

CHARGE: 402(a)(3)—when shipped, the article contained decomposed butter.  
DISPOSITION: 9-26-60. Consent—claimed by Sugar Creek Creamery Co., a Division of National Dairy Products Corp., and converted into oil.

28550. Butter. (F.D.C. No. 47640. S. No. 74-091 T.)

QUANTITY: 20 60-lb. ctns., at New York, N.Y.

SHIPPED: 8-30-62, from Monticello, Iowa, by Consolidated Shippers, Worthington, Iowa.

LABEL IN PART: "It's Better With . . . Hotel Bar Butter Creamery Butter Keep Refrigerated."

LIBELED: 9-19-62, S. Dist. N.Y.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 10-2-62. Consent—claimed by Frederick F. Lowenfels & Son, New York, N.Y., and reworked.

28551. Butter. (F.D.C. No. 47642. S. No. 91-351 T.)

QUANTITY: 59 64-lb. ctns., at Sioux City, Iowa.

SHIPPED: 8-27-62, from Randolph, Nebr., by Randolph Creamery.

LABEL IN PART: "Creamery Butter Keep Refrigerated."

LIBELED: 9-14-62, N. Dist. Iowa.

CHARGE: 402(b)(2)—when shipped, a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: 10-17-62. Consent—claimed by Randolph Creamery and converted into animal feed.

28552. Butter. (F.D.C. No. 47336. S. Nos. 10-034/7 T, 10-040 T.)

INFORMATION FILED: 8-14-62, W. Dist. Pa., against Bishoff Waynesburg Creamery Co., a corporation, Waynesburg, Pa., and Avery Bishoff, Jr., secretary-treasurer.

ALLEGED VIOLATIONS: On 2-15-61, the defendants caused to be given, to a firm engaged in the business of shipping butter into interstate commerce, a guaranty to the effect that no article shipped by the corporation under the guaranty would be adulterated. Between 11-1-61 and 11-16-61, the defendants caused quantities of an adulterated food, the labeling of which represented the food to be butter, to be shipped to the holder of the guaranty.

CHARGE: 402(b)(1)—a valuable constituent of the article, milk fat, had been in part omitted; and 402(b)(2)—a product which contained less than 80 percent by weight of milk fat was substituted for butter.

PLEA: Nolo contendere.

DISPOSITION: 12-28-62. Corporation—\$2,500 fine, plus costs; individual—\$5 fine.

### CHEESE

28553. Grated American cheese products. (F.D.C. No. 46826. S. No. 34-326 T.)

QUANTITY: 8 cases, each containing 12 2-oz. boxes, at Minneapolis, Minn.

SHIPPED: 10-28-61, from Chicago, Ill., by Kraft Foods.

LABEL IN PART: (Box) "Kraft Grated American Cheese Product Sharp Cheddar Flavor 2 Ozs. Net Wt. \* \* \* Kraft Foods \* \* \* Div. National Dairy Products Corp."

**RESULTS OF INVESTIGATION:** The statement of the ingredients was printed in small type in silver colored ink on a metallic-surfaced paper, both having a sheen which made it difficult to read the print.

**LIBELED:** 12-5-61, Dist. Minn.

**CHARGE:** 403(f)—when shipped, the information required by 403(i)(2) to appear on the label, namely, a statement of the ingredients, was not prominently placed on the label of the article with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

**DISPOSITION:** On 3-23-62, Kraft Foods, Div. of National Dairy Products Corp., filed an answer and denied that the article was misbranded. On 11-26-62, the claimant having withdrawn its answer, the court entered a default decree and the article was destroyed.

### MISCELLANEOUS DAIRY PRODUCTS

28554. Cream. (F.D.C. No. 45681. S. Nos. 15-942 R, 15-946 R, 15-949 R, 15-952/3 R, 15-956 R, 16-099/100 R.)

**INFORMATION FILED:** 7-19-61, S. Dist. Ind., against Sugar Creek Creamery, a Div. of National Dairy Products Corp., Evansville, Ind.

**SHIPPED:** Between 7-30-60 and 8-18-60, from Kentucky and Illinois to Indiana.

**CHARGE:** 402(a)(3)—consisted in part of decomposed cream.

**DISPOSITION:** The defendant filed a motion for bill of particulars on 11-28-61, which was answered in part by the Government. Subsequently the defendant filed motions for further pretrial discovery on 1-15-62 and a request for further answers to the bill of particulars on 1-18-62, which were denied. On 6-27-62, the defendant pleaded guilty to the 8-count information and was fined \$4,000.

28555. Evaporated milk. (F.D.C. No. 47614. S. No. 53-359 T.)

**QUANTITY:** 56 cases, each containing 48 cans, at Milwaukie, Oreg.

**SHIPPED:** 2-14-62 and 2-28-62, from Mount Vernon, Wash., by Carnation Co.

**LABEL IN PART:** (Can) "Special Morning Vitamin D Content Increased Evaporated Milk \* \* \* Net Wt. 14½ Ozs. \* \* \* Dist. by Morning Milk Company Salt Lake City, Utah \* \* \* Vitamin D 25 U.S.P. units added per fluid ounce. Each reconstituted quart \* \* \* provides 400 U.S.P. units."

**RESULTS OF INVESTIGATION:** Examination showed that the article contained approximately 40 percent of the declared amount of vitamin D. The article failed to conform to the definition and standard of identity for evaporated milk with vitamin D increased which requires not less than 25 U.S.P. units of vitamin D per fluid ounce.

**LIBELED:** On or about 5-25-62, Dist. Oreg.

**CHARGE:** 402(b)(1)—when shipped, the valuable constituent, namely, vitamin D, had been in part omitted or abstracted from the article; 403(a)—the label statements "Vitamin D 25 U.S.P. units added per fluid ounce" and "Each reconstituted quart \* \* \* provides 400 U.S.P. Units" were false and misleading as applied to a product containing less than the declared amount of vitamin D; 403(g)(1)—the article failed to conform to the definition and standard of identity for vitamin D content increased evaporated milk.