

Syllabus

IN THE MATTER OF

ALBERT F. COOLEY, DOING BUSINESS UNDER THE
NAMES AND STYLES OF RANGO TABLET COMPANY,
A. F. RANGO, DADDY RANGO, ETC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2641. Complaint, Nov. 29, 1935—Decision, Dec. 18, 1936*

Where an individual, engaged in sale and distribution of various medicinal preparations, including four sold under name of "Daddy Rango's," namely, his thus designated "Laxative Herb Tablets," "Sunshine Kelp Tablets," "Asthma and Hay Fever Remedy," and "H and H Tablets"—

Represented, in advertisements of his said preparations in newspapers and periodicals circulated to the purchasing public in the various States, and in radio broadcasts to the general public, and through circulars and other advertising material distributed to such purchasing public, that said four preparations constituted cures, remedies, or competent and adequate treatments, as the case might be, for constipation, headaches, dizzy spells, neuritis, rheumatism, over-acid condition, etc., and for removing poisons from the system, or for goiter and run-down conditions, or for asthma and hay fever, or for neuritis, dizzy spells, headache, backache, rheumatism, and ulcers, and for the removal of impurities from the body, and that said Kelp Tablets likewise would promote growth and build sturdy bones and teeth in children, and supply all the minerals necessary for the body and assure buoyant and vigorous health, and prevent goiter, and that they possessed and imparted to those taking them the therapeutic, medicinal, and beneficial effects of natural sunshine, etc.;

Facts being the formulae of said remedies or medicines were not such that they could be considered a cure, remedy, or competent and adequate treatment for the conditions and ailments for which thus represented and offered, and they did not have the properties and would not produce the results claimed, and were not proper and efficient remedies, treatments, or palliatives for the various maladies, diseases, and conditions for which they were thus represented by him, and had little or no therapeutic value;

With effect of confusing, misleading, and deceiving members of the public into the erroneous belief that said products constituted cures, or satisfactory and adequate remedies or treatments, for said various ailments, diseases, etc., as above set forth, and into the purchase of the same on account of such erroneous beliefs, and of thereby diverting trade unfairly to him, and to those selling his products, from individuals and concerns engaged in the sale of other medicinal preparations, designed and intended or used and recommended for the treatment or relief of the same diseases, maladies, and conditions, without making similar false and misleading representations as to the character of their respective products or the extent of the effectiveness thereof when used; to the injury of competition in commerce:

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

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

Mr. John W. Hildrop for the Commission.

Reames-Lake & Mulvihill, of Los Angeles, Calif., for respondent.

COMPLAINT

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, having reason to believe that Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, has been and is 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. That said respondent, Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, is now and has been engaged for more than two years last past in the sale and distribution in interstate commerce of various medicinal preparations with his office and principal place of business in the city of Los Angeles, in the State of California. Among the medicinal preparations, so sold and distributed by respondent, are the following:

Daddy Rango's H and H Tablets,
Daddy Rango's Laxative Herb Tablets,
Daddy Rango's Sunshine Kelp Tablets,
Daddy Rango's Asthma and Hay Fever Remedy.

Said respondent, in the course and conduct of his said business, causes the medicines sold by him, including those above named, to be transported in interstate commerce from his said place of business in California to, into and through States of the United States other than California to various and numerous persons in such other States to whom such medicines are or have been sold.

PAR. 2. That, during the time above mentioned, other individuals, firms, and corporations in various States of the United States are and have been engaged in the sale and distribution in interstate commerce of preparations similar in kind to those of respondent as above named or of the same general therapeutic properties or adapted to and used for the purposes for which respondent's said preparations are recommended to be used in the advertising matter hereinafter

referred to, and such other individuals, firms, and corporations have caused and do now cause their said preparations, when sold by them, to be transported from various States of the United States to, into and through States other than the State of the origin of the shipment thereof. Said respondent has been, during the aforesaid time, in competition in interstate commerce in the sale of his said preparations with such other individuals, firms, and corporations.

PAR. 3. That said respondent, in advertising his said preparations, causes advertisements to be inserted in newspapers and magazines circulated to the purchasing public in the various States of the United States and also causes broadcasts to be made by means of the radio to the general public in the various States of the United States. He also advertises his said preparations by means of circulars and other advertising materials distributed to the purchasing public in various States of the United States by mail or otherwise.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's H and H Tablets are a cure, remedy, or competent and adequate treatment for an "over-acid condition" of the system, neuritis, stomach disorders generally, dizzy spells, headache, backache, rheumatism, stomach ulcers, gastric ulcers, duodenal ulcers, and for the removal of all impurities from the body.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Laxative Herb Tablets are a cure, remedy, or competent and adequate treatment for constipation, headaches, dizzy spells, neuritis, rheumatism, "over-acid condition" of the system, back troubles, liver and kidney troubles, and for removing poisons from the system.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Sunshine Kelp Tablets are a cure, remedy or competent and adequate treatment for goiter and for a run-down condition. It is further represented that said preparation promotes growth and builds sturdy bones and teeth in children; that it will supply all the minerals to assure "buoyant, vigorous health"; that it supplies the need of the body for minerals; that it will produce health and happiness; that it will remedy a run-down condition; and that it will prevent goiter.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Asthma and Hay Fever Remedy is a cure, remedy or competent and adequate treatment for asthma and hay fever.

PAR. 4. That, in truth and in fact, respondent's said medicines, respectively, do not constitute a cure, remedy, or competent and adequate treatment for the several and various diseases, ailments,

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and bodily conditions aforesaid for which they are recommended, respectively, by respondent in his advertising as aforesaid. Respondent's said representations are misleading in that they are either false and beyond the therapeutic effects of the said medicines or they are grossly exaggerated and inaccurate or only true to a limited extent or under certain conditions.

PAR. 5. That respondent, in effecting the sale of his preparations, as aforesaid, makes various false, inaccurate, and misleading representations by one or more of the means aforesaid, among which are those that represent or imply that Daddy Rango's Laxative Herb Tablets are not habit forming regardless of how long they are used; that the "stomach is the most important organ of the body"; that "Impurities must be removed" (from the system) "as fast as they accumulate"; that "It is now known that the basic cause of almost every case of illness is an over-acid condition"; that "As long as these acids and poisons remain in the system there will be trouble with dizzy spells, headache, backache, rheumatism, neuritis, stomach ulcers, etc."; that "Sluggish action of the stomach causes it to become seriously afflicted, weakening the entire body. Loss of vigor and vitality results. Illness is liable in other parts of the body"; that "The various named ulcers" (in the stomach and small intestine) "all come under the common name 'stomach ulcers'"; that "A clean healthy stomach means you are generally well, full of vigor with an active body and mind to successfully carry on your life plans in the business and social world"; that "The stomach is the seat of a large percentage of all ills"; that Daddy Rango's Sunshine Kelp Tablets possess and impart to those taking them, the therapeutic, medicinal and beneficial effects of natural sunshine; that said Kelp Tablets are "rich in organic minerals" and bring to the "daily diet abundant supply of iodine, copper, iron . . ."; that said tablets "are an ideal food supplement"; that "A lot of you no doubt need minerals in your body. If you had the same you probably would not be sick today"; that "If your body needs minerals", said Kelp tablets should be tried to supply the deficiency; and that "When any one has plenty of minerals there should be no worry over goiter."

That, in truth and in fact, said representations are inaccurate, deceptive and misleading and do not correctly and properly set forth the true facts in the particulars involved.

PAR. 6. That the representations of respondent as aforesaid have had and do have the tendency and capacity to confuse, mislead and deceive members of the public in the particulars as aforesaid and to cause and induce them to buy and use respondent's said medicines

because of the erroneous beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale of medical preparations in interstate commerce of the same or similar kind as those sold by respondent or of those beneficial in or adapted to and used for the treatment of the various diseases and bodily ailments and conditions for which respondent recommends his said medicines as aforesaid. There are, among the competitors of respondent, those who in no wise make the same or similar false and misleading representations as made by respondent and as herein set out.

PAR. 7. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate commerce, within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

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 November 29, 1935, issued and served its complaint in this proceeding upon respondent Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, charging him 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 John W. Hilldrop, attorney for the Commission, before W. W. Shepard, an examiner of the Commission, theretofore duly designated by it, and in defense of the allegations of the complaint by Leroy Reames, attorney for the respondent; 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, brief of counsel for the Federal Trade Commission in support of the complaint; and the Commission having duly considered the same and now being 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 conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, is now, and has been for more than two years last past engaged in the sale and distribution in commerce as herein set out of various medicinal preparations. His office and principal place of business are located in the city of Los Angeles, in the State of California. Among the medicinal preparations, so sold and distributed by respondent, are the following:

Daddy Rango's H and H Tablets;
Daddy Rango's Laxative Herb Tablets;
Daddy Rango's Sunshine Kelp Tablets;
Daddy Rango's Asthma and Hay Fever Remedy.

Said respondent in the course and conduct of his business, causes said medicines when sold by him to be transported in commerce from his said place of business in California to, into, and through States of the United States other than California to the various persons located in such other States to whom such medicines are or have been sold.

PAR. 2. During the time above mentioned, other individuals, firms, and corporations located in various States of the United States have been engaged in the sale and distribution, in commerce among and between the various States of the United States of preparations similar in kind to those of respondent above named or of the same general therapeutic properties or adapted to and used for the purposes for which respondent recommends his said preparations. Such other individuals, firms, and corporations have caused and do now cause their said preparations when sold by them to be transported from various States of the United States to, into, and through States other than the State of the origin of the shipment thereof to the purchasers thereof. Said respondent has been during the aforesaid time in competition in such commerce in the sale of his said preparations with such other individuals, firms, and corporations.

PAR. 3. Respondent in advertising his said preparations, causes advertisements to be inserted in newspapers and magazines circulated to the purchasing public in the various States of the United States and also causes broadcasts to be made by means of the radio to the general public in the various States of the United States. He also advertises his said preparations by means of circulars and other advertising material distributed to the purchasing public in the various States of the United States by mail or otherwise.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's H and H Tablets are a cure, remedy, or competent and adequate treatment for an "over-acid condition" of the system, neuritis, stomach disorders generally, dizzy spells, headache, backache, rheumatism, stomach ulcers, gastric ulcers, duodenal ulcers, and for the removal of all impurities from the body.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Laxative Herb Tablets are a cure, remedy or competent and adequate treatment for constipation, headaches, dizzy spells, neuritis, rheumatism, "over-acid condition" of the system, back troubles, liver and kidney troubles, and for removing poisons from the system.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Sunshine Kelp Tablets are a cure, remedy, or competent and adequate treatment for goiter and for a run-down condition. It is further represented that said preparation promotes growth and builds sturdy bones and teeth in children; that it will supply all the minerals to assure "buoyant, vigorous health"; that it supplies the need of the body for minerals; that it will produce health and happiness; that it will remedy a run-down condition; and that it will prevent goiter.

By one or more of the aforesaid means, respondent represents that said Daddy Rango's Asthma and Hay Fever Remedy is a cure, remedy, or competent and adequate treatment for asthma and hay fever.

PAR. 4. The formula of respondent's remedy or medicine known and designated as "H and H Tablets" is as follows:

Magnesium Oxide.....	Grams.....	0.648
Sodium Bicarbonate.....	"	0.648
Calcium Carbonate.....	"	0.324
Bismuth Subcarbonate.....	"	0.324
Corn Starch.....	"	0.2805
Pancreatin.....	"	0.065
Tertrazine.....	"	0.001
Oil Peppermint.....	CC	0.006

The formula for said product, as above set out, is not such that the product can be considered a cure, remedy or competent and adequate treatment for an over-acid condition of the system, neuritis, stomach disorders, dizzy spells, headache, backache, rheumatism, stomach ulcers, gastric ulcers, duodenal ulcers and for the removal of all impurities from the human body.

The formula of respondent's remedy or medicine known and designated as "Kelp Tablets" is as follows:

Kelp.....	Grams.....	0.324
Acacia.....	"	0.0259

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The formula for said product as above set out, is not such that the product can be considered a cure, remedy or competent and adequate treatment for goiter or run-down condition of the human body. The use of this preparation does not promote growth or build sturdy bones and teeth in children. Its use will not supply all the minerals necessary to assure buoyant and vigorous health. It does not supply the need of the body for minerals and its use will not produce health and happiness. It will not remedy a run-down condition and its use will not prevent goiter.

The formula of respondent's remedy or medicine known and designated as "Ierb Tablets" is as follows:

Sugar.....	Grams..	0.13
Corn Starch.....	"	-- 0.0974
Aloin.....	"	-- 0.0324
Extract Licorice.....	"	-- 0.0324
Cascarin.....	"	-- 0.0162
Podophyllin.....	"	-- 0.012
Oleoresin Ginger.....	"	-- 0.004

The formula for said product, as above set out is not such that the product can be considered a cure, remedy or competent and adequate treatment for constipation, headaches, dizzy spells, neuritis, rheumatism, over-acid condition of the system, back troubles, liver and kidney troubles, and for the removal of poisons from the system.

The respondent's remedy or medicine known and designated as "Daddy Rango's Asthma and Hay Fever Remedy" is not composed of such ingredients as to make it a satisfactory remedy or competent and adequate treatment for asthma and hay fever.

None of the respondent's medicines or remedies, herein referred to, are proper and efficient remedies, treatments or palliatives for the various maladies, diseases and conditions of the human body represented by the respondent to be cured, remedied, or benefited by the use of said products. The remedies and medicines herein described have little or no therapeutic value.

PAR. 5. The representations made by the respondent with respect to the nature and effectiveness in use of the various remedies and medicines, herein referred to, have had, and do now have, the capacity and tendency to, and do, confuse, mislead, and deceive members of the public into the erroneous belief that said products are cures or satisfactory and adequate remedies or treatments for the various ills, diseases, maladies, and conditions of the human body as set out herein, and into the purchase of respondent's said medicines on account of said erroneous beliefs. As a result, trade has been unfairly diverted to the respondent and to those selling his products from corporations, firms and individuals engaged in the sale of other medicinal prepara-

tions designed and intended or used and recommended for the treatment or relief of the same diseases, maladies and conditions for which the respondent recommends his products, and who do not make similar false and misleading representations as to the character of their respective products or the extent of the effectiveness of said products when used. Injury has therefore been done by respondent to competition in commerce among and between the various States of the United States.

CONCLUSION

The aforesaid acts and practices of the respondent, Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, are to the prejudice of the public and of respondent's 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 respondent, testimony and evidence taken before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, brief of counsel for Federal Trade Commission filed herein, and the Commission having made its findings as to the facts and its conclusion that said respondent has 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 respondent, Albert F. Cooley, doing business under the names and styles of Rango Tablet Company, A. F. Rango, Daddy Rango, Daddy Rango Tablet Company, Rango Company, and Daddy Rango Company, or under any other name, style or designation; his representatives, agents, and employees in connection with the offering for sale, sale, and distribution in interstate commerce or in the District of Columbia, of the products known as Daddy Rango's "H and H Tablets," Daddy Rango's "Laxative Herb Tablets," Daddy Rango's "Sunshine Kelp Tablets," or Daddy Rango's "Asthma, Hay Fever Remedy," or any products of substantially the

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same composition and ingredients, sold under the above-mentioned names or under any other names, do forthwith cease and desist from representing directly or indirectly through handbills, circular letters, labels, radio broadcasts, or through any other method of advertising, means, or device:

(a) That Daddy Rango's Laxative Herb Tablets or any other products of substantially the same composition and ingredients are a cure, remedy, or competent and adequate treatment for constipation, headaches, dizzy spells, neuritis, rheumatism, over-acid condition of the system, back troubles, liver and kidney troubles, and for removing poison from the system; or that said tablets are not habit forming no matter how long taken;

(b) That Daddy Rango's Sunshine Kelp Tablets or any other products of substantially the same composition and ingredients are a cure, remedy, or competent and adequate treatment for goiter and for a run-down condition; that they promote growth and build sturdy bones and teeth in children; that they will supply all the minerals necessary to the human body, and assure buoyant and vigorous health; that they produce health and happiness; that they will prevent goiter; that said tablets possess and impart to those taking them the therapeutic, medicinal, and beneficial effects of natural sunshine; that said tablets are rich in organic minerals and bring to the daily diet an abundant supply of iodine, copper, and iron, and that said tablets are an ideal food supplement;

(c) That Daddy Rango's Asthma and Hay Fever Remedy or any other product of substantially the same composition and ingredients is a cure, remedy, or competent and adequate treatment for asthma and hay fever;

(d) That Daddy Rango's II and II Tablets or any other products of substantially the same composition and ingredients are a cure, remedy, or competent and adequate treatment for over-acid condition of the system, neuritis, dizzy spells, headache, backache, rheumatism, stomach ulcers, gastric ulcers, duodenal ulcers, and for the removal of impurities from the body;

(e) That any of said products have such therapeutic value to constitute a proper, competent, and adequate treatment or remedy for the diseases, ailments, maladies, and conditions of the human body named herein.

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

Syllabus

IN THE MATTER OF
CHARLES ELISCO, TRADING AS MAYWOOD CANDY
COMPANY

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

Docket 2970. Complaint, Nov. 6, 1936—Decision, Dec. 18, 1936

Where an individual, engaged in packing and assembling candy into assortments, including those which were so packed and assembled as to involve the use of a lottery scheme when sold and distributed to the consumers thereof, and which were composed of a number of small penny packages of candy, within the majority of which there were concealed articles of merchandise or prizes of equal value and amounting to a small fractional part of a cent, and within a few of which there were similarly concealed a one cent coin, thus distributed to purchasers wholly by lot or chance—

Sold to wholesalers and to retailers, for display and resale to purchasing public in accordance with aforesaid sales plan, said assortments, and thereby supplied to and placed in the hands of others the means of conducting lotteries in the sale of his said products in accordance with such plan, and contrary to public policy long recognized by the common law and criminal statutes, and to the established public policy of the United States Government, and in competition with many who, unwilling to offer or sell candy so packed and assembled, or otherwise arranged and packed, to the purchasing public as to involve a game of chance or sale of a chance to win something by chance, or any other method contrary to public policy, refrained therefrom;

With result that many dealers in and ultimate purchasers of candy were attracted by said method and manner of packing said products and by element of chance involved in sale thereof as aforesaid, and thereby induced to purchase such candy thus packed and sold by him in preference to that offered and sold by competitors who do not use the same or equivalent methods, and with tendency and capacity to induce such preferential purchase and to divert to him trade and custom from his said competitors who do not use such methods, exclude from said trade all competitors who are unwilling to and do not use such or an equivalent practice because unlawful, lessen competition therein and tend to create a monopoly thereof in him and such other distributors as use such or an equivalent practice, deprive purchasing public of benefit of free competition in trade involved, and eliminate from said trade all actual, and exclude all potential, competitors who do not use such or equivalent methods.

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

Mr. Henry C. Lank and Mr. P. C. Kolinski, for the Commission.