

the manufacture or processing of the cheese were dirty, insanitary, and filthy; and the milk from which the cheese was manufactured contained a high concentration of filth.

The complaint alleged further that the defendants, particularly Charles J. Caravetta, repeatedly had been advised that the conditions under which they were operating were insanitary; that cheese manufactured by them was grossly contaminated with filth and should not be introduced into interstate commerce, but that, notwithstanding, cheese manufactured by them had been seized and condemned under libels charging violation of Sections 402 (a) (3) and (4); and that on April 16, 1945, the defendant corporation pleaded guilty to an information charging the interstate shipment of adulterated cheese and was fined \$1,000. The complaint prayed that the court grant a preliminary injunction, and that after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: On September 21, 1945, the defendants having consented to the entry of a decree, the court entered an order enjoining and restraining the defendants and all persons acting upon their behalf from introducing into interstate commerce, either directly or indirectly, cheese adulterated as alleged in the complaint.

17526. Action to enjoin and restrain the interstate shipment of adulterated cheese. U. S. v. Albert M. Feiner (Ethan Dairy Products). Preliminary injunction granted. (Inj. No. 94.)

COMPLAINT FILED: April 30, 1945, District of South Dakota, against Albert M. Feiner, doing business as Ethan Dairy Products, Ethan, S. Dak.

NATURE OF CHARGE: That the defendant manufactured cheese at the rate of approximately 800 pounds per day, of which approximately 100 percent was introduced or delivered for introduction into interstate commerce by the defendant; and that during the period from June 11, 1942, and continuing to the time of filing the complaint, the cheese so manufactured and introduced, or delivered for introduction, into interstate commerce by the defendant was adulterated in the following respects: Section 402 (a) (3), it consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further as a basis for the charge that the product was adulterated under Section 402 (a) (3), that inspections of the milk being used in the manufacture of the cheese showed that it contained weevils, houseflies, fruit flies, moths, a spider, other insects, cow hairs, straw, chaff, soot, dust, mud, sand, rust, wood, paint, manure, vegetable and plant matter, and nondescript dirt; and that examinations of the cheese which was shipped by the defendant in interstate commerce revealed that the product was contaminated by the presence of insect fragments, rodent hair fragments, cat hair fragments, cow hair fragments, unidentified hairs, feather barbules, straw fragments, plant fragments, sand, soot, rust, metal fragments, and miscellaneous dirt.

The complaint alleged further as a basis for the charge that the product was adulterated under Section 402 (a) (4), that inspections of the plant disclosed that it was infested with mice, flies, and a cat, all of which had been observed in the machinery and equipment used in the manufacture of the product.

The complaint alleged further that although the defendant had been informed of the conditions found during the inspections and warned to remedy such conditions, no material improvement had been effected. The complaint prayed that the defendant be permanently restrained from commission of the acts complained of, and that pending the entry of a final judgment, a preliminary injunction be issued restraining such acts.

DISPOSITION: May 17, 1945. The defendant having consented to the entry of a preliminary injunction, the court issued an order restraining the defendant from shipping in interstate commerce any cheese which was adulterated as alleged in the complaint, pending the entry of a final judgment or until further order of the court. No further proceedings have been reported.

17527. Action to enjoin and restrain the interstate shipment of adulterated cheese. U. S. v. Alfred Gunzenbeck and Albert Nef (Valley Queen Cheese Factory). Preliminary injunction granted; subsequently dissolved. (Inj. No. 83.)

COMPLAINT FILED: February 27, 1945, District of South Dakota, against Alfred Gunzenbeck and Albert Nef, trading as Valley Queen Cheese Factory, Milbank, S. Dak.

NATURE OF CHARGE: That the defendants had been and were introducing and delivering for introduction into interstate commerce, at Milbank, S. Dak., cheese which was adulterated under Section 402 (a) (3), in that it consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), in that it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further as a basis for the charge under Section 402 (a) (3), that examinations of various lots of the milk used by the defendants in the manufacture of cheese had showed the presence of various types of filth, such as houseflies, rodent hairs, moths, beetles, spiders, larvae, weevils, miscellaneous insect fragments, cow hairs, feather barbules, and various miscellaneous extraneous matter; and that examinations of cheese shipped in interstate commerce by the defendants showed that it was contaminated by insect fragments, straw fragments, larvae, mites, unidentified hairs, feather barbules, manure fragments, and miscellaneous dirt.

The complaint alleged further as a basis for the charge under Section 402 (a) (4), that inspections of the plant showed that it was infested with mice, roaches, and flies.

The complaint alleged further that although the defendants had been repeatedly advised by representatives of the Food and Drug Administration of the conditions disclosed by the inspections and had been requested and warned to bring about correction thereof, they had ignored such warnings. The complaint prayed that the defendants be permanently restrained from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On March 14, 1945, the petition for a preliminary injunction was heard before the court, and a decree was entered temporarily enjoining the defendants from introducing, or delivering for introduction, into interstate commerce any cheese which was adulterated as alleged in the complaint. On November 15, 1949, on motion of the defendants, the preliminary injunction was ordered dissolved and the action dismissed.