

"Headless Shrimp" was false and misleading; and 403(e) (2)—the label statement "One Pound Net Weight" was inaccurate (the article was short weight).

DISPOSITION: 6-3-58. Default—destruction.

24811. Anchovies and antipasto. (F.D.C. No. 41288. S. Nos. 62-624/28 M.)

QUANTITY: 1,212 boxes, 12 jars each, of anchovies and 580 boxes, 12 jars each, of antipasto at New York, N.Y.

SHIPPED: Between 1-4-57 and 5-13-57, from Yugoslavia by the American Roland Co.

LABEL IN PART: (Jar covers) "Antipasto Roland Brand Packed in Izola, Yugoslavia Composed of: Tunny Fish * * * Net Weight 2¾ ozs. * * * Product of Yugoslavia" and "Filets of Anchovies in Pure Olive Oil Rolled with capers & pimentos & flat. Salt added. Roland * * * Packed in Izola, Yugoslavia * * * 3¼ Oz."

LIBELED: 1-14-58, S. Dist. N.Y.

CHARGE: Anchovies, 402(b) (2)—red peppers had been substituted for pimentos when shipped; and 403(a)—the label statement "Filets of Anchovies * * * Rolled with capers & pimentos" was false and misleading as applied to the article containing red pepper skins instead of pimentos.

Antipasto, 402(b) (2)—bonito fish had been substituted for tuna fish when shipped; and 403(a)—the label statement "Antipasto * * * composed of: Tunny fish" was false and misleading as applied to the article which contained bonito fish instead of tuna fish.

DISPOSITION: 4-9-58. Consent—claimed by Bruno Scheidt, Inc., New York, N.Y., and relabeled.

24812. Oysters. (Inj. No. 307.)

COMPLAINT FOR INJUNCTION FILED: 2-6-57, Dist. Md., against Bay Food Products Co., Inc., Baltimore, Md., to enjoin the interstate shipment of adulterated oysters.

CHARGE: The complaint alleged that the defendant was engaged in the business of selling and distributing raw shucked oysters in cans; and, that the defendant had been introducing and delivering for introduction into interstate commerce, oysters which were adulterated within the meaning of 402(b)(2) in that water had been substituted in part for oysters, and 402(b)(4) in that water had been added, mixed, and packed with the oysters so as to increase their bulk and reduce their quality.

The complaint alleged also that the articles of food, as shipped by the defendant, purported to be and were represented as shucked oysters, for which definitions and standards of identity have been prescribed by regulations; that the standards provide, among other things, that oysters shall be shucked, washed, and drained, prior to packing, in such a manner that not over 5 percent of drained liquid will be found in the oysters 15 minutes after packing; that extensive experimental packs of oysters established, when packed in conformity with the standards; that oysters will not exceed the 5 percent limit of drained liquid; that specific shipping experiments show that legally packed oysters do not subsequently release liquid, and, that there will be no increase in the drained liquid content of the cans of oysters with the passage of time after packing; that samples collected from interstate shipments made by the defendant, upon analysis, disclosed the presence of amounts of liquid greatly in excess of 5 percent; and, that such analytical findings established that the

oysters were adulterated by (1) excessive soaking of the oysters in fresh water to the extent that the oysters absorbed a large quantity of it, (2) the addition of water to the cans of oysters at the time of packing, (3) the inadequate draining of the oysters after washing so that a significant proportion of the washwater was retained and packed with the oysters, or (4) a combination of the above-mentioned factors.

The complaint alleged further that, since the time the defendant commenced business in 1951, the Food and Drug Administration had examined 44 interstate shipments of the firm's oysters; that 24 of these shipments (54 percent) contained excess drained liquid, as high as 33.7 percent; that 5 of the 24 lots were seized because of the presence of added water; and, that none of the seizures had been contested.

It was alleged also that the defendant corporation was well aware that its activities resulted in violations of the law; that, in addition to the warnings received as a result of the seizure proceedings, repeated warnings had been given to the management during factory inspections, as well as at administrative hearings; and, that, notwithstanding such warnings, the defendant would continue to introduce and cause to be introduced and deliver and cause to be delivered for introduction into interstate commerce, raw shucked oysters adulterated as aforesaid.

DISPOSITION: The Government filed a motion for preliminary injunction, and an answer to the complaint for injunction was filed by the defendant.

On 6-27-58, the parties stipulated to dismissal of the complaint without prejudice in order that the Food and Drug Administration might conduct additional investigational studies to collect further scientific evidence to clarify the standard for raw shucked oysters.

FRUITS AND VEGETABLES

CANNED FRUIT

24813. Canned cherries. (F.D.C. No. 41533. S. No. 35-444 P.)

QUANTITY: 363 cases, 24 15-oz. cans each, at Philadelphia, Pa.

SHIPPED: 2-21-58, from Rochester, N.Y.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 4-30-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-28-58. Default—destruction.

24814. Canned cherries and canned tomatoes. (F.D.C. No. 41509. S. Nos. 34-551 P, 35-553 P.)

QUANTITY: 113 cases, 24 15-oz. cans each, of cherries and 57 cases, 48 10-oz. cans each, of tomatoes at Philadelphia, Pa.

SHIPPED: 2-20-58 (cherries), from Rochester, N.Y., and, on an unknown date (tomatoes), from Federalsburg, Md.

LIBELED: 4-10-58, E. Dist. Pa.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-5-58. Default—destruction.