

Syllabus

IN THE MATTER OF
KELPE'KOE, INC., AND C. C. HANSON

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

Docket 2353. Complaint, Apr. 6, 1935—Decision, July 24, 1937

Where a corporation engaged in sale and distribution of "Kelp'e'Koe," alleged medicinal preparation, purported to possess therapeutic or curative properties, through sales, principally, direct to users thereof, and an individual, agent, and representative thereof, engaged in sale and distribution of said product direct to ultimate users, principally, in various States; in advertising their said preparation through distribution of circulars, leaflets, booklets, form letters, and other printed advertising matter—

- (a) Falsely represented and implied that said preparation might with safety be substituted for product insulin in treatment of diabetes, and that it would cure or be of substantial benefit in treatment of some twenty-five or twenty-six other ailments, afflictions, diseases, and conditions, including nervous disorders, undue fatigue, neuritis, rheumatism, arthritis, kidney trouble, etc.;
- (b) Falsely represented and implied that said preparation was of great benefit as a tonic and builder of children of all ages, and more particularly those who showed a tendency to be backward, and those who were ill-nourished, defective, stunted, and puny, and that it would supply vital elements required by nature in the building and formation of bone, tissue and cell structure, and provided elements required to harmonize glandular activity during childhood;
- (c) Falsely represented and implied that it was an effective tonic for men and women, and especially so during the trying periods of a woman's life, and that its regular use exerted a normalizing influence upon organs and toned up the system generally, building up the blood, and that use thereof had an invigorating effect, not temporary, on the body; and
- (d) Falsely represented and implied that use thereof would result in remineralization of the body, noticeably reflected in a keener expression, more youthful appearance, etc., and that regular use thereof by one in a weak and run-down condition would "bring one power," "quicken the brain and body activities," and make one healthier and happier, etc., and that it supplied the salts necessary to maintain a strong and vigorous body and insure a greater expectancy for a happier and healthier life;

Facts being only therapeutic value of preparation in question was as an eliminant, possibly, and as a tonic, possibly, for use by persons suffering from anemia or other ailments requiring an extra amount of iron in the diet, it was not efficacious as a treatment or palliative for diabetes and did not act in same manner or with same effect as, and was not a substitute for, insulin, unique product, as long recognized by medical profession, useful in control of said dangerous and progressively destructive disease, for which no cure is known, and aforesaid representations and implications were grossly exaggerated and false, and preparation in

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question was not of any benefit as a tonic and a builder of children of all ages, etc., as an effective tonic for men and women, and of any benefit to a woman at any period of her life, and did not have an invigorating or other effect on the body, as hereinabove set forth, or bring about results claimed therefor, and did not cure and was of no substantial therapeutic value in the treatment of any of the enumerated ailments, afflictions, diseases, and conditions;

With effect of misleading and deceiving many prospective purchasers of remedies for such ailments, etc., about which said representations and implications were made, and of causing a substantial portion of such persons erroneously to believe that such representations and implications were true and that preparation in question possessed therapeutic efficacy represented and implied by them, and was a competent and effective treatment and corrective for use in remedying said ailments, etc., for which recommended, and that users thereof, for purposes other than as a treatment for specific ailments, etc., would derive the general benefits represented and implied by them, and of causing a substantial portion of prospective purchasers to buy said preparation, thereby unfairly and unlawfully diverting trade in commerce to them from competitors engaged in substantial competition with them in offer, sale and distribution of mineral salts, drugs, remedies, and other medicants used and useful in treatment of ailments, etc., for which said "Kelpo'Koe" was recommended, and who truthfully represent their products; to substantial injury of such competitors and to injury of public:

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

Before *Mr. Edward M. Averill* and *Mr. W. W. Sheppard*, trial examiners.

Mr. John W. Hildrop and *Mr. Edw. W. Thomerson* for the Commission.

Mr. Guston T. Fitzhugh, of Memphis, Tenn., for respondents.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, and 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 Kelpo'Koe, Inc., a corporation, and C. C. Hanson, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce as "commerce" is defined in said act of Congress, 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. Respondent Kelpo'Koe, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Arizona, with its principal office and place of

business in the city of Seattle, State of Washington. It is now and has been for more than two years last past engaged in the distribution and sale in both liquid and solid form, of a shale-like mineral of alleged therapeutic or curative properties which it designates as "Klepe'Koe". In solid form this mineral is a shale-like clay containing iron and aluminum sulphates with a trace of sulphur, and in liquid form it is an aqueous solution of iron and aluminum sulphates with traces of calcium, magnesium and potassium salts. When this said product of said respondent, designated as aforesaid as Kelpe'Koe, is packed or bottled, the said respondent causes the same when sold to be transported from its said place of business in Seattle, Wash., into and through the various other States of the United States of America for delivery to the purchasers thereof located in such various other States of the United States. In the advertising and in the promotion of the sale of said Kelpe'Koe between and among the various States of the United States, the said respondent transmits through the mails of the United States from its said principal place of business to various and divers places in the several other States of the United States, circulars, leaflets, and other advertising literature, soliciting various persons in the different States of the United States to buy said product, Kelpe'Koe.

Respondent, C. C. Hanson, is a resident of the city of Memphis in the State of Tennessee, and is an agent of said respondent Kelpe'Koe, Inc., in the sale and distribution of the aforementioned products sold and distributed by said Kelpe'Koe, Inc. From his place of business in the city of Memphis, Tenn., the said C. C. Hanson ships the said product aforesaid known and designated as Kelpe'Koe, into and through divers other States of the United States, to various customers and purchasers who have bought said product, and from the said city of Memphis, Tenn., said respondent, C. C. Hanson, transmits through the United States mails, pamphlets, leaflets, and circulars furnished him by said respondent Kelpe'Koe, Inc., in the selling and the promoting of sales of Kelpe'Koe in commerce between and among the various States of the United States.

In the course and conduct of the business aforesaid, both respondents are and have been at all times hereinafter referred to, in substantial competition with other individuals and corporations and with partnerships, associations, and firms engaged in the sale and distribution in interstate commerce of mineral salts, drugs, remedies, and other medicants of therapeutic value.

PAR. 2. In the course and conduct of their business aforesaid the said respondents in soliciting the sale by them of said Kelpe'Koe in

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commerce among the various States of the United States, have represented and still represent by circulars, leaflets, labels, and other advertising matter, through and by means of the United States mails, that Kelpé'Koe, in both liquid and solid form, and when used either externally or internally, according to directions, will be of substantial therapeutic benefit, remedy, and cure for

nervous disorders	glandular trouble	arthritis
anemia	prostate trouble	abnormal blood pressure
undue fatigue	liver trouble	constipation
asthma	eczema	indigestion
catarrh	rickets	feminine disorders
neuritis	diabetes	goiter
lumbago	mal-nutrition	sexual weakness
acidosis	general debility	dropsy
stomach ulcers	hay fever	skin infections
kidney trouble	rheumatism	and hemorrhoids;

that Kelpé'Koe has been found a great benefit as a tonic and builder of children of all ages, particularly those who show a tendency to be backward, ill-nourished, defective, stunted, and puny, that it supplies vital elements required by nature in the building and formation of bone, tissue, and cell structure, and provides elements required to harmonize glandular activity at this important time of life; that it is an effective tonic for women as well as for men; that for all ages during the trying periods of a woman's life, including adolescence, pregnancy, and the menopause, the regular use of Kelpé'Koe exerts a normalizing influence upon the organs and tones up the system generally; that it is a powerful blood builder and tonic, and has a remarkable invigorating effect which is not temporary in duration; that the remineralization of the body through the Kelpé'Koe treatment is noticeably reflected in a keener expression, clearer complexion and more youthful appearance; that if one is in a weak and run-down condition, the regular use of Kelpé'Koe should bring one power, quicken the brain and bodily activities, and make one healthier and happier; that Kelpé'Koe supplies the body with the mineral salts required in maintaining a strong and vigorous body, and that the use of Kelpé'Koe assures a greater expectancy for a happier and more healthy life.

PAR. 3. In truth and in fact the said product of respondents, Kelpé'Koe, was not and is not in either liquid or solid form and when used either externally or internally, according to directions, or in any other way, of substantial therapeutic benefit, remedy, or cure for

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nervous disorders	glandular trouble	arthritis
anemia	prostate trouble	abnormal blood pressure
undue fatigue	liver trouble	constipation
asthma	eczema	indigestion
catarrh	rickets	feminine disorders
neuritis	diabetes	goiter
lumbago	mal-nutrition	sexual weakness
acidosis	general debility	dropsy
stomach ulcers	hay fever	skin infections
kidney-trouble	rheumatism	and hemorrhoids;

Kelpe'Koe has not been found, nor is it of great benefit nor of any benefit, as a tonic or builder of children of all ages, particularly those who show a tendency to be backward, ill-nourished, defective, stunted, and puny; it does not supply vital elements required by nature in the building of bone, tissue and cell structure; it does not provide elements required to harmonize glandular activity at this important time of life, and it is not an effective tonic for women as well as for men; for all ages during the trying periods of a woman's life, including adolescence, pregnancy, and the menopause the regular use of Kelpe'Koe will not exert a normalizing influence upon the organs, nor will it tone up the system generally; Kelpe'Koe is not a powerful blood builder and tonic; it has no invigorating effect which is not temporary in duration; the remineralization of the body through the Kelpe'Koe treatment is not noticeably reflected in a keener expression, clearer complexion and more youthful appearance; if one is in a weak and run-down condition the regular use of Kelpe'Koe will not bring one power, quicken the brain and bodily activities and will not make one healthier and happier; Kelpe'Koe does not supply the body with the mineral salts required in maintaining a strong and vigorous body, and the use of Kelpe'Koe does not assure a greater expectancy for a happier and more healthy life.

PAR. 4. The respondents in the conduct of their said business between and among the various States of the United States, by their advertisements, consisting of circulars, labels, pamphlets, personal letters and other forms of publicity, which are mailed to various customers and prospective customers, and to certain of the public at large in the various States of the United States of America, while not claiming that said product designated aforesaid as Kelpe'Koe is a cure for diabetes, yet by suggestion, implication, and innuendo, endeavor to create, and do create the impression that said Kelpe'Koe is a cure for diabetes, and that it is superior as a treatment for diabetes to insulin. While not directly advising diabetic patients to discontinue the use of insulin and to use in its room and stead said

Kelpe'Koe, yet the general tenor and purpose of its said advertisements have a tendency and capacity to create on the minds of diabetic patients the belief and impression that Kelpe'Koe as a treatment for diabetes is superior to insulin, and that insulin should be discontinued by them and Kelpe'Koe substituted in its room and stead.

PAR. 5. In truth and in fact, respondents' said product, Kelpe'Koe, is not a cure, remedy, or palliative for diabetes, and is in no sense superior to the insulin treatment which for a number of years has been recognized by the medical profession, both in the United States of America and in other countries, as the approved, standard and regular treatment for diabetes, and has been, and is now extensively used therefor.

The said mineral material contained in Kelpe'Koe in both solid and liquid form, and when used externally or internally or both, according to respondents' directions, acts and operates as an antiseptic astringent mineral oil, and will not act and operate as a benefit, remedy, or cure to or of persons afflicted with the maladies and diseases heretofore set out, and has little or no therapeutic value for any disease.

PAR. 6. The foregoing misrepresentations and exaggerations advertised, published, and distributed by respondents in the manner and form as aforesaid, in interstate commerce, are calculated to, and do have a tendency and capacity to mislead and deceive the public, and particularly that portion thereof which is suffering from various forms of human ailments hereinbefore set out, by creating in their minds the erroneous impression and belief that by purchasing and using respondents' Kelpe'Koe according to directions, they will be benefited, remedied, or cured of their diseases and ailments. By such misrepresentations and exaggerations the purchasing public, and particularly that portion thereof which is suffering from the various forms of human ailments hereinbefore set out, are induced to purchase respondents' said Kelpe'Koe under the erroneous impressions and with the erroneous beliefs hereinbefore stated.

PAR. 7. The foregoing misrepresentations and exaggerations of facts have a capacity and tendency to, and do unfairly divert trade to respondents from other individuals, corporations, associations, and firms selling and distributing in interstate commerce similar or like products and remedies to that of respondents' Kelpe'Koe, but which are honestly and truthfully advertised and labeled; thereby substantial injury is done by respondents to substantial competition in interstate commerce.

PAR. 8. The acts and things done as herein alleged by respondents are to the prejudice of the public and the competitors of the respond-

ents and constitute unfair methods of competition in 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 April 6, 1935, issued, and thereafter served its complaint in this proceeding upon respondents Kelpé' Koe, Inc. and C. C. Hanson, 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 respondents' 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 Edward M. Averill, an examiner of the Commission theretofore duly designated by it, no testimony or other evidence was offered in opposition to the allegations of the complaint; 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 complaint, the answer thereto, testimony and other evidence and brief in support of the complaint; 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. The respondent Kelpé'Koe, Inc. is a corporation organized under the laws of the State of Arizona, and has its office and principal place of business in the city of Seattle, State of Washington. The respondent is now and has been for more than two years last past engaged in the sale and distribution of an alleged medicinal preparation, purported to possess therapeutic or curative properties, under the name Kelpé'Koe.

Respondent markets the preparation Kelpé'Koe principally through sales direct to the users thereof located in the several States of the United States and in the District of Columbia, and causes said preparation Kelpé'Koe when sold to be transported from its place of business in Seattle, Wash., to the said purchasers thereof

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located at various points in the said several States of the United States other than the State of Washington and in the District of Columbia.

PAR. 2. The respondent C. C. Hanson is an individual residing in the city of Memphis, in the State of Tennessee, and he acts as an agent for and the representative of the respondent Kelp'e'Koe, Inc. in the sale and distribution of said preparation Kelp'e'Koe. He maintains an office and principal place of business in the city of Memphis, Tenn., from which point he solicits customers in nearby States.

The respondent C. C. Hanson sells the preparation Kelp'e'Koe principally direct to the ultimate users located in various of the States of the United States and causes said preparation when sold to be transported from his said place of business in the city of Memphis, State of Tennessee, to the purchasers thereof located at various points in the several States of the United States other than the State of Tennessee.

The respondents Kelp'e'Koe, Inc. and C. C. Hanson have acted together and cooperated with each other in doing the acts and things hereinafter set out.

PAR. 3. Respondents Kelp'e'Koe, Inc. and C. C. Hanson, in offering for sale, selling, and distributing the preparation "Kelp'e'Koe" in commerce, as above set out, are in substantial competition with other corporations and individuals and with partnerships, firms, and associations engaged in said commerce in offering for sale, selling, and distributing mineral salts, drugs, remedies, and other medicants possessing therapeutic and used and useful in the treatment of the ailments, afflictions, diseases, and conditions for which the respondents recommend the preparation "Kelp'e'Koe."

PAR. 4. The preparation "Kelp'e'Koe" is a "natural" product "mined" in the State of Oregon from what are claimed to be crystallized deposits of kelp, or seaweed, found underground.

An analysis of the preparation "Kelp'e'Koe" on April 27 1935, by The A. L. Kinsely Chemical Laboratory of Seattle, Wash., produced the results indicated in the following report:

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Sample KELPEKOE ORE

taken from package.

Kelp'ekoe Inc.

Bayview Bldg.

Seattle, Washington.

Gentlemen: Submitted sample of "Kelp'ekoe Ore" has been analyzed and the results are as follows:

Water soluble portion amounted to 17.76% and the analysis was made on the dried water soluble portion.

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	<i>Water soluble portion</i>	<i>Calculated to original ore</i>
Ferrous Sulphate-----	28.45%	5.05%
Ferric Sulphate-----	21.58%	3.83%
Aluminum Sulphate-----	28.90%	5.13%
Nickel Sulphate-----	0.45%	0.08%
Manganese Sulphate-----	0.32%	0.05%
Calcium Sulphate-----	2.78%	0.49%
Magnesium Sulphate-----	11.80%	2.00%
Sodium Sulphate-----	2.92%	0.52%
Sodium Chloride-----	0.18%	0.03%
Sodium Phosphate-----	0.20%	0.04%
Potassium Sulphate-----	0.46%	0.44%
Silica-----	0.13%	0.02%
Copper-----	Trace	Trace
Cobalt-----	Trace	Trace
Iodine-----	Trace	Trace
Lithium-----	Trace	Trace
Nitrates, Nitrites-----	Trace	Trace
Carbonates-----	Trace	Trace

The preparation is sold in its natural state and is "put up" in capsule form. The user of the preparation in its natural state concocts a tea for drinking by brewing the "ore," and the user of the preparation in capsule form uses it as purchased by taking the capsules by mouth.

PAR. 5. The respondents advertise the preparation Kelpe'Koe by distributing circulars, leaflets, booklets, form letters and other printed advertising matter. In said advertising matter, respondents make many representations and implications concerning the therapeutic efficacy of the preparation Kelpe'Koe and concerning the symptoms, and the treatment and cure, of various of the ailments, afflictions, diseases, and conditions from which mankind suffers. Many representations and implications are made concerning the benefits which users derive from Kelpe'Koe, other than as a treatment for specific ailments, afflictions, diseases, and conditions.

In said advertisements, respondents represent and imply that the preparation Kelpe'Koe when used according to directions will cure or be of substantial therapeutic benefit in the treatment of the following ailments, afflictions, diseases, and conditions:

nervous disorders	stomach ulcers	mal-nutrition
anemia	kidney trouble	general debility
undue fatigue	glandular trouble	hay fever
asthma	prostate trouble	rheumatism
catarrh	liver trouble	arthritis
neuritis	eczema	abnormal blood
lumbago	rickets	pressure
acidosis	diabetes	constipation

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indigestion
feminine disorders
gotter

sexual weakness
dropsy
skin infections

and
hemorrhoids.

The preparation Kelpé'Koe will not cure, nor is it of substantial therapeutic benefit in the treatment of the above enumerated ailments, afflictions, diseases, and conditions.

In said advertisements respondents represent and imply that the preparation Kelpé'Koe is of great benefit as a tonic and builder of children of all ages, more particularly those who show a tendency to be backward and those who are ill-nourished, defective, stunted, and puny, that it will supply vital elements required by nature in the building and formation of bone, tissue and cell structure, and that it provides the elements required to harmonize glandular activity during childhood. Respondents also represent and imply that the preparation Kelpé'Koe is an effective tonic for men and women, especially so during the trying periods of a woman's life, such as adolescence, pregnancy and the menopause and that its regular use exerts a normalizing influence upon the organs and tones up the system generally, building up the blood. Respondents also represent and imply that the use of the preparation Kelpé'Koe has an invigorating effect on the human body, which is not temporary in its duration, and that the remineralization of the body through the use of the preparation is noticeably reflected in a "keener expression," "clearer complexion" and a "more youthful appearance." Respondents also represent and imply that, if one is in a weak and run-down condition, regular use of the preparation will "bring one power," "quicken the brain and body activities" and make one healthier and happier, and that its use supplies the body with the mineral salts necessary to maintain a strong and vigorous body and assures a greater expectancy for a happier and healthier life.

The preparation Kelpé'Koe is not of great benefit, or of any benefit at all, as a tonic or builder of children of all ages, and is of no benefit to children who are backward, ill-nourished, defective, stunted or puny, and it does not supply vital elements required by nature in the building and formation of bone, tissue, and cell structure, and it does not provide the elements required to harmonize glandular activity during childhood. The preparation Kelpé'Koe is not an effective tonic for men and women and is of no benefit to a woman at any period of her life, and its regular use does not exert a normalizing influence upon the organs and tone the system generally, nor does it build up the blood.

The use of the preparation Kelpé'Koe does not have an invigorating effect on the human body. It does not result in remineralization

of the human body nor does it result in a "keener expression," "clearer complexion," or a "more youthful appearance." The use of the preparation Kelpé'Koe will not "bring one power," "quicken the brain and body activities," and "make one healthier and happier" nor will it supply the body with the mineral salts necessary to maintain a strong and vigorous body, nor does it assure one of a greater expectancy for a happier and healthier life.

PAR. 6 In said advertisements, repondents represent and imply that the preparation Kelpé'Koe may be substituted for insulin as a treatment or palliative for diabetes. The preparation Kelpé'Koe is not efficacious as a treatment or palliative for diabetes, and will not and does not act in the same manner or with the same effect as, and is not a substitute for, insulin in the treatment and control of diabetes. For many years insulin has been recognized in the medical profession as the one product useful in the control of diabetes, which is a dangerous and progressively destructive disease and for which there is no known cure. The representations and implications of respondents as above stated in regard to the use of the preparation Kelpé'Koe as a treatment or palliative for diabetes or as a substitute for the product insulin in the control of diabetes lead many sufferers from this disease to discontinue the use of insulin in the treatment of diabetes and to substitute therefor the preparation Kelpé'Koe to the injury of such sufferers.

PAR. 7. The representations and implications made by the respondents for the preparation Kelpé'Koe as hereinabove set out are grossly exaggerated and false, for the preparation does not possess the therapeutic efficacy represented and implied by the respondents, its only therapeutic value being as an eliminant, possibly, due to the presence in the preparation of magnesium and sodium sulphate, and as a "tonic," possibly, for use by persons suffering from anemia or other ailments requiring an extra amount of iron in the diet, due to the presence in the preparation of ferrous and ferric sulphate.

PAR. 8. The representations and implications so used by the respondents in connection with the sale of the preparation Kelpé'Koe in said commerce, in the manner hereinabove set out, have had, and do have, the tendency and capacity to and do mislead and deceive many prospective purchasers of remedies for the ailments, afflictions, diseases, and conditions hereinabove mentioned and about which said representations and implications are made, and cause a substantial portion of such persons erroneously to believe that said representations and implications are true and that the preparation Kelpé'Koe possesses the therapeutic efficacy represented and implied by the respondents, and that it is a competent and effective treatment and

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corrective for use in remedying the ailments, afflictions, diseases, and conditions for which it is recommended, and that the users of Kelpe'Koe for purposes other than as a treatment for specific ailments, afflictions, diseases, and conditions will derive the general benefits as represented and implied by the respondents as hereinabove set out. The acts and practices of the respondent as above described cause a substantial portion of prospective purchasers to purchase the preparation Kelpe'Koe, thereby unfairly and unlawfully diverting trade in said commerce to the respondents from their competitors, as described in paragraph 3 hereof, who truthfully represent their products, to the substantial injury of such competitors and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of the respondents Kelpe'Koe, Inc., and C. C. Hanson are to the prejudice of the public and of the 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 Edward M. Averill, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint, and brief in support of the complaint (no brief having been filed by the respondents and no request for oral argument having been made), and the Commission having made its findings as to the facts and its conclusion that the 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 Kelpe'Koe, Inc., a corporation, its officers, agents and employees, and C. C. Hanson, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of the product now known as, and sold under the name, Kelpe'Koe, or any other product or preparation, under whatever name sold, composed of similar ingredients and possessing therapeutic properties similar to the product Kelpe'Koe,

in interstate commerce or in the District of Columbia, forthwith cease and desist from representing, directly or by implication:

1. That the use of said preparation will cure, or be of substantial benefit in the treatment of, the following ailments, afflictions, diseases and conditions:

nervous disorders	rheumatism	abnormal blood pressure
undue fatigue	arthritis	indigestion
asthma	acidosis	feminine disorders
catarrh	stomach ulcers	goiter
neuritis	kidney trouble	sexual weakness
lumbago	glandular trouble	dropsy
diabetes	prostate trouble	skin infections
mal-nutrition	liver trouble	hemorrhoids;
general debility	eczema	
hay fever	rickets	

2. That said preparation provides the elements required to harmonize glandular activity during childhood or that it will supply vital elements required by nature in the building and formation of bone, tissue and cell structure;

3. That said preparation is an effective tonic for use by women during adolescence, pregnancy and the menopause, or that its regular use will exert a normalizing influence upon the organs and tone up the system generally or build up the blood;

4. That the use of said preparation will result in remineralization of the body or that its use will supply the body with the mineral salts necessary to maintain a strong and vigorous body;

5. That said preparation may, with safety, be substituted for the product insulin in the the treatment of diabetes;

6. That said preparation has any therapeutic value except as an eliminant and as a "tonic" where additional iron in the diet is indicated.

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
JOE ANDERSON, TRADING AS THE A & O COMPANY

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

Docket 3121. Complaint, May 1, 1937—Decision, July 24, 1937

Where an individual engaged in compounding, distributing, and selling, in commerce, his "A & O" pharmaceutical preparation; in advertisements circulated among the general public in various forms of printed matter and by radio broadcasts and otherwise—

- (a) Represented that said product opened the head, let one breathe freely, healed irritated membranes, checked fever, etc., and relieved and cured the most stubborn cold when other treatments failed, and protected one from influenza, pneumonia, and serious lung trouble;
- (b) Represented that it gave instant, guaranteed, and effective relief and opened the bowels and cleared the digestive tract, and restored system to normal, and was quicker and safer than pills and salves, and that there was nothing else that acted as quickly and thoroughly; and
- (c) Represented that said product was a secret combination of ingredients which doctors prescribe for colds, and was based on a secret formula within his exclusive knowledge, making product entirely different from any other known preparation;

Facts being said statements and representations were exaggerated, preparation in question was not a sure, quick, and effective remedy and cure for colds and did not relieve the systemic causes thereof or give instant and thorough relief, check fever, etc., or protect patient from influenza, pneumonia, or other cold complications, was not unique, as claimed, in its action nor based on a secret formula sponsored by reliable physician, could not with safety be given to any and all children indiscriminately, was not entirely different from any other known preparation in view of substantially similar composition of many competing products, and representations in question as to nature, curative value, and effect of said preparation were exaggerated, misleading and deceptive;

With capacity and tendency to mislead a substantial portion of the purchasing public into the belief that all said representations were true, and into purchase of said product in such beliefs, and with result that a number of the consuming public, as a direct consequence of mistaken and erroneous beliefs thus induced, purchased substantial volume of his said product, and trade was thereby unfairly diverted to him from competitors likewise engaged in distribution and sale of like and similar pharmaceutical preparations, and who truthfully represent effectiveness of their said products and results to be obtained from use thereof; 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.

Mr. Joseph C. Fehr for the Commission.

Mr. Clinton Robb, of Washington, D. C., for respondent.