

IN THE MATTER OF
ROBERT R. DUNN, JR. AND TOM KECK, TRADING AS
IOKELP COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2373. Complaint, Apr. 22, 1935—Decision, Dec 11, 1936

Where two individuals engaged in the offer and sale of an alleged remedial preparation which consisted of a kelp or seaweed product compressed into tablet form, with an iodine content of about one-fourth of one percent, and other constituent elements such as those usually found in vegetables ordinarily used for food in the United States, and in approximately the same quantities and proportions—

Represented in advertisements of their said preparation, through pamphlets, circulars, and other printed matter, and through newspapers and radio broadcasts, that the same was a remedy or cure for constipation, nervous anemic conditions, prostate, pituitary, and thyroid gland troubles, including simple goiter, and was a preventative of such last-named troubles, and of indigestion, neuritis, rheumatism, and periodic irregularity in women, and was essential to the health of the thyroid gland and to that of adolescent girls and of women under certain conditions, and to health in general; facts being it did not possess the therapeutic efficacy represented by them, and their said various representations and implications were false;

With effect of misleading and deceiving many persons desiring to purchase a remedy for or preventative of, or preparation essential to, one or more of the conditions in question, and of causing a substantial portion thereof erroneously to believe that such representations and implications were true and, because of such erroneous beliefs, to buy said "Iokelp," and of thereby diverting unfairly and illegally trade to them from their competitors, many of whom truthfully represent their products and do not misrepresent their therapeutic efficacy or use such acts and practices in connection with sale thereof; to the substantial injury of such competitors and that of the public;

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Edw. W. Thomerson for the Commission.

Mr. Daniel Dougherty, of Los Angeles, Calif., for respondents.

COMPLAINT ¹

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission,

¹ An extended enumeration in Par. 2 of the complaint, quoting respondents' representations with respect to their "Iokelp" product, which various representations, with certain exceptions noted in footnote on page 168, are likewise set forth in the findings, *infra*, at page 172, is, except as set forth in footnote, omitted from the complaint in the interest of brevity.

to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Robert R. Dunn, Jr., and Tom Keck, copartners, trading under the name and style of Iokelp Company, hereinafter referred to as respondent, have been and are using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Robert R. Dunn, Jr., and Tom Keck, are copartners trading as the Iokelp Company, with their office and principal place of business in the city of San Diego in the State of California. Respondents are now, and for a considerable period of time immediately heretofore have been, engaged in manufacturing, offering for sale, selling, and distributing in commerce among or between the various States of the United States, and between the United States and foreign countries, a prepared product called "Iokelp," sometimes called "Iokelp Tablets," described as a vegetable food supplement containing iodine and other mineral properties and represented as a remedy for constipation, nervous anemic conditions, prostate, and other glandular troubles, including pituitary and thyroid; as a preventive of thyroid trouble and of indigestion, neuritis, rheumatism, and periodic irregularity; and as being essential to the health of the thyroid gland and to health in general. Respondents have caused and now cause said product when sold to be transported from the aforesaid place of business in the city of San Diego in the State of California to purchasers thereof located in various States of the United States and in foreign countries. In the course and conduct of their said business respondents have been and now are engaged in substantial competition with corporations, firms, other partnerships and with individuals offering for sale and selling in commerce between and among the various States of the United States, preparations, compounds and/or medicines for use in the treatment of the same or similar ailments or diseases, or for the same purposes as aforesaid.

PAR. 2. Respondents have offered for sale and now offer for sale and sell their said prepared product called "Iokelp" in interstate and foreign commerce, as set forth in paragraph 1 hereof, by use of the mails, by use of interstate carriers and other channels of said interstate and foreign commerce, by means of radio broadcasts, newspapers, and other periodicals which have had or have a circulation in and through various States of the United States and foreign countries, and also in circulars, letters, pamphlets, and literature which have been and are distributed by respondents to customers and prospective customers in various States of the United States and foreign countries, in the

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course and conduct of which respondents have made and now make false and misleading statements and representations to the injury of the public and to competitors in like commerce.

In the course and conduct of the business and advertising as aforesaid, respondents imply and represent that their product is a remedy for constipation, nervous anemic conditions, prostate and other glandular troubles, including pituitary and thyroid; that the same is a preventive of thyroid trouble and of indigestion, neuritis, rheumatism, and periodic irregularity, and that the same is essential to the health of the thyroid gland, to adolescent, pregnant and lactating women, and to health in general. Said advertising of respondents contains among other things the following numerous statements and representations, to wit:¹

PAR. 3. In truth and in fact the above and foregoing statements and representations by Respondents have been and are false and misleading in the following respects:

(1) That respondents' claims for said product grossly exceed the uses which may be beneficially, therapeutically and/or safely made of such products.

¹ The representations referred to, as allegedly made by respondents, and quoted at length in the complaint at this point, are also, with the exceptions below noted, set forth in the findings, *infra*, at page 172, and are, for such reasons, omitted here in the interest of brevity.

Exceptions referred to follow:

"IOKELP Tablets contain many times the amount of iodine of land vegetables."

"One girl wrote the IOKELP Company that her savings in manicure costs alone since using IOKELP, the natural food iodine, more than paid for the cost of the treatment. Brittle nails may seem trivial but they are usually a symptom of calcium deficiency in the blood. Either the diet is lacking in calcium or the body is unable to assimilate the calcium that is in the diet because the thyroid gland is not functioning properly. By supplying the thyroid with needed iodine, Iokelp makes its own calcium and that contained in other foods available to the body to build strong bones, teeth and nails, and aid in resistance to disease."

"IOKELP succeeds in preventing and correcting simple goiter where other treatments have failed. That is because of the special process by which the kelp leaves are processed. Therefore, accept no substitute."

"If you already have simple goiter, the easily assimilated natural iodine supplied by IOKELP will correct the condition or the full purchase price will be immediately refunded. Otherwise, protect yourself from this disease of the thyroid gland and its accompanying disorders. Reinforce your diet with the food iodine which is supplied in abundance by Iokelp."

"Eating demineralized and devitalized foods year after year, as most of us do, produces a condition that is very difficult to overcome but which IOKELP tablets can often correct in time. IOKELP made from fresh kelp, highly concentrated, contains liberal quantities of iodine, iron, copper and other minerals absolutely essential for bodily health."

"Goiter Handicaps Washington Children

"Due to iodine deficiency in food and water of this region, a high percentage of children and adults are affected by goiter. Iokelp, a concentration of sea kelp, makes available abundant organic iodine and is a successful preventive of simple goiter. Ask your druggist or write Iokelp Co., San Diego, California. IOKELP—33-day supply in \$1.25 bottle."

"Government statistics show that an alarmingly large number of the population in this region suffer from simple goiter. Guard yourself with Iokelp, the concentrated kelp food,

(2) That the mineral ingredients present in said products are therapeutically insufficient and otherwise insufficient to benefit purchasers thereof or to accomplish the purposes or results claimed by said respondents for their product.

(3) That, while said product does contain iron, to consume a sufficient quantity of said product to get any beneficial effect from such iron, or of the other mineral ingredients of said product, would generally create a toxic condition from over dosage of other mineral ingredients of said product.

(4) That the internal or oral use of iodine has a very narrow range of usefulness because of its effect on metabolism and associated thyroid gland activities, for which reason its internal or oral use requires the medical diagnosis of the condition of persons making such internal or oral use of it, and its internal or oral use is not beneficial except under limited conditions.

(5) That said product is not a food.

(6) That said product is not a remedy for constipation, nervous anemic conditions, prostate, pituitary or other glandular troubles; and is not a remedy or useful in the treatment of thyroid troubles.

which supplies abundant organic iodine to check this disease. Ask your druggist, or write the Iokelp Co., San Diego, California. IOKELP—33-day supply in \$1.25 bottle."

"Because the food and water of this region are deficient in iodine, an alarmingly large percentage of the population suffer from simple goiter. Fight this disease with Iokelp, a concentration of the giant sea kelp, rich in the organic iodine which prevents goiter. At your druggists. Iokelp—33-day supply in \$1.25 bottle."

"Dangerous drugs and cathartics never brought anybody permanent relief from constipation and if taken regularly generally make this condition worse. Iokelp, a vegetable food supplement, stimulates the glandular secretions and gastric juices gradually promoting natural elimination. At your druggist or write Iokelp Co., San Diego, Calif. Iokelp 33-day supply in \$1.25 bottle."

A HEALTHFUL PRODUCT FROM THE SEA

"The giant kelp grown off the coast of Southern California is rich in organic minerals necessary for perfect health. Several of these minerals—especially Iodine and Iron—are lacking in sufficient quantities in every day foods, with the result that many people suffer from the so-called deficiency diseases.

"IOKELP is a pure 100% concentration of the giant kelp—scientifically dried, milled into powder and pressed into convenient tablets. If you are in ailing health and believe that mineral deficiency may be the cause of it, try Iokelp today. For sale at the Owl and other good druggists, or write the Iokelp Co., San Diego, California."

* * * * *

MINERALS

Necessary to Health

"Did you ever realize how essential minerals are to your health? Science has established that there should be at least 14 different minerals present in the human body. Deficiency of these minerals in the diet may lead to many serious ailments.

"Land grown vegetables and other foods are generally deficient in minerals but kelp and other marine plants contain liberal quantities of Iodine, Iron and other organic minerals necessary for health. IOKELP, a product made from the giant kelp, supplies these minerals in great abundance. If you believe mineral deficiency may be the cause of your ill health try Iokelp today. For sale at the Owl and other good druggists, or write the Iokelp Co., San Diego, California."

(7) That said product is not a preventative of indigestion, neuritis, rheumatism, periodic irregularity in women, or thyroid troubles, nor is it essential to the health of thyroid glands, adolescent, pregnant, or lactating women or to the health of the public in general. Respondents' claims, representations and statements relative to the composition and beneficial and therapeutic efficacy and uses of their said product are unwarranted and false and misleading.

PAR. 4. The statements and representations of respondents, as aforesaid, have had and have a capacity and tendency to mislead and deceive and/or have misled and deceived the purchasing public into the belief that respondents' so-called "Iokelp Tablets" are a remedy and preventive for the ailments, diseases and physical troubles as set forth in paragraph 1 hereof, and that the same are beneficial and essential to the health of the thyroid gland and to individual health in general. Said statements and representations have tended to induce and have induced the purchase of respondent's product in reliance upon such erroneous belief, and have tended to divert trade from, and have diverted trade from, and otherwise injured competitors of respondents. By such statements and representations substantial injury has been done by respondents to substantial competition in interstate commerce.

PAR. 5. The above acts and things done by said respondents, as aforesaid, are all to the prejudice of the public and of respondents' competitors and constitute unfair methods of competition in interstate and foreign commerce within the intent and meaning of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on April 22, 1935, issued its complaint in this proceeding against the respondents, Robert R. Dunn, Jr. and Tom Keck, copartners, trading as the Iokelp Company, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Edw. W. Thomerson, attorney for the Commission, before W. W. Sheppard, an examiner of the Commission therefore duly designated by it, no testimony or other evidence having

been offered by the respondents in opposition to the allegations of the complaint, although the respondents were duly represented at said hearings by Daniel Daugherty, attorney for the respondents; and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer thereto, testimony and other evidence in support of the allegations of said complaint; brief in support of the complaint, and the oral arguments of counsel aforesaid; and the Commission, having duly considered the same and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts, and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondents, Robert R. Dunn, Jr., and Tom Keck, are individuals, trading as the Iokelp Company, with their office and principal place of business located in the city of San Diego, State of California. Respondents are engaged in the business of offering for sale and selling an alleged remedial preparation under the name of "Iokelp."

Respondents market their said product through dealers in drugs and medicines for resale to the public and by sales direct to persons desiring remedies, treatments or preventives of the ailments, diseases and conditions for which the respondents advertise said product. The respondents offer for sale and sell said preparation "Iokelp" in interstate commerce, and make sales in many of the States of the United States other than the State of California, and when sales are made respondents cause the preparation "Iokelp" to be transported from their place of business in the city of San Diego, or from other points in the State of California, to the purchasers thereof located in States other than California.

The respondents are in substantial competition in commerce between and among the several States of the United States, and in the District of Columbia, with individuals, firms, and corporations who are engaged in the business of offering for sale and selling remedies, preparations and products for use for the same purposes as those for which the respondents advertise their said preparation, in said commerce.

PAR. 2. The preparation "Iokelp" is produced by dehydrating and grinding kelp or seaweed, scientifically known as "Macrocystis Pyrifera," which is compressed into tablet form, bottled and ready for sale to consumers. The preparation is sold to ultimate consumers

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for \$1.25 per bottle of 200 tablets and the dosage recommended by the respondents is two tablets three times per day. The gross business of the respondents in the preparation "Iokelp" was approximately \$18,000 in 1933 and \$30,000 in 1934.

Respondents represent that a typical analysis of the ash in "Iokelp" tablets is as follows:

Iodine.....	0.25%
Acid Insoluble Matter.....	0.70%
Iron.....	0.68%
Calcium.....	1.08%
Magnesium.....	0.57%
Sodium.....	1.66%
Potassium.....	7.20%
Carbonate.....	1.64%
Sulphur.....	0.69%
Phosphorus.....	0.92%
Manganese.....	Trace
Copper.....	40.0 ppm

An analysis made by the Department of Agriculture of the produce is as follows:

Average weight—0.33 gram.
 Taste: Salty and mucilaginous.
 Iodine total—0.28% by weight.
 Identity: Seaweed.
 Reducing sugars; trace.

The iodine content of the tablet is practically the same in both analyses, and is approximately one-fourth of one percent. The other constituent elements of the preparation are the same as those usually found in vegetables ordinarily used for food in the United States, and are found in said preparation in approximately the same quantities and proportions.

PAR. 3. The respondents, in the course and conduct of their business, advertise their said preparation through pamphlets, circulars and other printed matter, and by advertisements in newspapers and through radio broadcasts from stations located in the city of San Diego, State of California.

In the course and conduct of their business, and by the means and in the manner aforesaid, the respondents make many statements concerning the curative qualities of their preparation. Among others, the following statements are made:

Probably few people except Doctors realize the tremendous importance of the thyroid gland. Proper functioning of the thyroid is absolutely necessary for the proper functioning of the other glands and organs of the body. Lack of iodine in the daily diet is the commonest cause of thyroid trouble, and this trouble can only be corrected by taking iodine in concentrated form to make up

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for the diet deficiency. IOKELP * * * is one of the richest known sources of organic iodine.

Iodine for Simple Goiter

Lack of iodine in everyday food causes nervousness, palpitations and simple goiter. A successful treatment is Iokelp, a natural product containing abundant organic iodine and other minerals that the body needs to correct these conditions.

Kelp Preventive of Simple Goiter

The giant kelp plant is a naturally iodized food unusually rich in iodine, the preventive and corrective of simple goiter. Iokelp, a concentration of this kelp, makes available organic iodine in palatable and easily digestible form.

Statistics Show Goiter Prevalent

* * * Guard yourself with Iokelp, the concentrated kelp food, which supplies abundant organic iodine to check this disease.

Goiter Scourges State

* * * Fight this disease with Iokelp, a concentration of the giant sea kelp, rich in the organic iodine which prevents goiter.

Men Past Middle Age

Prostate troubles and other glandular ailments are caused by insufficient minerals in the daily diet. Iokelp is a natural food supplement, rich in iodine, iron and other elements necessary to health, promotes glandular health, relieves pain.

IOKELP succeeds in preventing and correcting simple goiter where other treatments have failed. * * *

If you already have simple goiter, the easily assimilated natural iodine supplied by IOKELP will correct the condition or the full purchase price will be immediately refunded. Otherwise, protect yourself from this disease of the thyroid gland and its accompanying disorders. * * *

An insidious feature of simple goiter, the iodine deficiency disease of the thyroid gland, is that it is often not recognized in its incipient stages. Preventive measures are therefore advised and urged, especially with adolescent girls and pregnant and lactating women. The daily diet should include a sufficient quantity of food iodine to maintain the thyroid gland in good health. This might be difficult or costly if it were not for the giant kelp plant of the ocean. Rich in iodine, kelp makes it available in abundance when processed into Iokelp Tablets which are palatable and inexpensive.

If you are already suffering from simple goiter, you may take IOKELP with assurance that it has proven effective in many other cases.

If your thyroid, pituitary and other glands do not receive enough minerals through daily diet, sickness is almost sure result. Iokelp is a food supplement, not a drug, made from sea plants rich in organic minerals.

Don't Drug Constipation

Dangerous drugs or cathartics never protect anybody from constipation * * * Iokelp, a vegetable food supplement, stimulates the glandular secretion and gastric juices, gradually promoting natural elimination.

Nervous Anemic Conditions

If your thyroid, pituitary and other glands do not receive enough minerals through daily diet, sickness is almost sure result.

Pregnant and lactating women, and adolescent girls, are especially in need of an *extra* supply of natural iodine in their diets. In their condition, the thyroid gland is under abnormal strain and a deficiency in iodine may work untold injury. A sufficient supply of iodine is not always to be had from ordinary foods. But the giant kelp plant of the Pacific Ocean, when specifically processed into IOKELP Tablets yields an abundance of this vital mineral.

Iokelp, made from fresh sea kelp, highly concentrated, is one of the richest sources of organic iodine.

IOKELP is unusually rich in organic iodine and supplies the deficiency of iodine that exists in every day foods in almost all parts of the country.

Without sufficient iodine the all-important thyroid gland cannot function properly, and this condition may lead to nervousness, anemia, indigestion, neuritis, periodic irregularity and finally to simple goiter.

One of the principal causes of certain types of rheumatism and neuritis is lack of sufficient minerals in the daily diet.

Don't suffer the agonies of Neuritis, and Rheumatism any longer without giving IOKELP a trial.

Probably few people who are not physicians or other students of the human body realize the tremendous importance of the thyroid gland, the master gland as it has been correctly nicknamed. It is said that the thyroid gland is to the human body what the draught is to fire and furthermore that iodine is the match that kindles it.

Nearly everyone now knows that organic iodine is vitally necessary to the health of the thyroid gland.

Proper functioning of the thyroid gland is absolutely necessary for effective metabolism, healthy lungs and breathing organs and physical growth. It is required for mental development and in fact, for proper functioning of all the organs of the body.

The principal source of organic iodine today is the sea and ocean vegetation such as the giant kelp which grows off the coast of Southern California.

Good morning, friends, how is your thyroid today? That is not such a silly question at that, when you stop to consider how important science has found the thyroid gland to be in matters of health. It doesn't always take expert knowledge to answer the question either, at least if you feel perfectly well you know your thyroid gland is functioning correctly. You wouldn't feel at all well if it weren't. Your vitality would be low and you would probably have more definite symptoms, which might be anything from nervousness and anemia to goiter.

Thyroid Pituitary and other Glands

If your thyroid, pituitary and other glands do not receive enough minerals through daily diet, sickness is almost sure result. Iokelp * * *.

SCIENCE DISCOVERS THE SECRET OF HEALTH IN THE SEA

IOKELP

The Vitalizing Marine Vegetable Food

Rich in natural iodine, iron, calcium, phosphorus and all other mineral elements essential to good health.

* * * * *

"Mineral—Element—Starvation"—means absence or deficiency in the human system of those mineral elements (iron, iodine, calcium, sulphur, magnesium, potassium, sodium and manganese) absolutely necessary to maintain the equilibrium essential between all the physiological processes of the body.

"Mineral—Element—Starvation"—strikes directly at the thyroid gland, for scientific experiments and observations prove the most alarming of all physiological process disturbances in the body center around the thyroid gland. Natural iodine, such as in Iokelp Tablets, is rated as the vitally important and essential element in maintaining and restoring the proper functioning of the thyroid gland.

PAR. 4. By the means and in the manner above set out the respondents represent and imply that the preparation "Iokelp" is a remedy for constipation, nervous anemic conditions, and prostate, pituitary and thyroid gland troubles, including simple goiter; that the preparation is a preventive of thyroid gland troubles, including simple goiter, indigestion, neuritis, rheumatism, and periodic irregularity in women; and that the preparation is essential to the health of the thyroid gland, to the health of adolescent, pregnant, and lactating women, and to health in general.

In truth and in fact the above and foregoing representations and implications are false, for said preparation "Iokelp" is not a remedy for constipation, nervous anemic conditions, and prostate, pituitary and thyroid gland troubles, including simple goiter, and is not a preventive of thyroid gland troubles, including simple goiter, indigestion, neuritis, rheumatism, and periodic irregularity in women, and is not essential to the health of the thyroid gland, to the health of adolescent, pregnant, and lactating women, and to health in general, nor does it possess the therapeutic efficacy represented by the respondents.

PAR. 5. The acts and practices of the respondent hereinabove set out have the tendency and capacity to and do mislead and deceive many persons desiring to purchase a remedy for, a preventive of, or a preparation that is essential to one or more of the conditions above mentioned, and cause a substantial portion of such persons erroneously to believe that the representations and implications made by the respondents are true and that said preparation is a remedy for constipation, nervous anemic conditions, and prostate, pituitary and thyroid gland troubles, including simple goiter; that the preparation is a preventive of thyroid gland troubles, including simple goiter, indigestion, neuritis, rheumatism, and periodic irregularity in women; and that the preparation is essential to the health of the thyroid gland, to the health of adolescent, pregnant, and lactating women, and to health in general, and possesses the therapeutic efficacy represented and implied by said respondents; and cause a substan-

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tial portion of such persons, because of such erroneous beliefs, to purchase said preparation "Iokelp," thereby unfairly and illegally diverting trade to the said respondents from their competitors who truthfully represent their products, to the substantial injury of such competitors in said commerce and to the injury of the public.

PAR. 6. Among the competitors of the said respondents are many who truthfully represent their products and who do not misrepresent the therapeutic efficacy possessed by such products and who do not, in connection with the sale of their products in said commerce, use the acts and practices used by the said respondents as above set out.

CONCLUSION

The aforesaid acts and practices of the respondents Robert R. Dunn, Jr., and Tom Keck are to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, testimony and other evidence taken before W. W. Shepard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint, brief filed herein by counsel for the Commission, and oral argument by Edw. W. Thomerson, counsel for the Commission, and by Daniel Daugherty, counsel for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress, approved September 26, 1914, entitled, "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondents, Robert R. Dunn, Jr., and Tom Keck, their representatives, agents, and employees, in connection with the offering for sale, sale and distribution of that certain preparation now sold by the said respondents under the name "Iokelp," or any tablet, powder, or other preparation, under whatever name sold, composed of similar ingrediepts and possessing therapeutic properties similar to the preparation now known and sold by the respondents under the name of "Iokelp," in interstate commerce or in the District of Columbia, forthwith cease and desist from representing:

(1) That said preparation is a remedy for, or will cure, constipation, nervous anemic conditions, prostate, pituitary, or thyroid gland troubles including simple goiter;

(2) That said preparation is a preventative of thyroid gland troubles, including simple goiter, indigestion, neuritis, rheumatism, or periodic irregularity in women;

(3) That said preparation is essential to the health of the thyroid gland, or to the health of adolescent, pregnant, or lactating women, or to the health in general.

It is further ordered, That the respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF
BONOMO CANDY AND NUT CORPORATION

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 2776. Complaint, Apr. 21, 1936—Decision, Dec. 11, 1936

Where a corporation engaged in manufacture and sale of "straight" goods candy and of so-called "break and take," "draw," or "deal" assortments, one of the principal trade demands for which comes from the small retailers with stores, in many instances, near schools and patronized by the school children, and sale and distribution of which, or similarly sold candy, offering opportunity of obtaining a prize or becoming a winner by lot or chance, teaches and encourages gambling among children, largest class by far of purchasers and consumers of such type of candy, who buy same in preference to so-called "straight" goods when displayed side by side by reason of lottery or gambling feature connected with former, and selling of which in the market of the other, i. e., the "straight" goods, sold exclusively by many manufacturers, has been followed by a market decrease in sales of such "straight" candy, due to gambling or lottery feature connected with so-called "break and take," "draw," or "deal" merchandise—

Sold, to wholesalers and jobbers, assortments consisting of a number of penny pieces of uniform size and shape, together with a number of boxes of candy secured as prizes by chance purchasers of those uniform penny pieces, the enclosed concealed centers of which differed from that of the majority; so packed and assembled that such assortments could be displayed and offered by the numerous retailer purchasers thereof, and with knowledge and intent that such assortments would and could be sold, without alteration or rearrangement, to the consuming or purchasing public by lot or chance, in accordance with such arrangement, in violation of public policy and in competition with many who regard such methods of sale and distribution as morally bad and as encouraging gambling, and especially among children, as injurious to the industry through resulting in the merchandising of a chance or lottery instead of candy, and as providing retail merchants with the means of violating the laws of the several States, and some of whom, for such reasons, refuse to sell candy so packed and assembled that it can be resold to the public by lot or chance;

With the result that such refusing competitors, who can compete on even terms only by furnishing the same or similar assortments, were put to a disadvantage in competing and their sales of "straight" candy showed a continued decrease, some competitors began the sale and distribution of candy for resale to the public by lot or chance, for which, thus sold, there is demand, public and competitors were prejudiced and injured and trade was diverted to it from its said competitors, and there was a restraint upon and a detriment to the freedom of fair and legitimate competition in industry concerned:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.