

UNITED STATES OF AMERICA
IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION
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UNITED STATES OF AMERICA,

Plaintiff,

No. 1:93-CR-21

vs.

Hon. Robert Holmes Bell

FLAVOR FRESH FOODS CORPORATION,
EDWARD B. CROUSE,
SAAD ALHIR,
JAMES R. MARSHALL,
JAMES E. BENTON, and
FRIEDRICH R. "FRED" KOHLBACH,

Defendants.

DECLARATION OF JOSEPH J. BUECHEL

Pursuant to 28 U.S.C. § 1746, Joseph J. Buechel declares as follows:

1. For the last 20 years, I have been consistently employed in the beverage industry. I have a B.S. in Biology from Western Michigan University and an M.S. in Food Science from Michigan State University.

2. Between 1973 and 1978, I worked as a Quality Control Technician for Home Juice, Detroit ("Home Juice"), whose name was later changed to EverFresh Juice Company. Home Juice had an affiliated company in Melrose Park, Illinois, which was known as Home Juice, Chicago. When I joined Home Juice, James Marshall worked at the Chicago operation. During that time, Home Juice was adulterating its purportedly 100% pure orange juice from concentrate with sugar. Marshall had developed the formulas for

adulterating orange juice for Home Juice, and he provided ongoing technical advice on the adulteration process until he left the company around 1975.

3. While I worked at Home Juice, I became acquainted with Friedrich Kohlbach, a German national, who would visit the Home Juice plant from time to time. During the 1970s, Kohlbach supplied Home Juice with a powdered preservative that the company illegally added to its orange juice.

4. In 1979, I joined Peninsular Products Company ("Peninsular") in Lansing, Michigan, as Quality Control Director. Marshall, who was then one of the owners of Flavor Fresh Juice Corporation ("Flavor Fresh") in Chicago, had recommended me for that position. I stayed with Peninsular through December 1986. During that time, Peninsular manufactured orange juice out of adulterated concentrates that Flavor Fresh supplied.

5. Around 1982/1983, Peninsular tested a preservative that Marshall was able to obtain from Kohlbach. It was a milky-white liquid that came in blue, five-gallon, plastic containers. Our tests showed that the preservative was very effective. After adding the preservative to orange juice, the juice became virtually sterile. We determined that, if the juice's container remained unopened, there would be no microbial contamination of the product, even after several months.

6. Shortly after Peninsular tested the Kohlbach preservative, the company decided to purchase some equipment from Kohlbach that was designed to inject the preservative into the

juice after pasteurization, along with orange aroma. Kohlbach came to Peninsular's plant to install the machinery, which he referred to as a "dosing unit." The dosing unit consisted of two approximately 50-gallon tanks in which Kohlbach's preservative was mixed with water and aroma. The mixture was fed into a pump, which then injected it into the juice. There was a control panel that enabled the user to set how many milliliters of the mixture would be added to the juice per minute.

7. Kohlbach instructed me in how much preservative to use and in how to regulate the size of the dosages. Kohlbach and I had discussions about how his product worked. He would not divulge to me what the exact ingredients were, but he said that the product consisted of an enzyme that destroyed microorganisms in the juice. My recollection is that he described the product as providing "one bullet for every bug." Kohlbach said that the enzyme was very effective in extending the shelf life of juice and that it was nondetectable. He said that the more microbial contamination there was in the juice, the more of his product Peninsular needed to use.

8. Kohlbach and I also discussed adding the product directly to the juice instead of through the dosing unit. Kohlbach said that this was permissible, so long as we made sure to thoroughly mix the enzyme with the entire batch of juice. Kohlbach never discussed with me that his product was intended to protect or enhance orange aroma or orange oil, both of which may be legally used in the manufacture of orange juice from

concentrate. In fact, while I was with Peninsular, we added orange oil to the juice at the blending stage, before the product was pasteurized. We would not have mixed Kohlbach's product with the orange oil.

9. After Peninsular made the decision to use Kohlbach's preservative -- which was shortly before the dosing unit was installed -- the product regularly arrived along with deliveries of concentrate from Flavor Fresh, and it was used in the production of all batches of orange juice. Flavor Fresh invoiced the product to us as "flavoring compound." Once or twice a year, Kohlbach would come to Peninsular's plant to service the dosing system. By using Kohlbach's preservative, Peninsular was able to increase the shelf life of its orange juice from around 28 days to approximately 49 days.

10. Peninsular never used Kohlbach's preservative as a cleansing agent. The product was very expensive, costing several hundred dollars per gallon. Cleansing agents or compounds generally cost less than \$10 per gallon.

11. When I left Peninsular, Saad Alhir replaced me as Quality Control Director. For a couple of months before leaving, I trained Alhir in my duties. Among other things, I explained to him that he would be frequently consulting with Marshall about adjustments that needed to be made in the formulas for making Peninsular's orange juice. I also showed him how Peninsular sent samples of its juice to a lab in Cambridge, Massachusetts, in order to determine whether the adulteration in the juice would be

detectable. Finally, I provided him with formulas that I had obtained from Marshall for the ingredients in Marshall's adulterated concentrates. These formulas showed that there was sugar in the concentrates that Marshall was supplying Peninsular.

12. Having worked in the beverage industry for 20 years, I am familiar with how the market prices drinks and 100% juice products. If a product can only legally be sold as a drink, its retail price will generally be less than the price at which the product would sell if it were 100% juice. That is because the public is generally not willing to spend the same price for drink as for 100% pure juice, regardless of how much juice the drink contains.

I declare under penalty of perjury that the foregoing is true and correct.

 10/9/93

Joseph J. Buechel

Dated: