, or otherwise disposed of in violation of the laws of the United States.

On December 15, 1909, the court, being fully informed in the premises, entered its decree of condemnation and forfeiture, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

UNITED STATES OF AMERICA	} No. 11 of 1909
v.	
800 BAGS OF FEED PRODUCT.	} Libel for Condemnation.

Before McPHERSON, J.

AND NOW, to wit: this sixth day of December, A. D. 1909, on motion of J. Whitaker Thompson, Esq., Attorney of the United States for the Eastern District of Pennsylvania, Elton J. Buckley, Esq., Attorney for the Great Western Cereal Company, the claimant in the above entitled cause, being present and consenting thereto, and it appearing to the Court that upon the libel filed therein on the 23rd day of October, A. D. 1909, a warrant of attachment was duly issued and served, and the respondent was cited to appear on the 12th day of November, A. D. 1909, that by virtue of said warrant the United States Marshal for the Eastern District of Pennsylvania seized the property mentioned in said libel, to wit: 800 bags of feed product, and branded or set forth in said libel, the said property having been in the possession and custody of the said claimant; and that under date of December 4, 1909, the said respondent filed an answer to said libel admitting in part the averments therein, but denying any intention of violating the laws of the United States, and consenting to the prayer thereof and agreeing to the condemnation of said property.

IT IS ORDERED, ADJUDGED AND DECREED, That the said property, to wit: 800 bags of feed product, labeled and branded as set forth in said label, is misbranded in violation of the Act of Congress approved the thirtieth day of June, A. D. 1906, as set forth in said libel.

And it is further ordered that the said property, to wit: the said 800 bags of feed product, labeled and branded as set forth in said libel, be and the same is hereby condemned and ordered to be disposed of by sale as prayed for in the said libel, and as provided for in the said Act of Congress approved the thirtieth day of June, A. D. 1906.

And it is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States.

PROVIDED, HOWEVER, that upon the payment of all of the costs of the proceedings herein, and upon the execution and delivery to the libellant by the said Great Western Cereal Company, of a good and sufficient bond in the sum of Two Thousand Dollars, conditioned that the said 800 bags of feed product, labeled and branded as set forth in said libel, shall not be sold or otherwise disposed of contrary to the provisions of said Act of Congress approved the thirtieth day of June, A. D. 1906, or the laws of any State, Territory, District, or insular possession, the said Marshal shall

redeliver the said 800 bags of feed product, labeled and branded as set forth in said libel, to the said Great Western Cereal Company, in lieu of disposing of the said property by sale as aforesaid, the said costs to be paid and the said bond to be filed herein, if at all, within ten days from the date of this Order.

Said bond having been filed and the costs paid, as above decreed, the goods were forthwith delivered to claimant.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *June 25, 1910.*

○