

4892. Misbranding of assorted confections. U. S. v. 21 Cases of Assorted Confections (and 9 additional seizure actions against confections). Default decrees of condemnation. Portion of product ordered distributed to charitable institutions, remainder ordered destroyed. (F. D. C. Nos. 9014, 9015, 9067, 9077, 9147, 9148, 9152, 9180, 9190. Sample Nos. 7598-F, 7933-F, 7934-F, 9026-F to 9028-F, incl., 9783-F, 18692-F, 18717-F, 19539-F, 28758-F, 31859-F, 31861-F, 32697-F, 32700-F, 41605-F.)

Between December 14, 1942, and February 1, 1943, the United States attorneys for the District of Connecticut, the District of Massachusetts, the Northern District of Texas, the District of Minnesota, the Southern District of Ohio, the Western District of Texas, and the Western District of North Carolina filed libels against 21 cases, each containing 12 boxes of assorted confections at Hartford, Conn., 32 boxes at Boston, Mass., 69 boxes at Dallas, Texas, 214 boxes at Minneapolis, Minn., 76 boxes at Cincinnati, Ohio, 29 boxes at Charlotte, N. C., 70 boxes at San Antonio, Texas, 14 boxes at Bridgeport, Conn., and 7½ dozen boxes at St. Paul, Minn., alleging that the article had been shipped in interstate commerce within the period from on or about July 3 to Nov. 27, 1942, by A. Newburg & Co., New York City, N. Y., Lindhurst, N. Y., and Babylon, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that its containers were so made, formed and filled as to be misleading, since the paper packing occupied an excessive amount of the available space of the packages. It was alleged to be misbranded further in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient. Portions of the article were alleged to be misbranded further in that it was a food in package form and it failed to bear a label containing an accurate statement of the quantity of the contents. Portions were alleged to be misbranded further in that the statement of the quantity of contents, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

Six of the lots seized were alleged to be misbranded in that the statements "Net Weight 3½ Lbs.," "Net Weight 3¼ Lbs.," "Net Weight 4½ Lbs.," or "Net Weight 1¼ Lbs." were false and misleading when applied to an article that was short weight. One box (an unlabeled checkerboard specialty package) was alleged to be misbranded further in that it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor. The lot located at Hartford, Conn., was alleged to be misbranded further in that it contained artificial flavoring and artificial coloring and failed to bear a label stating that fact.

Between January 27 and March 18, 1943, no claimant having appeared, judgments of condemnation were entered and the portions of the article located at Boston, Mass. and Charlotte, N. C. were ordered destroyed. The remainder of the lots were ordered distributed to charitable institutions.

4893. Misbranding of gift assortment packages. U. S. v. 47 Packages of Favorite Assortment Service Package. Default decree of condemnation and destruction. (F. D. C. No. 9070. Sample No. 37711-F.)

On December 24, 1942, the United States attorney for the Northern District of Illinois filed a libel against the above-named product at Chicago, Ill., alleging that the article had been shipped in interstate commerce on or about December 10, 1942, by Wallace & Co., from Brooklyn, N. Y.; and charging that it was misbranded in that its container was so made, formed, and filled as to be misleading since it contained excessive packing medium.

On March 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

4894. Misbranding of gift packages. U. S. v. 15 Boxes of "Victory Snack-Pack" (and 3 additional seizure actions against gift packages). Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. Nos. 9121, 9122, 9165, 9185. Sample Nos. 31756-F, 31858-F, 31909-F, 41603-F, 41606-F, 41610-F.)

These packages were all short of the declared weight. On some of the labels the name and place of business of the packer was printed in small type on the inside of the lid. In one of the lots the containers were so packed that there was considerable empty space in which more food could have been packed.

Between January 5 and 14, 1943, the United States attorney for the Southern District of Ohio filed 4 libels against a total of 872 gift packages at Cincinnati,

Ohio, which had been consigned within the period from on or about September 16, 1942, to November 17, 1943, alleging that the article had been shipped in interstate commerce by the U. S. Candy & Food Corporation from New York, N. Y.; and charging that it was misbranded. The article was labeled in part: "Victory Snack-Pack * * * Net Weight 3 $\frac{3}{4}$ Lbs. [or "Net Weight 2 Lbs."]." "

All lots were alleged to be misbranded (1) in that the statements "Net Weight 2 Lbs.," or "Net Weight 3 $\frac{3}{4}$ Lbs." were false and misleading as applied to an article that was short-weight; and (2) in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents. Portions were alleged to be misbranded further in that the name and place of business of the manufacturer, packer, or distributor, required by law to appear on the label, was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use. One lot was alleged to be misbranded further in that the container was so made, formed, and filed as to be misleading since considerably more food could have been packed in the box.

On January 27, 1943, the U. S. Candy & Food Corporation, claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

4895. Misbranding of gift packages. U. S. v. 670 Gift Packages. Consent decree of condemnation. Product ordered released under bond for re-packaging and revision of labels. (F. D. C. No. 9401. Sample No. 20161-F.)

On February 20, 1943, the United States attorney for the District of Rhode Island filed a libel against 670 gift packages at Providence, R. I., alleging that the article had been shipped in interstate commerce on or about January 14, 1943, by Edgar P. Lewis & Sons, Inc., from Malden, Mass.; and charging that it was misbranded. The article was labeled in part: "Check A Pack Luscious Chewey Candy Caramels with Complete Checker Combination * * * 1 $\frac{1}{4}$ Lb. Net Weight."

These packages were so made that when opened they formed a checkerboard. They contained 2 trays; one was filled with candy, and the other contained only a small box of checkers and was three-fourths empty.

It was alleged to be misbranded (1) in that the statement "1 $\frac{1}{4}$ Lb. Net Weight" was false and misleading as applied to an article that was short-weight; (2) in that its container was so filled as to be misleading since only one-half of the package was occupied by candy and this fact could not be seen from the outside; and (3) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On March 23, 1943, Edgar P. Lewis & Sons, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be properly filed and labeled under the supervision of the Food and Drug Administration.

4896. Misbranding of gift packages. U. S. v. 38 Cartons of Gift Packages. Default decree of condemnation. Product ordered distributed to a charitable institution. (F. D. C. No. 9367. Sample No. 23167-F.)

On February 11, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 38 cartons of gift packages containing an assortment of cookies, nuts, raisins, candy, etc., alleging that the article had been shipped in interstate commerce on or about January 6, 1943, by the Cynthia Sweets Co. from Boston, Mass.; and charging that it was misbranded.

The article was alleged to be misbranded in that its container was so made, formed, and filled as to be misleading since the paper stuffing occupied an excessive amount of space and was mostly underneath the items, and therefore not visible.

On March 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

4897. Misbranding of gift packages. U. S. v. A Number of Baskets and Packages containing Candied Fruit, Candy, and Nuts, Nutmeats, Preserves, Jelly and Honey. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 9125. Sample Nos. 31905-F to 31908-F., incl.)

On January 5, 1943, the United States attorney for the Southern District of Ohio filed a libel against a total of 60 baskets and packages containing an assortment of food at Cincinnati, Ohio, consigned on or about November 19, 1942, alleging that the article had been shipped in interstate commerce on or about