

# United States Department of Agriculture,

OFFICE OF THE SECRETARY.

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## NOTICE OF JUDGMENT NO. 1351.

(Given pursuant to section 4 of the Food and Drugs Act.)

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### ALLEGED MISBRANDING OF CANDY.

On October 26, 1911, the United States Attorney for the District of Maryland, acting upon a report of the Secretary of Agriculture, filed an information in the District Court of the United States for said district against James E. Schaeffer, alleging shipment by him, in violation of the Food and Drugs Act, on October 13, 1910, and December 10, 1910, from the State of Maryland into the State of Pennsylvania of a quantity of candy which was misbranded. The products were labeled: (I. S. 9057-c) "Schaeffer's Assorted Pecan Creams, J. E. S., Baltimore, Md." (I. S. 3759-c) "Chocolate Cherry Fudge, J. E. S. Baltimore, Md. (Guaranty legend.)"

Analyses of samples of said products made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: (I. S. 9057-c, assorted pecan creams) Saponification number on coating, 325. (I. S. 3759-c, chocolate cherry fudge) Saponification number on coating (on 0.625 gram), 256. Iodine number on coating (Hübl, 18 hours), 14.5. The chemical analyses show each of these products to be coated with a resinous substance not declared upon the label.

Misbranding was alleged against the product labeled "Schaeffer's Assorted Pecan Creams" for the reason that the label was false and misleading in this, to wit, that it represented said product to be pecan creams, when in fact said product was not pecan creams, but was pecan creams together with a certain resinous substance in the nature of shellac, said substance not being a normal constituent of pecan creams. Misbranding was further alleged against this product for the reason that it was labeled so as to deceive and mislead the purchaser in that the label bore the statement that the product was "Schaeffer's Assorted Pecan Creams," which said statement was false

and misleading because the product was not pecan creams but was pecan creams together with a certain resinous substance in the nature of shellac, said substance not being a normal constituent of pecan creams.

Misbranding was alleged against the product labeled "Chocolate Cherry Fudge" because the labeling was false and misleading in this, that the said product was not chocolate cherry fudge, but was chocolate cherry fudge and a certain resinous substance in the nature of shellac, said substance not being a normal constituent of chocolate cherry fudge, and for the reason that said product was so labeled as to deceive and mislead the purchaser, in that it bore the statement on the label that the contents were chocolate cherry fudge, which statement was false and misleading because said product was not chocolate cherry fudge, but was chocolate cherry fudge and a certain resinous substance in the nature of shellac, said substance not being a normal constituent of chocolate cherry fudge.

On November 10, 1911, the case was tried by a jury which brought in a verdict of not guilty and the court entered a judgment of acquittal.

JAMES WILSON,  
*Secretary of Agriculture.*

WASHINGTON, D. C., *February 5, 1912.*

