

IN THE MATTER OF
SEKOV CORPORATION, EDWIN H. VOKES, AND HAZEL
RUTH VOKES

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

Docket 4061. Complaint, Mar. 12, 1940—Decision, Sept. 18, 1940

Where two individuals and a corporation, of which they were the sole stockholders and which they actively managed and business of which they controlled, engaged in sale and distribution of drug preparation advertised and known as "Sekov Reducer" and as "Sekov," and offered and sold as treatment for obesity; in advertisements which, prior to issuance of temporary restraining order by United States District Court, they disseminated and caused to be disseminated concerning their said preparation through newspapers and periodicals having general circulation, through the mails and otherwise, and which were intended and likely to induce purchase thereof—

- (a) Represented that their said product constituted a scientific treatment for obesity which guarded the health of the user and acted entirely on a corrective principle, facts being, it was not such a treatment when administered without thorough medical examination and scientific care and observation, constituted treatment for obesity only when used by persons suffering from hypothyroidism, would be improper and ineffective in cases in which condition was due to dysfunctioning of the pituitary gland and to excess intake of food, and did not guard health of user or act on corrective principle due to effect of intake of thyroid on rate of metabolism and, on the contrary, might be dangerous and injurious to health and life of user unless extent of process was carefully coordinated to exact needs of persons suffering from hypothyroidism;
- (b) Represented that, unlike harsh methods of reducing, it did not contain cathartics or dangerous drugs and did not reduce by merely tearing down fatty cells, facts being use thereof was harsh or strenuous method of reducing for reasons set forth, it did contain cathartics and dangerous drugs in presence therein of rhubarb, cascara sagrada, aloin, and bile salts, tendency of which is to dehydrate body tissues, and contained furthermore, dangerous drug, extract of thyroid; and
- (c) Represented that said preparation was made for reaching the glands, whose faulty function is cause of most overweight, and that it regulated action of glands gently and gradually and took off fat without weakening the body, and was especially prepared to be effective in reducing practically all cases of overweight, and reduced by normalizing body, facts being, it was not made for reaching or nourishing glands whose faulty function is cause of most overweight, only gland substances therein were whole ovarian and pituitary substances and thyroid substance, effect of which latter is to supply thyroxin to system but not to rejuvenate thyroid gland, and it did not regulate action of glands gently and gradually, or at all, and, while use thereof might result in taking off fat by accelerating rate of metabolism, it might seriously weaken body and organs thereof, including heart, and it was not effective in reducing practically all cases of

overweight for reason of limitations, as above described, or drug, extract of thyroid and fact that most overweight is caused by excessive intake of food, and it would not accomplish reduction of weight or fat by normalizing body; and

- (d) Failed to reveal in their advertisements that preparation contained, as aforesaid, dangerous drug extract of thyroid, and to reveal facts material in light of such representations or material with respect to consequences which might result from use of commodity under conditions prescribed in advertisements or under such conditions as are customary or usual;

With effect of misleading and deceiving portion of purchasing public into erroneous and mistaken belief that such false statements, claims and representations and advertisements were true, and that said preparation was a safe, scientific, and effective treatment for obesity, and of inducing or being likely to induce, directly or indirectly, purchase thereof by public: Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Gerard A. Rault for the Commission.

Mr. Harold E. Prudhon, of Los Angeles, Calif., for respondents.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Edwin H. Vokes, and Hazel Ruth Vokes, individuals, trading as Sekov Reducing Studios, and Sekov Corporation, a corporation, hereinafter referred to as respondents, have violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondents, Edwin H. Vokes and Hazel Ruth Vokes, are individuals trading as Sekov Reducing Studios with their office and principal place of business located at 6404 Hollywood Boulevard, Hollywood, Calif. Respondent, Sekov Corporation, is a corporation organized, existing, and doing business under the laws of the State of California with its office and principal place of business located at 6404 Hollywood Boulevard, Hollywood, Calif. Respondents are now, and for several years past have been, engaged in the sale and distribution of a drug preparation advertised and known as "Sekov Reducer" and as "Sekov," which preparation has been offered for sale and sold as a treatment for obesity.

PAR. 2. In the course and conduct of their aforesaid business, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their said preparation, by United States mails, by inser-

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tion in newspapers and periodicals having a general circulation, and also in circulars and other printed or written matter, all of which are distributed in commerce among the various States of the United States, and by other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said preparation, and have disseminated and are now disseminating, and have caused and are now causing the dissemination of false advertisements concerning their preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their preparation in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false statements, claims and representations contained in said newspaper advertisements, disseminated and caused to be disseminated as aforesaid, are the following:

From FAT 48 to SLIM 34

(Figure
of
Woman)

Weight 212

Weight 128

(Figure
of
Woman)

SeKov

A PHYSICIAN'S PRESCRIPTION

Registered in Washington, D. C. Reduce by normalizing the body. SEKOV is a scientific preparation of extracts, herbs and tonics. Therefore it assists to control and regulate those factors which have caused the overweight. REDUCE with ease, no rigid diet, no strenuous exercise, no loss of time from your daily tasks. No Dinitrophenol, no cathartics.

Testimonials on file at office.

FREE BOOKLET tells how SEKOV helps reduce quickly—pleasantly—inexpensively. Write or phone for it today. E4.

Name_____

Street_____

City and State_____

SEKOV REDUCING STUDIOS

San Francisco—209 Post St., Rm. 1005E.

Oakland—1440 Broadway.

Sacramento—614 Forum Bldg.

San Jose—Bank of America Bldg.

REDUCE

(Figure of
Woman)

For Charm Health Beauty with SEKOV

If you are troubled with overweight, feel below par, tried nearly everything to reduce, take heart. Read what one of our many satisfied users has to say about SEKOV.

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"I have taken SEKOV for four months and my weight is almost normal again. I am recommending SEKOV to my overweight friends. My weight was reduced from 145 to 123 pounds, and my bust from 39 to 34 inches." Mrs. D. P.—Huntington Park.

FREE BOOKLET!

If you are really sincere in your desire to reduce, send for your booklet today!

SEKOV REDUCING STUDIOS

Dept. 302, 6404 Hollywood Blvd., Hollywood, California, or Telephone GLadstone 2154.

In addition to the foregoing advertisements and others of similar character, respondents have disseminated and are now disseminating through the United States mails false advertisements by means of a book or pamphlet bearing on its outer cover the following words:

SEKOV

The Path to SLENDERNESS

(Picture of slender woman)

A Scientific Reducer.

* * *

No Rigid Diet.

* * *

No Strenuous Exercises.

Among the various statements, claims and representations contained in said publication are the following:

SEKOV AIMS TO GUARD YOUR HEALTH!

Grateful users of Sekov say that as their weight lessens, their pep and energy returns, they feel better than ever before. This is because Sekov acts entirely on a *corrective* principle. Unlike harsh methods of reducing—cathartics, starvation diets, strenuous exercise, dangerous drugs, etc.—it does not reduce by merely tearing down fatty cells and leaving the dead cells as a poison to the system. Sekov is made for reaching the *glands* whose faulty function is the cause of most overweight; for regulating their action gently and gradually, for taking off the fat without weakening the body.

By the dissemination of the aforesaid statements, claims, and representations, respondents have represented and are now representing, directly and indirectly, that their said preparation advertised and sold as "Sekov Reducer" and as "Sekov" is a scientific treatment for obesity; that said preparation guards the health of the user; that it acts entirely on a corrective principle; that unlike harsh methods of reducing it does not contain cathartics or dangerous drugs; that it does not reduce by merely tearing down fatty cells; that it is made for reaching the glands whose faulty function is the cause of most overweight; that it regulates the action of the glands gently and grad-

ually; that it takes off the fat without weakening the body; that it is especially prepared to be effective in reducing practically all cases of overweight; and that it reduces by normalizing the body.

PAR. 3. The aforesaid statements, claims, and representations used and disseminated by the respondents in the manner above described are grossly exaggerated, misleading, and untrue.

In truth and in fact said preparation advertised and known as "Sekov's Reducer" and as "Sekov" is not a scientific treatment for obesity when administered without a thorough medical examination and without scientific care and observation, and constitutes a treatment for obesity only when used by persons suffering from hypothyroidism. Obesity may be due to several causes, including the dysfunctioning of the pituitary gland and to excess intake of food, in which cases the use of said preparation will be improper and ineffective. Said preparation does not guard the health of the user and does not act on a corrective principle for the reason that the effect of the intake of thyroid accelerates the rate of metabolism whereby the tissues, especially fatty tissues, are burned more rapidly than is normal, and such a process is dangerous and may be injurious to the health and life of the user unless the extent of such process is carefully coordinated to the exact needs of the person suffering from hypothyroidism. The use of said preparation is a harsh or strenuous method of reducing for the reasons herein set forth. Said preparation does contain cathartics and dangerous drugs in that Capsule No. 1 of said preparation contains rhubarb, cascara sagrada, aloin and bile salts, all of which are cathartics, and all of which tend to dehydrate the body tissues. In addition said preparation contains the dangerous drug, extract of thyroid. Said preparation is not made for reaching the glands or nourishing the glands whose faulty function is the cause of most overweight. The only gland substances in said preparation are whole ovarian substance, whole pituitary substance and thyroid substance, all of which are inert when taken by mouth except thyroid substance, and the effect of thyroid gland substance is to supply thyroxin to the system but not to rejuvenate the thyroid gland. Said preparation does not regulate the action of the glands gently and gradually or at all. The use of said preparation, although it may result in taking off fat by accelerating the rate of metabolism, may seriously weaken the body and the organs of the body, including the heart. Said preparation is not effective in reducing practically all cases of overweight for the reason that the drug extract of thyroid is effective only in the treatment of obesity in cases in which the patient is suffering from hypothyroidism. Most overweight is caused by excessive intake of food. Said preparation does not accomplish reduction of weight or fat by normalizing the body.

Furthermore, said statements, claims, and representations constitute false advertisements in that they fail to reveal that said preparation contains a dangerous drug, extract of thyroid, and fail to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of said commodity under the conditions prescribed in said advertisements or under such conditions which are customary or usual.

PAR. 4. The use by the respondents of the foregoing false, deceptive, and misleading statements, claims, representations, and advertisements, disseminated as aforesaid, with respect to respondents' preparation, has had and now has the capacity and tendency to and does mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such false statements, claims, representations, and advertisements are true and that said preparation is a safe, scientific, and effective treatment for obesity, and induces or is likely to induce, directly or indirectly, the purchase by the public of respondents' said preparation.

PAR. 5. The aforesaid acts and practices of the respondents as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts or practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on the 12th day of March A. D. 1940, issued and subsequently served its complaint in this proceeding upon the respondents, Sekov Corporation, a corporation, and Edwin H. Vokes and Hazel Ruth Vokes, as officers of said corporation, and as individuals trading as Sekov Reducing Studios, charging them with unfair and deceptive acts or practices in commerce in violation of the provisions of said act. On May 1, 1940, the respondents filed their answer in this proceeding. Thereafter, a stipulation was entered into whereby it was stipulated and agreed that a statement of facts signed and executed by Harold E. Prudhon, counsel for said respondents, and W. T. Kelley, chief counsel for the Federal Trade Commission, subject to the approval of the Commission, may be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint, or in opposition thereto, and that said Commission may proceed upon said statement of facts to make its report, stating its findings as to the facts and its conclusion based thereon and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regu-

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larly came on for final hearing before the Commission on said complaint, answer and stipulation, said stipulation having been approved, accepted, and filed, 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 its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents Edwin H. Vokes and Hazel Ruth Vokes are individuals who until November 24, 1939, traded as Sekov Reducing Studios, with their office and principal place of business located at 6404 Hollywood Boulevard, Hollywood, Calif. Respondent Sekov Corporation is a corporation incorporated under the laws of the State of California on November 24, 1939, and since that date has been existing and doing business under the laws of the State of California, with its principal office and place of business located at 6404 Hollywood Boulevard, Hollywood, Calif. Respondents Edwin H. Vokes and Hazel Ruth Vokes since the date of the incorporation of respondent corporation have been its sole stockholders and have actively managed said corporation and controlled its business policies. Respondents Edwin H. Vokes and Hazel Ruth Vokes, trading as Sekov Reducing Studios, until the creation of Sekov Corporation in 1939 were, and respondent corporation since the date of its incorporation has been, engaged in the sale and distribution of a drug preparation advertised and known as "SEKOV REDUCER" and as "SEKOV", which preparation has been offered for sale and sold for a treatment of obesity.

PAR. 2. In the course and conduct of their aforesaid business and until February 15, 1940, the date of the issuance by the United States District Court of the temporary restraining order in this matter the respondents disseminated and caused the dissemination of various advertisements concerning their said preparation by United States mails, by insertion in newspapers and periodicals having a general circulation, and also in circulars or other printed and written matter, all of which are distributed in commerce among and between the various states of the United States, and by other means in commerce as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which are likely to induce directly or indirectly, the purchase of said preparation, and have disseminated and have caused the dissemination of advertisements concerning their said preparation, by various means, for the purpose of inducing, and which are likely to induce, directly or indirectly, the purchase of their preparation in commerce, as commerce is defined in the Federal Trade

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Commission Act. Among and typical of the statements, claims, and representations contained in said newspaper advertisements disseminated and caused to be disseminated as aforesaid, are the following:

From FAT 48 to SLIM 34

(Figure of Woman)	Weight 212	Weight 128	(Figure of Woman)
SeKov			

A PHYSICIAN'S PRESCRIPTION

Registered in Washington, D. C.

Reduce by normalizing the body.

SEKOV is a scientific preparation of extracts, herbs and tonics, therefore it assists to control and regulate those factors which have caused the overweight. REDUCE with ease, no rigid diet, no strenuous exercise, no loss of time from your daily tasks. No Dinitrophenol, no cathartics.

Testimonials on file at office.

FREE BOOKLET tells how Sekov helps reduce quickly—pleasantly—inexpensively, Write or phone for it today. E4.

Name_____

Street_____

City and State_____

SEKOV REDUCING STUDIOS

San Francisco—209 Post St., Rm. 1005E.

Oakland—1440 Broadway.

Sacramento—614 Forum Bldg.

San Jose—Bank of America Bldg.

REDUCE

For Charm Health Beauty with SEKOV

(Figure of
Woman)

If you are troubled with overweight, feel below par, tried nearly everything to reduce, take heart. Read what one of our many satisfied users has to say about SEKOV.

"I have taken SEKOV for four months and my weight is almost normal again. I am recommending SEKOV to my overweight friends. My weight was reduced from 145 to 123 pounds, and my bust from 39 to 34 inches." Mrs. D. P. — Huntington Park.

FREE BOOKLET!

If you are really sincere in your desire to reduce, send for your booklet today!

SEKOV REDUCING STUDIOS

Dept. 302, 6404 Hollywood Boulevard, Hollywood, California, or Telephone GLadstone 2154.

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In addition to the foregoing advertisements and others of similar character, respondents disseminated and caused the dissemination, through the United States mails, advertisements by means of a book or pamphlet bearing on its outer cover the following words:

SEKOV

The Path to SLENDERNESS

(Picture of slender woman)

A Scientific Reducer.

* * *

No rigid Diet.

* * *

No Strenuous Exercises.

Among the various statements, claims, and representations contained in said publication are the following:

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Grateful users of Sekov say that as their weight lessens, their pep and energy returns, they feel better than ever before. This is because Sekov acts entirely on a *corrective* principle. Unlike harsh methods of reducing—cathartics, starvation diets, strenuous exercise, dangerous drugs, etc.—it does not reduce by merely tearing down fatty cells and leaving the dead cells as a poison to the system. Sekov is made for reaching the *glands* whose faulty function is the cause of most overweight; for regulating their action gently and gradually, for taking off the fat without weakening the body.

By the dissemination of the aforesaid statements, claims and representations, respondents represented, directly and indirectly, that their said preparation advertised and sold as “SEKOV REDUCER” and as “SEKOV” is a scientific treatment for obesity; that said preparation guards the health of the user; that it acts entirely on a corrective principle; that unlike harsh methods of reducing it does not contain cathartics or dangerous drugs; that it does not reduce by merely tearing down fatty cells; that it is made for reaching the glands whose faulty function is the cause of most overweight; that it regulates the action of the glands gently and gradually; that it takes off the fat without weakening the body; that it is especially prepared to be effective in reducing practically all cases of overweight; and that it reduces by normalizing the body.

PAR. 3. The aforesaid statements, claims, and representations used and disseminated by the respondents in the manner above described are grossly exaggerated, misleading and untrue. In truth and in fact, said preparation advertised and known as “SEKOV REDUCER” and as “SEKOV” is not a scientific treatment for obesity when administered

without a thorough medical examination and without scientific care and observation, and constitutes a treatment for obesity only when used by persons suffering from hypothyroidism. Obesity may be due to several causes, including the dysfunctioning of the pituitary gland and to excess intake of food, in which cases the use of said preparation will be improper and ineffective. Said preparation does not guard the health of the user and does not act on a corrective principle for the reason that the effect of the intake of thyroid accelerates the rate of metabolism whereby the tissues, especially fatty tissues, are burned more rapidly than is normal, and such a process may be dangerous and may be injurious to the health and life of the user unless the extent of such process is carefully coordinated to the exact needs of the person suffering from hypothyroidism. The use of said preparation is a harsh or strenuous method of reducing for the reasons herein set forth. Said preparation does contain cathartics and dangerous drugs in that Capsule No. 1 of said preparation contains rhubarb, cascara sagrada, aloin and bile salts, all of which are cathartics, and all of which tend to dehydrate the body tissues. In addition said preparation contains the dangerous drug, extract of thyroid. Said preparation is not made for reaching the glands or nourishing the glands whose faulty function is the cause of most overweight. The only gland substances in said preparation are whole ovarian substance, whole pituitary substance and thyroid substance, and the effect of thyroid gland substance is to supply thyroxin to the system but not to rejuvenate the thyroid gland. Said preparation does not regulate the action of the glands gently and gradually or at all. The use of said preparation, although it may result in taking off fat by accelerating the rate of metabolism, may seriously weaken the body and the organs of the body, including the heart. Said preparation is not effective in reducing practically all cases of overweight for the reason that the drug extract of thyroid is effective only in the treatment of obesity in cases in which the patient is suffering from hypothyroidism. Most overweight is caused by excessive intake of food. Said preparation does not accomplish reduction of weight or fat by normalizing the body.

Furthermore, said statements, claims, and representations constitute false advertisements in that they fail to reveal that said preparation contains a dangerous drug, extract of thyroid, and fail to reveal facts material in the light of such representations of material with respect to consequences which may result from the use of said commodity under the conditions prescribed in said advertisements or under such conditions as are customary or usual.

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The use by the respondents of the foregoing false, deceptive and misleading statements, claims, representations and advertisements, disseminated as aforesaid, with respect to respondents' preparation, has had the capacity and tendency to and did mislead and deceive a portion of the purchasing public into the erroneous and mistaken belief that such false statements, claims, representations and advertisements are true and that said preparation is a safe, scientific and effective treatment for obesity, and induces or is likely to induce, directly or indirectly, the purchase by the public of respondents' said preparation.

CONCLUSION

The aforesaid acts and practices of the respondents, Sekov Corporation, a corporation, and Edwin H. Vokes and Hazel Ruth Vokes, as officers of said corporation, and as individuals trading as Sekov Reducing Studios, as herein found are all to the prejudice of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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, and a stipulation as to the facts entered into between Harold E. Prudhon, counsel for the respondents, and W. T. Kelley, chief counsel for the Commission, which provides, among other things, that without further evidence or other intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Sekov Corporation, a corporation, and Edwin H. Vokes and Hazel Ruth Vokes, as officers of said corporation, and as individuals trading as Sekov Reducing Studios, their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of a medicinal preparation for treatment of obesity advertised as Sekov Reducer and as Sekov, or any other preparation composed of substantially similar ingredients or possessing substantially similar properties, whether sold under the same or any other names, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement (a) by means of the United States mails, or (b) by any means in

commerce as commerce is defined in the Federal Trade Commission Act, which advertisement represents, directly, or through inference, that said preparation is a safe, competent and scientific treatment for obesity or that such treatment is designed to guard the health of the user, or that it acts entirely on a corrective principle, or that it is unlike harsh methods of reducing in that it does not contain cathartics or dangerous drugs, or that it does not reduce by merely tearing down fatty cells, or that it is made for reaching the glands whose faulty function is the cause of most overweight, or that it regulates the action of the glands gently and gradually, or that it takes off the fat without weakening the body, or that it is specially prepared to be effective in reducing practically all cases of overweight, or that it reduces by normalizing the body, or which advertisement fails to reveal all facts material in the light of the representations made with respect to such product and fails to reveal that the use of said preparation under the conditions prescribed in said advertisement or under such conditions as are customary or usual may result in serious or irreparable injury to the health of the user.

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1, hereof, or which advertisement fails to reveal all facts material in the light of the representations made with respect to and fails to reveal that the use of said preparation under the conditions prescribed in said advertisement or under such conditions as are customary or usual may result in serious or irreparable injury to the health of the user.

It is further ordered, That the respondents shall, within 10 days after service upon them of this order file with the Commission an interim report in writing stating whether they intend to comply with this order and, if so, the manner and form in which they intend to comply; and that within 60 days after the service upon them of this order, said respondents shall 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

W. C. ALLEN CANDY COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 4156. Complaint, June 4, 1940—Decision, Sept. 18, 1940

Where a corporation engaged in sale and distribution of candy and confectionery products, including certain assortments which were sold, packed, and assembled so as to involve use of games of chance, gift enterprises, or lottery schemes when sold and distributed to consumers thereof and which included (1) various containers, candy, a suitcase, and a punchboard for use in sale and distribution of such containers, candy, and other merchandise to the consuming public under a plan and in accordance with said board's explanatory legend by which amount, if any, paid for chances and ranging from 1 to 5 cents was determined by kind of number punched, and by which certain specified numbers from the 400 concealed on board entitled purchasers to receive bars of candy, purchaser of last punch on board received suitcase, and purchasers failing to secure such specified numbers or make last punch received nothing for money paid other than privilege of making punch; and (2) various other similar assortments of merchandise along with punchboards involving lot or chance feature and varying in detail only from that above described—

Sold such assortments along with punchboards, as above set forth, to jobbers, wholesalers, and retailers by whom as direct or indirect purchasers such assortments were exposed and sold to purchasing public in accordance with aforesaid sales plans, and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its merchandise in accordance with plan above set forth, involving game of chance or sale of chance to procure candy or other merchandise at price much less than normal retail price thereof, contrary to an established public policy of the United States Government, and in violation of the criminal laws and in competition with many who are unwilling to adopt and use said or any method involving game of chance or sale of a chance to win something by chance, or any method contrary to public policy and refrain therefrom;

With the result that many persons were attracted by its said sales plan or method employed by it in the sale and distribution of its merchandise, and element of chance involved therein, and were thereby induced to buy and sell same in preference to that offered and sold by its said competitors who do not use such or equivalent method, and with effect, through use of said method and because of such game of chance, of unfairly diverting trade in commerce to it from its competitors aforesaid, who do not use such method:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and competitors, and constituted unfair methods of competition and unfair and deceptive acts and practices therein.

Mr. L. P. Allen, Jr., for the Commission.