

6141. Misbranding of cognac type brandy. U. S. * * * v. Benno C. Samuel, Lawrence M. Samuel, and Sanford Samuel (Samuel Bros. & Co.). Pleas of guilty. Fine, \$20. (F. & D. No. 7594. I. S. No. 4208-k.)

On January 31, 1918, 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 Benno C. Samuel, Lawrence M. Samuel, and Sanford Samuel, trading as Samuel Bros. & Co., New York, N. Y., alleging shipment by said defendants, in violation of the Food and Drugs Act, as amended, on May 29, 1915, from the State of New York into the State of Massachusetts, of a quantity of an article labeled in part, "Contents 1 pt. & 9 fl. oz. Leumas' Brand Cognac Type Brandy," which was misbranded.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed the following results:

Proof at 60° F.....	88.3
Acids, as acetic (parts per 100,000 to 100° proof).....	27.0
Esters, as acetic (parts per 100,000 to 100° proof).....	71.0
Fusel oil (parts per 100,000 to 100° proof).....	72.8
Taste: Not similar in any way to cognac brandy.	
Contents:	Per cent.
1st bottle: 1 pint 8.34 fl. oz.....	2.64 shortage.
2nd bottle: 1 pint 7.67 fl. oz.....	5.32 shortage.
3rd bottle: 1 pint 8.91 fl. oz.....	0.36 shortage.
Average shortage.....	2.77

Misbranding of the article was alleged in the information for the reason that the statement regarding the article and the ingredients and substances contained therein, to wit, "Leumas' Brand Cognac," together with the general appearance of the label and the representation of three stars thereon, not corrected by the word, "Type," appearing in inconspicuous type on the label, was false and misleading in that it indicated to purchasers that the article was cognac brandy produced in the Cognac district, Republic of France; and for the further reason, in substance, that it was labeled as aforesaid so as to deceive and mislead purchasers into the belief that the article was cognac brandy produced in the Cognac district, Republic of France, when, in truth and in fact, it was not. Misbranding was alleged for the further reason that the statement appearing on the label, regarding the article and the ingredients and substances contained therein, to wit, "Leumas' Cognac Type Brandy," was false and misleading in that it indicated to purchasers that it was cognac brandy of the type produced in the Cognac district, Republic of France, and for the further reason that it was labeled as aforesaid, so as to deceive and mislead purchasers into the belief that it was cognac brandy of the type produced in the Cognac district, Republic of France, when, in truth and in fact, it was not. Misbranding was alleged for the further reason that the article was a domestic product, manufactured in the United States of America, and purported to be of foreign origin, to wit, a product of the Republic of France. Misbranding was alleged for the further reason that the article consisted of food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count.

On February 6, 1918, the defendants entered pleas of guilty to the information, and the court imposed a fine of \$20.

R. A. PEARSON, *Acting Secretary of Agriculture.*