

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS**

29505. Enriched bread. (F.D.C. No. 45585. S. Nos. 27-757 R, 27-856 R, 29-278/9 R, 52-437 R.)

INFORMATION FILED: 9-8-61, Dist. Minn., against Red Owl Stores, Inc., Hopkins, Minn., and Vernon J. Winter, vice president, and Arthur J. Kehn, superintendent.

SHIPPED: Between 9-15-60 and 11-2-60, from Minnesota to Wisconsin and Iowa.

LABELS IN PART: (Wrappers) "Split-Top Enriched Bread Made with Butter Baked by Red Owl Stores, Inc., Minneapolis, Minn., Fargo, N.D.," and "Old Style Oven White Enriched Bread Calcium Propionate Added to Retard Spoilage Baked by Red Owl Stores, Inc., Minneapolis, Minn., Fargo, N. D."

CHARGE: 403(g) (1)—when shipped, the Split-Top bread (counts 1, 2, 3, and 4) and the Old Style Oven bread (count 5) purported to be and were represented as enriched bread, a food for which a definition and standard of identity has been prescribed by regulations and the articles failed to conform to such standard in that they contained per pound less than 1.1 mg. of thiamine, less than 0.7 mg. of riboflavin, less than 10.0 mg. of niacin, (all counts) and less than 8.0 mg. of iron (counts 1, 3, 4, and 5); and 403(j)—the Split-Top bread (counts 1, 2, 3, and 4) purported to be and was represented as a food for special dietary use and its label failed to bear as required by regulations, a statement of the proportion of the minimum daily requirements for the vitamins thiamine, riboflavin, and niacin, and the mineral iron, supplied by such food when consumed in a specified quantity during a period of 1 day.

PLEA: Not guilty by each defendant.

DISPOSITION: The individual defendants failed to respond to the summons issued to each of them and, on 2-28-62, each was arrested on a bench warrant. The defendants moved to quash the warrant on the grounds (1) that the information had not been supported by oath, (2) that the affidavit of the Director of the Minneapolis District of the Food and Drug Administration attached to the application for warrant was not an "oath" as required by law, that it failed to show probable cause and was based on hearsay, (3) that the warrant was issued in violation of the fourth and fifth Amendments to the Constitution and (4) that the court did not have jurisdiction over the defendants. The motion was denied 3-14-62.

The defendants moved also to dismiss the information, and in the alternative, to strike as surplusage descriptive phrases identifying the position in the corporation of each of the individual defendants, and for a bill of particulars. The motion for a bill of particulars was granted in part and the other motions were denied.

Pleas of not guilty having been entered, the case came to trial before the court and jury on 5-15-62, and continued until 5-25-62. At the close of the Government's case the court granted the defendants' motion to strike from counts 1-4, the allegation that the articles were misbranded under 403(j). At the close of the trial, the court directed a verdict of acquittal with respect to Vernon J. Winter on the grounds that the Government had not shown a sufficient direct connection on the part of the vice president with the alleged interstate shipments of misbranded bread. The jury returned a verdict of guilty on all counts against the corporation and Arthur J. Kehn. On 6-7-62, the

court imposed a fine of \$2,500, plus costs, against the corporation and a fine of \$1,000 against the individual.

29506. Enriched bread. (F.D.C. No. 49693. S. Nos. 45-689/90 X, 45-694 X, 45-696 X, 45-584 X, 45-919 X.)

INFORMATION FILED: 4-8-64, S. Dist. Ill., against L. Bruno & Sons Bakery, a partnership, and Lorenzo J. Bruno, partner, Collinsville, Ill.

SHIPPED: Between 7-20-63 and 9-6-63, from Collinsville, Ill., to St. Louis, Mo.

LABEL IN PART: "BIG EXTRA VALUE ENRICHED WHITE BREAD L. Bruno & Son, Collinsville, Ill. WGT. 1 LB."

CHARGE: 402(a)(4)—when shipped, the article had been prepared and wrapped under insanitary conditions whereby it may have become contaminated with filth.

PLEA: Guilty.

DISPOSITION: 6-1-64. Partnership—\$1,800 fine; Bruno—\$1,800 fine, plus costs.

29507. English muffins. (F.D.C. No. 49696. S. No. 31-210 X.)

INFORMATION FILED: 4-1-64, S. Dist. Calif., against Korry's English Muffins, Inc., a corporation, Sid Korry, president, and Sol Korchek, treasurer, Los Angeles, Calif.

SHIPPED: 7-8-63, from Los Angeles, Calif., to Phoenix, Ariz.

LABEL IN PART: (Pkg.) "THE NEW ENRICHED KORRY'S ENGLISH MUFFINS MIN. NET WT. 9 OZ."

CHARGE: 402(a)(3)—contained insect fragments; and 402(a)(4)—prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

PLEA: Guilty.

DISPOSITION: 5-19-64. Corporation—\$750 fine; Korry—\$200 fine; Korchek—\$200 fine.

29508. Melba toast. (F.D.C. No. 49666. S. Nos. 77-239/40 X.)

QUANTITY: 82 cases, each containing 12 pkgs., at Brooklyn, N.Y.

SHIPPED: Between 9-10-63 and 9-25-63, from New Orleans, La., by Turnbull Cone Baking Co.

LABEL IN PART: (Pkg.) "Turnbull Rye Flavored Rounds * * * Melba Toast Baked by Turnbull Cone Baking Co. * * * New Orleans 25, Louisiana * * * Net Wt. 4 Ozs."

RESULTS OF INVESTIGATION: The article was found to be approximately 10 percent short weight.

LIBELED: 1-7-64, E. Dist. N.Y.

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

DISPOSITION: 4-13-64. Default—ordered delivered to a charitable institution, or, if not accepted, to be destroyed.

29509. Spanish Bar cookies, flour, and raisins. (F.D.C. No. 49688. S. Nos. 16-826/7 X, 16-819 X, 54-404/5 X.)

INFORMATION FILED: 3-6-64, M. Dist. Tenn., against American Bread Co., a corporation, Nashville, Tenn., Frank B. Evers, Sr., president, George R. Hogan,