

FISH AND SHELLFISH

16021. Misbranding of Minnesota Lakefish. U. S. v. 100 Cases * * *. (F. D. C. No. 25809. Sample No. 9576-K.)

LIBEL FILED: October 11, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about July 21, 1948, by the Lakefish Canning Co., from Mankato, Minn.

PRODUCT: 100 cases, each containing 48 6½-ounce cans, of Minnesota Lakefish at New York, N. Y. Examination showed that the cans and labels of the product were of the size, style, and arrangement customarily used for tuna fish. The article contained fish of the carp variety.

LABEL, IN PART: (Can) "Minnesota Lakefish Brand Fresh Water Light Meat."

NATURE OF CHARGE: Misbranding, Section 403 (a), the style of labeling and the following label statements were misleading since they suggested that the article was comparable in uses and taste, and had the characteristics, of canned tuna fish, and that it was a new variety of fish, namely, lakefish, whereas the article did not resemble canned tuna fish in taste and other characteristics and was canned carp, a common variety of fresh water fish: "Minnesota Lakefish Light Meat Try this new Minnesota Lakefish * * * Use your favorite Tuna Fish * * * Recipes. Write for Recipe Booklets Novel and different dishes prepared with Minnesota Lakefish. For appetizing Recipes (see other side of label) * * * Can be used in any recipe that calls for Tuna Fish * * *."

Further misbranding, Section 403 (a), the style of labeling and the name "New Minnesota Lakefish Light Meat * * * Use your favorite Tuna Fish * * * Recipes * * * Can be used in any recipe that calls for Tuna Fish" were false and misleading since they represented and suggested that the article was a new variety of fresh water fish comparable in taste and characteristics to light meat tuna fish, whereas the article was a common variety of local fish, namely, carp; and, Section 403 (f), the name of the article "Carp" was not prominently placed on the label with such conspicuousness (as compared with other words, statements, and designs on the label) as to render such name likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: April 19, 1950. The Lakefish Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the court ordered that the product be released under bond for relabeling under the supervision of the Federal Security Agency.

16022. Misbranding of canned clams. U. S. v. 347 Cases, etc. (F. D. C. Nos. 28351, 28352. Sample Nos. 30233-K, 30235-K.)

LIBEL FILED: November 23, 1949, Southern District of California.

ALLEGED SHIPMENT: On or about September 7, 1949, by the General Foods Corp., Blue Point Division, W. Sayville, Long Island, N. Y.

PRODUCT: 472 cases, each containing 24 cans, of clams at Los Angeles, Calif.

LABEL, IN PART: "Drained Weight 5 Oz. Net weight 10 Oz. 40-Fathom Mince Clams."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Drained Weight 5 Oz." was false and misleading. (The drained weight was less than 5 ounces.)

DISPOSITION: February 16, 1950. The General Foods Corp., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond to be relabeled under the supervision of the Food and Drug Administration.

16023. Adulteration of crab meat. U. S. v. Fred A. Whorton, Jr. (Whorton Brothers). Plea of guilty to count 1; defendant fined \$250 and placed on probation for 2 years. Judgment of acquittal on remaining counts. (F. D. C. No. 27539. Sample Nos. 3296-K, 40197-K, 40443-K, 47612-K.)

INDICTMENT RETURNED: October 10, 1949, Eastern District of North Carolina, against Fred A. Whorton, Jr., trading as Whorton Brothers, Oriental, N. C.

ALLEGED SHIPMENT: On or about June 22, 23, 28, and 29, 1949, from the State of North Carolina into the State of Pennsylvania.

LABEL, IN PART: "Whorton Brothers * * * Crab Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance, as evidenced by the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 18, 1950. A plea of guilty having been entered by the defendant to count 1, the court imposed a fine of \$250 and placed him on probation for 2 years. The defendant was acquitted, however, on the three remaining counts of the information.

16024. Adulteration of canned oysters. U. S. v. 146 Cases * * *. (F. D. C. No. 28563. Sample No. 50090-K.)

LABEL FILED: December 15, 1949, Western District of Washington.

ALLEGED SHIPMENT: On or about November 3, 1949, by the Pelican Lake Oyster & Packing Co., Ltd., Houma, La.

PRODUCT: 146 cases, each containing 48 4 $\frac{3}{4}$ -ounce cans, of oysters at Seattle, Wash.

LABEL, IN PART: "Pel-La-Co Louisiana Oysters."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed oysters.

DISPOSITION: February 21, 1950. The shipper having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the court ordered that the product be released under bond, conditioned that the unfit portion be segregated under the supervision of the Food and Drug Administration. Segregation operations were completed on April 24, 1950, and resulted in the destruction of 61 cases and 15 cans of the product.

16025. Adulteration of oysters. U. S. v. 440 Pints, etc. (F. D. C. No. 28595. Sample Nos. 47225-K, 47226-K.)

LABEL FILED: December 21, 1949, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 17, 1949, by Dryden Bros. Seafood Co., Inc., from Crisfield, Md.

PRODUCT: 730 pints of oysters at Pittsburgh, Pa.

LABEL, IN PART: "D-B Brand * * * Oysters."