

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2462.

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

U. S. v. Luyties Bros. Plea of guilty. Fine, \$25.

ADULTERATION AND MISBRANDING OF TOM AND JERRY, A CORDIAL.

On February 6, 1913, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district an information against Luyties Bros., a corporation, New York, N. Y., alleging shipment by said company, in violation of the Food and Drugs Act, on November 30, 1910, from the State of New York into the State of Missouri, of a quantity of cordial which was adulterated and misbranded. The product was labeled: "L. N. Chavallier Royal Tom and Jerry A Cordial Ready for Use Rich Delicious Strengthening Guaranteed Under the Pure Food and Drugs Act, June 30, 1906 Luyties Brothers Sole Distributors—New York, U. S. A."

Analysis of a sample of the product by the Bureau of Chemistry of this Department showed the following results: Protein ($\times 6.38$), 3.57 per cent; polarization, direct at 20° C., +49.0°V.; polarization, invert at 20° C., +6.0°V.; polarization, invert at 87° C., +15.0°V.; lecithin P_2O_5 , 0.014 per cent; ether extract, 4.50 per cent. The above analysis shows that the product contains little or no eggs, and that it is artificially colored with a coal-tar dye, a mixture of Naphthol Yellow S No. 4 and Orange I No. 85. This color is added for the purpose of giving the product the appearance of containing eggs, which are normal ingredients of "Tom and Jerry," and it also

conceals the absence of eggs in the product, therefore concealing inferiority. Adulteration of the product was alleged in the information for the reason that there was substituted for the original article, "Tom and Jerry," a product containing a small amount of eggs and colored with a coal-tar dye, the amount of eggs in said product being much smaller than the amount of eggs as understood by the trade and the public to be contained in the article "Tom and Jerry," and it was further adulterated in that it was colored with a mixture of coal-tar dyes, to wit, Orange I and Naphthol Yellow S, so as to resemble in color genuine "Tom and Jerry" containing a proper amount of eggs and in such a manner as to conceal its inferiority. Misbranding was alleged for the reason that the label set forth above regarding the product and the ingredients and substances contained therein was false and misleading, and said product was labeled as aforesaid so as to deceive and mislead the purchaser thereof, in that the label would indicate that it was a product containing the amount of eggs that "Tom and Jerry" is understood by the trade and the public to contain, and that the color thereof was due to the eggs contained therein, whereas, in truth and in fact, it contained a small amount of eggs and was artificially colored with the aforesaid coal-tar dyes in such a manner as to resemble genuine "Tom and Jerry," the color of which was due to the proper amount of eggs present therein.

On February 11, 1913, the defendant company entered a plea of guilty to the information and the court imposed a fine of \$25.

B. T. GALLOWAY,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *May 26, 1913.*

