

**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F.N.J. NOS. 27551-27600**

Adulteration, Section 402(a) (2) (B), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408(a); Section 402(a) (2) (C), the article contained a food additive which was unsafe within the meaning of Section 409; Section 402(a) (3), the article consisted in whole or in part of a filthy, putrid, or decomposed substance, or it was otherwise unfit for food; Section 402(a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it might have become contaminated with filth; Section 402(b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 408(a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare; and Section 409, a food additive was deemed to be unsafe because the food additive and its use or intended use failed to conform to the terms of an effective exemption, or because there was not in effect, or the food additive and its use or intended use failed to be in conformity with, a regulation prescribing conditions for safe use.

Misbranding, Section 403(a), the labeling of the article was false and misleading; Section 403(e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; Section 403(f), a word, statement, or other information required by or under authority of the Act to appear on the label or labeling was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403(g) (1), the article purported to be or was represented as a food for which a definition and standard of identity had been prescribed by regulations, and the article failed to conform to such definition and standard; Section 403(j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information concerning its vitamin, mineral, and other dietary properties as the Secretary has determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS

27551. Root beer and orange drink. (F.D.C. No. 45996. S. Nos. 22-480 R, 22-506 R, 22-694/5 R, 24-081/4 R.)

INFORMATION FILED: 7-28-61, W. Dist. Mo., against Charles E. Hires Co., Div. of Consolidated Foods Corp., Kansas City, Mo., and Albert Burriss, superintendent of the corporation's Kansas City plant.

SHIPPED: Between 5-13-60 and 9-13-60, from Missouri to Kansas.

LABEL IN PART: (Btl.) "Bottled by C. E. Hires Co. Hires"; "Bottled By C. E. Hires Co. Hires Root Beer Kansas City, Mo."; and "Nesbitt's of California."

CHARGE: 402(a) (3)—contained mold, yeast, insects, insect fragments, and rodent hairs; and 402(a) (4)—portions of the article had been prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 8-11-61. The court dismissed the information against the corporation and fined the individual \$800, plus costs.

27552. Tea. (F.D.C. No. 46209. S. No. 5-869 R.)

QUANTITY: 40 cases, 48 pkgs. each, at Lumberton, N.C.

SHIPPED: 4-4-61, from Camden, N.J., by Levering Coffee Co.

LABEL IN PART: (Pkg.) "¼ Pound Net Wt. Vesper Tea * * * The Levering Coffee Co., Baltimore, Maryland."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 8-8-61, E. Dist. N.C.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-6-61. Default—delivered to a public institution.

27553. Instant tea. (F.D.C. No. 46195. S. No. 75-303 R.)

QUANTITY: 36 cases, 24 jars each, at East Point, Ga.

SHIPPED: 5-1-61, from New York, N.Y., by Tetley Tea Co., Inc.

LABEL IN PART: (Jar) "TETLEY * * * Instant Tea Net Wt. 1½ Oz. With Malto-Dextrin * * * Blended by—Tetley Tea Co., Inc. New York, N.Y. Made in U.S.A."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 7-26-61, N. Dist. Ga.

CHARGE: 403(e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-23-61. Default—delivered to a public institution.

27554. Honeymalt. (F.D.C. No. 46104. S. Nos. 56-994 R, 56-998 R.)

QUANTITY: 996 cases, each containing 3 cartons of 6 cans each, at Brooklyn, N.Y.

SHIPPED: 11-22-60, from Philadelphia, Pa., by Honeymalt Co.

LABEL IN PART: (Can) "Try Honeymalt * * * a Non-Alcoholic Beverage Contents 12 Fluid Ozs. * * * Ingredients—Honey and Maltose * * * The Arb Co., Phila., Pa. Distributed Exclusively by Honeymalt Co. Ridgefield, N.J."

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

LIBELED: 7-25-61, E. Dist. N.Y.

CHARGE: 402(a) (3)—contained a decomposed substance while held for sale; 403(a)—when shipped, the name "Honeymalt" and the label statement "The goodness of malt" suggested and implied that the article contained malt, which