F.N.J., F. D. C. 3426–3650 Issued March 1943

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

3426–3650

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., *January 7, 1943.*

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BEVERAGE MATERIALS

3426. Adulteration and misbranding of fountain flavors. U. S. v. The Richlow Manufacturing Co. and James E. Low. Pleas of guilty. Fine of $240 against defendant Low; case dismissed against corporation. (F. D. C. No. 6501. Sample Nos. 65071–E, 65077–E, 65078–E.)

On May 15, 1942, the United States attorney for the District of Colorado filed an information against the Richlow Manufacturing Co., a corporation, Denver, Colo., and James E. Low, alleging shipment on or about April 15, June 2, and June 6, 1941, from the State of Colorado into the State of Wyoming, of a quantity of vanilla-flavored sirup which was adulterated and misbranded and of a quantity of Chocolate-Fudge Flake that was adulterated. The articles were labeled in part: "Vanilla Flavored Syrup" or "Flavor-Rite Chocolate-Fudge Flake."

The chocolate fudge flake was alleged to be adulterated in that it consisted in whole or in part of a filthy substance; and in that it had been prepared or

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packed under insanitary conditions whereby it might have become contaminated with filth.

The vanilla-flavored sirup was alleged to be adulterated in that a sirup flavored with imitation vanilla and simulating vanilla-flavored sirup had been substituted wholly or in part for vanilla-flavored sirup, which it purported to be. It was alleged to be misbranded in that it was an imitation of another food, namely, vanilla-flavored sirup, and its label failed to bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; and in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient.

On May 20, 1942, pleas of guilty having been entered on behalf of both defendants, a fine of $200 was imposed on defendant Low. The court dismissed the case against the corporation.

3427. Misbranding of grape juice drink. U. S. v. 27 Cases of Grape Juice Drink. Default decree of condemnation and destruction. (F. D. C. No. 5646. Sample No. 74305–E.)

Analysis showed that this product was an artificially colored solution of water, citric acid, flavor, sugar, and grape juice, having the appearance and odor of grape juice and taste of diluted grape juice.

On September 8, 1941, the United States attorney for the District of New Jersey filed a libel against 27 cases of grape juice drink at Paterson, N. J., alleging shipment in interstate commerce on or about July 16 and 18, 1941, by Rosen Products, Inc., from Brooklyn, N. Y.; and charging that it was misbranded. It was labeled in part: "Rosaly Grape Juice Drink Pure Concord Grape Juice, Sugar, Fruit Flavor, Certified Food Color, Acid and Water Packed By Rosaly Products Brooklyn, N. Y."

The article was alleged to be misbranded in that it was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

On July 13, 1942, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

CEREAL PRODUCTS

FLOUR

3428. Action to enjoin and restrain distribution of adulterated buckwheat flour and rye meal. U. S. v. John T. Lampman (J. T. Lampman & Co.). Consent decree granting permanent injunction. (Inj. No. 24.)

On January 30, 1942, the United States attorney for the Southern District of New York filed a complaint against John T. Lampman, trading as J. T. Lampman & Co. at Claverack, N. Y., alleging that from on or about October 22, 1941, to the date of filing of the complaint the defendant had shipped in interstate commerce flour and meal that were adulterated in that they consisted in whole or in part of filthy, putrid, and decomposed substances and were unfit for food, and that during such time the defendant had been preparing, packing, and holding flour and meal under insanitary conditions whereby they might have become and had become contaminated with filth; and praying that judgment be entered enjoining and restraining the defendant from directly or indirectly introducing or delivering for introduction in interstate commerce any adulterated article of food.

On April 10, 1942, the defendant having filed an answer denying the substantive allegations of the complaint but having consented to the entry of a decree without trial or adjudication of any issue of fact or law and without admission either express or implied with respect to any such issue, judgment was entered permanently enjoining and restraining the defendant and anyone acting on his behalf from introducing and delivering for introduction in interstate commerce, in violation of the law, any adulterated article of food, the decree providing that it should not be construed as prohibiting the introduction or delivery for introduction into interstate commerce of any adulterated food where such adulteration could not, by the exercise of due and reasonable care, have been prevented, known to, or remedied by the defendant or those acting on his behalf. The decree further permanently enjoined, restrained, and prohibited the defendant and those acting for him from introducing or delivering for introduction into interstate commerce any adulterated food unless and until the defendant had taken all reasonable and necessary steps, including necessary alterations and repairs, to rid and keep the premises free from rodents, cats, weevils, and