

5591. Misbranding of gift packages. U. S. v. 20 Packages of an article labeled in part "#687," and 20 Packages labeled in part "#722." Default decree of condemnation. Product ordered distributed to charitable institution. (F. D. C. No. 9898. Sample Nos. 44954-F, 44955-F.)

This product contained excessive packing medium; its labeling consisted of stickers inconspicuously pasted on the bottom of the packages, and one lot was short of the weight declared.

On May 6, 1943, the United States attorney for the District of Connecticut filed a libel against the above-identified product at Hartford, Conn., alleging that the article had been shipped in interstate commerce on or about March 29, 1943, by Cheerio Specialties from Brooklyn, N. Y.; and charging that it was misbranded.

The article was alleged to be misbranded in that the containers were so filled as to be misleading since the paper stuffing occupied an excessive amount of the available space and this stuffing was not visible to the purchaser; and in that the name and place of business of the manufacturer, packer, or distributor, and the statement of the quantity of the contents, and the ingredient statement required by the Act to appear on the label or labeling were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase and use.

A portion of the article was alleged to be misbranded further (1) in that the statement "Not less than 15 oz." was false and misleading as applied to an article that was short-weight; and (2) in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 26, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered distributed to charitable institutions.

5592. Misbranding of gift packages. U. S. v. 21, 38, and 136 Gift Packages of Food and Confectionery. Default decree of condemnation and destruction. (F. D. C. No. 9137. Sample Nos. 13251-F to 13253-F, incl.)

A portion of the article (21 packages and 38 packages) consisting of assorted food and confectionery, was packed in boxes the bottoms of which were filled with green paper "straw" occupying about one-half of the volume of the boxes when packed. The remainder of the article (136 packages) was packed in folding checker-board boxes, each containing a snug-fitting cellophane-covered fiber carton filled with candy or with an assortment of food and confectionery, together with a box of checkers, and the bottom of the fiber carton contained green paper "straw" occupying about one-fourth of the carton's volume.

On or about January 18, 1943, the United States attorney for the Western District of Washington filed a libel against 21, 38, and 136 gift packages of food and confectionery at Seattle, Wash., alleging that the article has been shipped in interstate commerce on or about October 29 and 30, 1942, from Babylon, N. Y., and New York, N. Y., by A. Newberg & Co.; and charging that it was misbranded. A portion of the article was unlabeled and the remainder was labeled in part: "Net Weight 1 $\frac{1}{4}$ Lbs." or "Net Weight 3 $\frac{1}{4}$ Lbs."

The article was alleged to be misbranded in that its container was so made, formed, and filled as to be misleading since the boxes could contain more food than was packed in them; and 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 the statements "Net Weight 1 $\frac{1}{4}$ Lbs." or "Net Weight 3 $\frac{1}{4}$ Lbs." were false and misleading as applied to an article that was short weight; and in that it was in package form and did not 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 and the name and place of business of the manufacturer, packer, or distributor, required by law to appear on the label, were not prominently placed thereon with such conspicuousness as to render them likely to be read by the ordinary individual under customary conditions of purchase.

On September 16, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

FOOD FOR SPECIAL DIETARY USES *

5593. Adulteration and misbranding of "Bragg Mira-Cal." U. S. v. 108 Packages of "Bragg Mira-Cal." Default decree of condemnation and destruction. (F. D. C. No. 10179. Sample No. 757-F.)

This product was represented in its labeling as containing, in 3 wafers, 800

*See also Nos. 5407, 5482, 5562.