

FINDINGS OF FACT

"1. The above-described article (hereinafter referred to as Effect-O) was seized on May 13, 1944 in the possession of and on the premises of the Root Pop Bottling Co., Inc., 413 2nd Street, N. W., Washington, D. C., by process issued pursuant to a libel for condemnation filed in this Court by the United States of America.

"2. Thereafter, on July 20, 1944 the Chandler Laboratories appeared in the proceeding as claimants and owners and filed an Answer.

"3. Interstate shipment of Effect-O was admitted.

"4. The Effect-O under seizure was labeled (carton and bottle label) at the time of shipment and thereafter: 'Effect-O The Perfect Stabilizer For all Beverages Eliminates the use of Preservatives Use ½ oz. to each gallon of bottling syrup. Chandler Laboratories, Philadelphia, Pa.'

"5. Effect-O was used by the Root Pop Bottling Co., Inc., as a component of root beer.

"6. Effect-O contains about 14 grams (one-half ounce) of monochloroacetic acid in each 100 cubic centimeters (3½ ounces). In that proportion, there is sufficient monochloroacetic acid in each 100 cubic centimeters of Effect-O to kill a minimum of 92 kilograms of rats (L. D. 50 equals 76 milligrams per kilogram of body weight for rats). Man is more susceptible to poisons than animals such as the rat, guinea-pig, rabbit, or chick.

"7. Monochloroacetic acid is five times as poisonous as carbolic acid; more poisonous than arsenic trioxide; five times as poisonous as barium carbonate, a common rat poison and about one-half as poisonous as bichloride of mercury, or corrosive sublimate.

"8. The labeling on Effect-O did not reveal the material fact that it contained a poisonous substance.

CONCLUSIONS OF LAW

"1. This Court has jurisdiction over the parties and the subject matter of this proceeding under the provisions of the Federal Food, Drug, and Cosmetic Act (Title 21, U. S. Code, Sec. 301 et seq.).

"2. The article under seizure, Effect-O, is a food within the meaning of 21 U. S. C. 321 (f) (3).

"3. The article of food under seizure was introduced into interstate commerce within the meaning of 21 U. S. C. 334 (a).

"4. The article of food under seizure is misbranded within the meaning of 21 U. S. C. 343 (a) and 321 (n) in that its labeling is misleading in the particular that the statements, 'The Perfect Stabilizer for all beverages. Eliminates the use of preservatives. Use ½ oz. to each gallon of bottling syrup', appearing upon its carton and bottle label, create the impression that the article and its ingredients are wholesome and suitable for use as a component of all beverages used by man, and such labeling fails to reveal the material fact in the light of such representations that the article contains a poisonous and deleterious substance.

"5. The article under seizure must therefore be condemned under 21 U. S. C. 334 (a)."

Judgment of condemnation was entered on March 22, 1945, and the product was ordered destroyed.

7702. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 100 Cases of Nectar Syrup. Default decree of condemnation and destruction. (F. D. C. No. 13773. Sample No. 74040-F.)

LIBEL FILED: September 11, 1944, Eastern District of Washington.

ALLEGED SHIPMENT: On or about August 4, 1944, by the California Associated Products Co., Los Angeles, Calif.

PRODUCT: 100 cases, each containing 24 8-ounce bottles, of cherry-, orange-, lemon-, or grape-flavored beverage sirups at Walla Walla, Wash.

LABEL, IN PART: (Bottles) "Home Brand Nectar Syrup Cherry [or "Orange," "Lemon," or "Grape"] Flavor with Other Natural Flavors Just Add Cold Water Greene Products Company Los Angeles California."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, concentrated cherry, orange, lemon, or grape juices, had been in whole

or in part omitted from the products; and, Section 402 (b) (4), artificial flavor, artificial color, and acids (cherry flavor); artificial color, orange oil and acids (orange flavor); artificial colors, lemon oil, and acids (lemon flavor); and artificial flavor, artificial color, and acids (grape flavor), had been added to the products and mixed and packed with them so as to make them appear to be nectar sirup flavors, containing substantial amounts of concentrated cherry, orange, lemon, or grape juices, which are better and of greater value than the products were.

Misbranding, Section 403 (a), the statements on the labels, (cherry flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Cherry Juice, and Other Natural Flavors * * * can also be used to make marmalade and jelly"; (orange flavor) "Contains * * * Concentrated Orange Juice * * * making jelly and marmalade * * * Orange Juice—simply add water to this syrup and drink as orange juice"; (lemon flavor) "Contains * * * Concentrated Lemon Juice * * * can also be used to make marmalade and jelly"; and (grape flavor) "with Other Natural Flavors * * * Contains * * * Concentrated Grape Juice, and Other Natural Flavors * * * making jelly and marmalade * * * Grape Juice—simply by adding water to 'Nectar Syrup' drink as grape juice," were false and misleading as applied to products containing inconsequential amounts of concentrated fruit juices.

DISPOSITION: December 5, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7703. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 12 Cases of Beverage Sirups. Default decree of condemnation and destruction. (F. D. C. No. 13770. Sample Nos. 74925-F to 74929-F, incl.)

LABEL FILED: September 18, 1944, District of Oregon.

ALLEGED SHIPMENT: On or about August 4, 1944, by the Blue Moon Products Co., from Seattle, Wash.

PRODUCT: 12 cases, each containing 24 jars, of raspberry, strawberry, pineapple, cherry, and lemon and lime sirups, at Portland, Oreg. Examination showed that the cherry sirup was an artificially flavored sirup containing little or no fruit juice; that the other articles were fruit-flavored sirups containing little or no fruit juice; and that the raspberry sirup was undergoing fermentation.

LABEL, IN PART: "Blumas Raspberry [or "Strawberry," "Cherry," or "Pineapple"] * * * Contents 20 oz. Avd. Manufactured by Blumoon Food Products, Inc. Brooklyn, N. Y.," and "Blumas Lemon & Lime Syrup * * * Contents 20 oz. Avd."

VIOLATIONS CHARGED: Adulteration, Section 402 (a) (3), the raspberry sirup consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), the products described above had been substituted in whole or in part for raspberry sirup, strawberry sirup, cherry sirup, pineapple sirup, or lemon and lime sirup, which they were represented to be.

Misbranding, Section 403 (a), the statements "Raspberry [or "Strawberry," or "Pineapple"] * * * fruit and fruit flavor," and "Lemon & Lime Syrup," were false and misleading as applied to sirups flavored with fruit flavors and containing little or no fruit juice; Section 403 (a), the statement "Cherry Syrup" was false and misleading as applied to an artificially flavored sirup containing little or no fruit juice; and, Section 403 (c), the cherry sirup 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.

DISPOSITION: November 15, 1944. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

7704. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 1,115 Jugs of Nutri Grape Syrup, and 399 Jugs of Nutri Cherry Syrup. Consent decree of condemnation. Products ordered released under bond. (F. D. C. No. 12644. Sample Nos. 76494-F, 76495-F.)

LABEL FILED: June 13, 1944, District of New Jersey.

ALLEGED SHIPMENT: Between the approximate dates of March 24 and May 2, 1944, by the Victor Syrup Corporation, from Long Island City, N. Y.

PRODUCT: 1,514 1-gallon jugs of beverage sirups at Belleville, N. J.