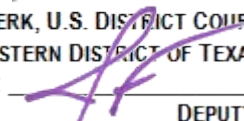


FILED

5/1/2020

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY:  DEPUTY

UNITED STATES OF AMERICA

CRIMINAL ACTION NO. **1:20-CR-123-RP**

v.

BLUE BELL CREAMERIES, L.P.

INFORMATION

Defendant.

The United States Charges:

THE DEFENDANT

1. Blue Bell Creameries, L.P., is a Delaware limited partnership that manufactures ice cream products. The company is headquartered in Brenham, Texas, in the Western District of Texas and manufactures ice cream at its plants in Broken Arrow, Oklahoma, Sylacagua, Alabama, and Brenham, Texas.

COUNT 1

21 U.S.C. §§ 331(a) and 333(a)(1)
(Introducing adulterated foods into interstate commerce)

2. Between on or about January 1, 2013, and on or about April 20, 2015, in the Western District of Texas, the Defendant, Blue Bell Creameries, L.P., introduced and delivered for introduction into interstate commerce, and caused to be introduced and delivered for introduction into interstate commerce, from Brenham, Texas to Lexington, South Carolina, Wichita, Kansas, and other locations outside of Texas, foods, namely ice cream products, that were adulterated: (i) within the meaning of Title 21, United States Code, Section 342(a)(1), in that they contained a poisonous or deleterious substance, namely *Listeria monocytogenes*, that

rendered the foods injurious to health; and (ii) within the meaning of Title 21, United States Code, Section 342(a)(4), in that they had been prepared, packed, and held under conditions whereby they may have become contaminated with *Listeria monocytogenes*, all in violation of Title 21, United States Code, Sections 331(a) and 333(a)(1).

COUNT 2

21 U.S.C. §§ 331(a) and 333(a)(1)
(Introducing adulterated foods into interstate commerce)

3. Between on or about January 1, 2013, and on or about April 3, 2015, the Defendant, Blue Bell Creameries, L.P. introduced and delivered for introduction into interstate commerce, and caused to be introduced and delivered for introduction into interstate commerce, from Broken Arrow, Oklahoma to Big Springs, Texas, in the Western District of Texas, Wichita, Kansas and other locations outside of Oklahoma, foods, namely ice cream products, that were adulterated: (i) within the meaning of Title 21, United States Code, Section 342(a)(1), in that they contained a poisonous or deleterious substance, namely *Listeria monocytogenes*, that rendered the foods injurious to health; and (ii) within the meaning of Title 21, United States Code, Section 342(a)(4), in that they had been prepared, packed, and held under conditions whereby they may have become contaminated with *Listeria monocytogenes*, all in violation of Title 21, United States Code, Sections 331(a) and 333(a)(1).

FORFEITURE ALLEGATION

(28 U.S.C. § 2461(c), and 21 U.S.C. §§ 334 and 853(p))

4. Upon conviction of a violation of 21 U.S.C. §§ 331(a) and 333(a)(1), as set forth in Counts One and Two of this Information,

Blue Bell Creameries, L.P.

the defendant herein, shall forfeit to the United States pursuant to Title 21, United States Code, Section 334 and Title 28, United States Code, Section 2461(c), any quantities of food which were adulterated when introduced into interstate commerce or while in interstate commerce, or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which were introduced into interstate commerce in violation of Title 21, United States Code, Section 331. If any of the property described above as being subject to forfeiture, which valued approximately \$7,900,000.00, as a result of any act or omission of the defendant:

- a. cannot be located upon exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of this Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property that cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the property described in paragraph 4. All pursuant to 28 U.S.C. § 2461(c), and 21 U.S.C. §§ 334 and 853(p).

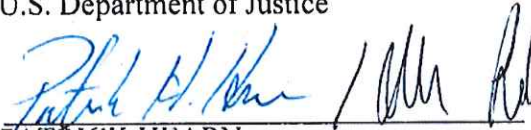
Respectfully Submitted,

JOSEPH H. HUNT
Assistant Attorney General
United States Department of Justice

DATE: 5/11/20

GUSTAV W. EYLER
Director
Consumer Protection Branch
U.S. Department of Justice

BY:



PATRICK HEARN
MATTHEW J. LASH
Trial Attorneys
U.S. Department of Justice
Consumer Protection Branch