

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
Sixty 20-pound bags, more or less, of an)
article of food labeled in part:)
)
(bags))
)
“ ***BANSI***BASMATI)
RICE***PRODUCT INDIA NEW WT:)
20lbs***Distributed by DEEP FOODS INC.)
UNION N.J. 07080***”)
)
and)
)
all other articles of food in various sizes and)
types of containers (excluding metal and glass)
containers and items in the freezer), that are)
located anywhere on the premises of Chetak)
Chicago LLC, 1111 East Lake Street,)
Streamwood, Illinois, to which are affixed labels)
bearing, among other things, the name and)
address of the manufacturer, packer or)
distributor located outside the State of Illinois,)
or which are otherwise determined to have)
originated outside the State of Illinois,)
)
Defendants.)

No.

Judge

VERIFIED COMPLAINT FOR FORFEITURE

The United States of America, by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, for its complaint, states as follows:

1. The United States of America seeks seizure and condemnation of articles of food, as described in the caption, in accordance with the Federal Food, Drug, and Cosmetic Act (Act), 21 U.S.C. § 301 *et seq.*

2. In Streamwood, Illinois, in the possession of Chetak Chicago, LLC, at 1111 East Lake Street, or elsewhere within the jurisdiction of the court, there are various articles of food as described in the caption, which articles were shipped in interstate commerce from outside the State of Illinois.

3. These articles of food include products such as rice, flour, shelled peanuts, cookies, dried coconut, and spices which are warehoused in a facility at the address listed above. On information and belief this facility is approximately 108,000 square feet in size.

4. These articles of food are adulterated, while held for sale after shipment in interstate commerce, within the meaning of the Act, 21 U.S.C. § 342(a)(4), in that they have been held under insanitary conditions whereby they may have become contaminated with filth.

5. More particularly, a United States Food and Drug Administration (FDA) inspection of Chetak Chicago, LLC conducted on August 15 through September 1, 2011, revealed a widespread and active rodent infestation in the warehouse. FDA investigators observed numerous live and dead rodents, birds, gnawed and urine-stained packages of food, and apparent rodent excreta pellets on, in, and around the food packages. They also saw apparent rodent nesting materials and structural defects within the warehouse holding the articles of food (*e.g.*, gaps in doors and the foundation) that permit easy pest access to the entire facility. Further, they saw outside debris located near the warehouse serving as rodent harborage areas. Photographs depicting some of these conditions are attached hereto as Exhibit A.

6. FDA investigators collected numerous samples of materials showing significant insanitary conditions. FDA laboratory analyses confirmed the presence of rodent excreta pellets, rodent-gnawed and urine-stained packaging materials, and rodent nesting materials.

7. Food from this warehouse had been under embargo by the State of Illinois to prevent its distribution since August 17, 2011.

8. FDA investigators conducted a follow up inspection on September 23 and 27, 2011, and found that the violative conditions continue to exist. FDA investigators continued to find evidence of gnawed packaging and rodent-like excreta pellets on bags food held at the warehouse. Photographs exemplifying these conditions are attached hereto as Exhibit B.

9. By reason of the foregoing, the articles are held illegally within the jurisdiction of the court, and are liable to seizure and condemnation.

10. This court has *in rem* jurisdiction over the defendant articles pursuant to 21 U.S.C. § 334 because the defendant articles of food are located in Streamwood, Illinois, within the jurisdiction of the court.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1395(b) and 21 U.S.C. § 334(a)(1).

WHEREFORE, the United States of America prays:

- a. that process issue against the articles;
- b. that all persons having any interest in the articles be cited to appear herein and answer the allegations in the complaint;
- c. that this court decree the condemnation and forfeiture of the defendant articles of food and grant the United States the costs of this proceeding against the claimant of the articles;
- d. that the articles be disposed of as this court may direct pursuant to the provisions of the Act; and
- e. that the United States have such other and further relief as the case may require.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

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Dated: October 14, 2011

AFFIDAVIT

ROSEMARY SEXTON, being first duly sworn on oath, deposes and says that she is a Compliance Officer with the Food and Drug Administration; that she has read the foregoing Verified Complaint for Forfeiture; and that the complaint is true in substance and in fact to the best of her knowledge and belief.

ROSEMARY SEXTON

SUBSCRIBED TO AND SWORN before me
this 14th day of October, 2011.

NOTARY PUBLIC

My Commission Expires _____