

8584. Misbranding of Limburger cheese. U. S. v. 1 Case of Limburger Cheese. Default decree of condemnation and destruction. (F. D. C. No. 16364. Sample No. 5742-H.)

LIBEL FILED: On or about June 13, 1945, District of New Jersey.

ALLEGED SHIPMENT: On or about April 5, 1945, by Joe Schmid, from Beaver Dam, Wis.

PRODUCT: 1 case of 60 bricks of Limburger cheese at Jersey City, N. J.

LABEL, IN PART: (Wrapper) "Finest Quality June Dairy Limburger Cheese * * * This is not a packaged cheese of guaranteed weight. The net weight must be determined by weighing at the time of sale."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was food in package form and its label failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: October 8, 1945. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

8585. Misbranding of cocktail spreads. U. S. v. 622 Cases of Cocktail Spreads. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 16691. Sample Nos. 10252-H, 10291-H, 10310-H, 10311-H.)

LIBEL FILED: July 17, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 24, May 1, and June 8, 1945, by the Borden Cheese Co., from Buffalo, N. Y.

PRODUCT: 288 cases of pimento cocktail spread, 48 cases of relish cocktail spread, 50 cases of smokey cheese cocktail spread, and 236 cases of olive pimento cocktail spread at Pittsburgh, Pa. Each case contained 24 5-ounce jars. Examination showed that the pimento, olive pimento, and relish cocktail spreads contained, among other things, phosphoric acid and dextrose; and that the smokey cheese cocktail spread contained, among other things, pyroligneous acid.

LABEL, IN PART: (Jars) "Borden's Pimento [or "Olive Pimento," or "Relish"] Cocktail Spread Net Wt. 5 Oz. * * * Cream, Pimentos, [or "Olive and Pimentos," or "Sweet Relish and Pimentos"] Non-fat Dry Milk and Whey Solids, Sugars, Vinegar, Salt, Organic Acid, Vegetable Gum and Vegetable Coloring," or "Borden's Smokey Cheese Cocktail Spread Net Wt. 5 Oz. * * * Ingredients: Process Aged Cheddar Cheese, Cream, Salt, Hickory Wood Distillate and Vegetable Coloring."

NATURE OF CHARGE: Misbranding, Section 403 (a), the statement "Organic Acid" on the labels of the pimento, olive pimento, and relish spreads was false and misleading as applied to phosphoric acid, which is an inorganic acid; and, Section 403 (f), the name and place of business of the manufacturer, packer, or distributor, and the common or usual name of each ingredient of the articles, required by law to appear on the labels, were not prominently placed thereon and printed with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since the ingredient statement appeared quite inconspicuously around the borders of the labels, and the name and address of the manufacturer was printed inconspicuously in small white type on a yellow background.

Further misbranding (pimento, olive pimento, and relish spreads), Section 403 (i) (2), the labels failed to bear the common or usual name of each ingredient, since the name "Sugars" is not the common or usual name for dextrose, "Organic Acid" is not the common or usual name for phosphoric acid, and (smokey cheese spread) "Hickory Wood Distillate" is not the common or usual name for pyroligneous acid.

DISPOSITION: November 5, 1945. The Borden Co., the sole intervener in the case, having indicated that it did not propose to file an answer or exceptions to the libel, judgment of condemnation was entered and the products were ordered delivered to a charitable institution.

8586. Misbranding of nonfat dry milk solids. U. S. v. Blue Moon Foods, Inc. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 15545. Sample No. 76074-F.)

INFORMATION FILED: June 6, 1945, Western District of Wisconsin, against the Blue Moon Foods, Inc., a corporation, Thorp, Wis.

ALLEGED SHIPMENT: On or about July 6, 1944, from the State of Wisconsin into the State of New York.