

Complaint

33 F. T. C.

IN THE MATTER OF

GLAND ESTEMETER CORPORATION, AND WILLIAM
ESTEPCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4328. Complaint, Oct. 3, 1940—Decision, June 13, 1941*

Where a corporation and its president and general manager, who formulated, directed, and controlled its practices and policies, engaged in interstate sale and distribution of their "Gland Estemeter" device for diagnosing various ailments and conditions; by means of advertisements disseminated through the mails, circulars, leaflets, and other advertising literature—

Represented, directly or by implication, that all ailments and diseases of the human body are caused by improper or abnormal functioning of the glands, and that their said device detected and disclosed any such improper or abnormal functioning, revealed any vitamin deficiency in the body and whether condition thereof was acid or alkaline, disclosed the condition of the blood with respect to energy and activity, and analyzed and disclosed any impairment of the mental processes;

Facts being there are many ailments and diseases which are not caused by any improper or abnormal functioning of the glands, and even where there might be such dysfunctioning, their said device was wholly incapable of detecting or disclosing such condition; and it possessed no value whatsoever in the diagnosis of any ailment, disease, or condition of the body;

With tendency and capacity to induce a substantial portion of the purchasing public to believe that such representations were true, and to cause it to purchase substantial quantities of their product as a result of such erroneous and mistaken belief:

Held, That such acts and practices, as above set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Randolph W. Branch for the Commission.

Darrow, Smith & Carlin, of Chicago, Ill., 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 the Gland Estemeter Corporation, a corporation, and William Estep, an individual, herein-after 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 in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Gland Estemeter Corporation is a corporation organized under the laws of the State of Missouri. Respondent William Estep is president and general manager of the corporate

240

Complaint

respondent and formulates, directs, and controls the practices and policies of said corporation. Both of the respondents formerly maintained their offices and principal places of business at 201 East Twelfth Street, Kansas City, Mo. Their present mailing address is in care of American Health Food Association, 30 North LaSalle Street, Chicago, Ill.

PAR. 2. For more than 1 year next preceding October 31, 1939, the respondents were engaged in the business of selling and distributing a certain device referred to by respondents as a "Gland Estemeter" and intended for use in the diagnosis of various ailments and conditions of the human body.

PAR. 3. In the course and conduct of their aforesaid business the respondents have disseminated and have caused the dissemination of false advertisements concerning their said product by the United States mails and by various other means in commerce, as commerce is defined in the Federal Trade Commission Act, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said product; and respondents have also disseminated and have caused the dissemination of false advertisements concerning their said product by various means for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of their said product in commerce, as commerce is defined in the Federal Trade Commission Act. Among and typical of the false, misleading and deceptive statements and representations contained in said false advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails, by circulars, leaflets and other advertising literature are the following:

THE GLAND ESTEMETER

This wonderful invention reveals the Vitamin Deficiency and Gland Deficiency of the body. SHOWING THE CAUSE AND PROPER WAY TO ELIMINATE DISEASE.

If Your Glands are Normal, They Register:

Pineal Gland, 580	Spleen Gland, 600
Pituitary Gland, 600	Adrenal Glands, 500
Para Thyroid Gland, 600	Pancreas Gland, 550
Thymus Gland, 550	Gonads, 600
Thyroid Gland, 380	

* * * the gland deficiency is the only cause of disease.

IF YOUR HEALTH IS CAUSING YOU TROUBLE, HAVE A GLAND TEST ON THE ESTEMETER AT ONCE. LEARN HOW TO CORRECT YOUR VITAMIN DEFICIENCY, TAKE THE ESTEMETER GLAND TECHNIQUE AND SEE FOR YOURSELF THAT AS FAST AS YOUR GLANDS BECOME NORMAL YOU WILL RECOVER FROM YOUR TROUBLE.

Complaint

33 F. T. C.

The Gland Estemeter Registers the Power of the Glands, Reveals what vitamins are deficient, shows if the body is acid or alkaline, reveals the blood energy and its power, analyzes the positive or negative mental condition of the brain centers.

The Estemeter also shows the energy in the blood as to its activity and reveals the extent of mineral deficiency, when the mineral is taken the Estemeter reveals the progress toward recovery and the deficiency disease if there is one vanishes as the blood approaches normal on the Estemeter.

THE GREAT BENEFIT HUMANITY WILL DERIVE FROM KNOWING THE CONDITION OF THEIR GLANDS AND HAVING A DEFINITE KNOWLEDGE OF VITAMIN DEFICIENCY IN THE BLOOD, AS WELL AS KNOWING THE EXACT CONDITION OF THEIR MENTAL PROCESS IS BEYOND ESTIMATE.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, the respondents directly and by implication, among other things, have represented that all ailments and diseases of the human body are caused by the improper or abnormal functioning of the glands of the body; that respondents' device detects and discloses any improper or abnormal functioning of the glands; that said device reveals any vitamin deficiency in the body, reveals whether the condition of the body is acid or alkaline, discloses the condition of the blood with respect to energy and activity, and analyzes and discloses any impairment of the mental processes.

PAR. 5. The foregoing representations are false and misleading. In truth and in fact, there are many ailments and diseases of the human body which are not caused by any improper or abnormal functioning of the glands. Even in those cases where there may be an improper or abnormal functioning of the glands, respondents' device is wholly incapable of detecting or disclosing such condition. Said device does not reveal vitamin deficiencies in the body, nor does it disclose whether the condition of the body is acid or alkaline. It does not disclose the condition of the blood with respect to energy or activity, nor does it disclose any other condition of the blood. It does not analyze or disclose impairments of the mental processes.

Respondents' device is in fact only an ordinary electric battery device, and the registrations shown thereon when said device is in use indicate merely the resistance of the body tissues to the electric current set in motion by the device. Such registrations are in no way related to nor are they indicative of the condition of the glands or any other part of the human body. In truth and in fact, respondents' device possesses no value whatsoever in the diagnosis of any ailment, disease, or condition of the human body.

PAR. 6. The use by the respondents of the foregoing false and misleading representations with respect to their said product has the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such

false and misleading representations are true, and into the purchase of substantial quantities of respondents' product.

PAR. 7. 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 and 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 3d day of October 1940, issued, and thereafter served, its complaint in this proceeding upon said respondents Gland Estemeter Corporation and William Estep, charging them with unfair and deceptive acts and practices in commerce in violation of the provisions of said act. On October 18, 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 the 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 the 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 proceedings without the presentation of argument, the filing of briefs or the filing of a report upon the evidence by the trial examiner. Thereafter, this proceeding regularly 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 this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Gland Estemeter Corporation, is a corporation organized under the laws of the State of Missouri. Respondent William Estep is president and general manager of the corporate respondent and formulates, directs, and controls the practices and policies of said corporation. Both of the respondents formerly maintained their offices and principal places of business at 201 East Twelfth Street, Kansas City, Mo. Their present mailing address is care of American Health Food Association, 30 North LaSalle Street, Chicago, Ill.

Findings

33 F. T. C.

PAR. 2. For more than 1 year next preceding October 31, 1939, the respondents were engaged in the business of selling and distributing a certain device referred to by respondents as a "Gland Estemeter" and intended for use in the diagnosis of various ailments and conditions of the human body.

PAR. 3. In the course and conduct of their aforesaid business the respondents have disseminated and have caused the dissemination of advertisements concerning their said product by the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said product; and respondents have also disseminated and have caused the dissemination of advertisements concerning their said product by various means for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of their said product in commerce, as "commerce" is defined in the Federal Trade Commission Act. Among and typical of the statements and representations contained in said advertisements disseminated and caused to be disseminated as hereinabove set forth by the United States mails, by circulars, leaflets, and other advertising literature, are the following:

THE GLAND ESTEMETER

This wonderful invention reveals the Vitamin Deficiency and Gland Deficiency of the body, SHOWING THE CAUSE AND PROPER WAY TO ELIMINATE DISEASE.

If your Glands are Normal, They Register:

Pineal Gland, 580	Spleen Gland, 600
Pituitary Gland, 600	Adrenal Glands, 500
Para Thyroid Gland, 600	Pancreas Gland, 550
Thymus Gland, 550	Gonads, 600
Thyroid Gland, 380	

* * * the gland deficiency is the only cause of disease.

IF YOUR HEALTH IS CAUSING YOU TROUBLE, HAVE A GLAND TEST ON THE ESTEMETER AT ONCE. LEARN HOW TO CORRECT YOUR VITAMIN DEFICIENCY, TAKE THE ESTEMETER GLAND TECHNIQUE AND SEE FOR YOURSELF THAT AS FAST AS YOUR GLANDS BECOME NORMAL YOU WILL RECOVER FROM YOUR TROUBLE.

The Gland Estemeter Registers the Power of the Glands, Reveals what vitamins are deficient, shows if the body is acid or alkaline, reveals the blood energy and its power, analyzes the positive or negative mental condition of the brain centers.

The Estemeter also shows the energy in the blood as to its activity and reveals the extent of mineral deficiency, when the mineral is taken the Estemeter reveals the progress toward recovery and the deficiency disease if there is one vanishes as the blood approaches normal on the Estemeter.

THE GREAT BENEFIT HUMANITY WILL DERIVE FROM KNOWING THE CONDITION OF THEIR GLANDS AND HAVING A DEFINITE KNOWLEDGE OF VITAMIN DEFICIENCY IN THE BLOOD, AS WELL AS KNOWING THE EXACT CONDITION OF THEIR MENTAL PROCESS IS BEYOND ESTIMATE.

PAR. 4. Through the use of the statements and representations hereinabove set forth and others similar thereto not specifically set out herein, the respondents directly and by implication, among other things, have represented that all ailments and diseases of the human body are caused by the improper or abnormal functioning of the glands of the body; that respondents' device detects and discloses any improper or abnormal functioning of the glands; that said device reveals any vitamin deficiency in the body, reveals whether the condition of the body is acid or alkaline, discloses the condition of the blood with respect to energy and activity, and analyzes and discloses any impairment of the mental processes.

PAR. 5. The Commission finds that the representations referred to in paragraphs 3 and 4 are false and misleading, and constitute false advertisements. There are many ailments and diseases of the human body which are not caused by any improper or abnormal functioning of the glands. Even in those cases where there may be an improper or abnormal functioning of the glands, respondents' device is wholly incapable of detecting or disclosing such condition. Respondents' device does not reveal vitamin deficiencies in the body, nor does it disclose whether the condition of the body is acid or alkaline. Respondents' device does not disclose the condition of the blood with respect to energy or activity, nor does it disclose any other condition of the blood. It does not analyze or disclose impairments of the mental processes. Respondents' device possesses no value whatsoever in the diagnosis of any ailment, disease, or condition of the human body.

PAR. 6. The use by the respondents of the foregoing representations with respect to their product has the tendency and capacity to induce a substantial portion of the purchasing public to believe that such representations are true, and to cause such portion of the public to purchase substantial quantities of respondents' product as a result of such erroneous and mistaken belief.

CONCLUSION

The aforesaid acts and practices of the respondents as herein found are all to the prejudice and injury 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 the respondents herein and W. T. Kelley, Chief Counsel for the Commis-

sion, 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, Gland Estemeter Corporation, a corporation, its officers, and William Estep, an individual, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their medicinal device known as "Gland Estemeter," or any device of substantially similar construction or possessing substantially similar characteristics, whether sold under the same name or any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference:

(a) That all ailments or diseases of the human body are caused by the improper or abnormal functioning of the glands;

(b) That respondents' device detects or discloses improper or abnormal functioning of the glands;

(c) That said device reveals vitamin deficiencies in the body;

(d) That said device discloses whether the condition of the body is acid or alkaline;

(e) That said device discloses the condition of the blood with respect to energy or activity, or that said device discloses any other condition of the blood;

(f) That said device analyzes or discloses impairments of the mental processes;

(g) That said device possesses any value in the diagnosis of any ailment, disease or condition of the human body.

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 device, which advertisement contains any of the representations prohibited in paragraph 1 hereof.

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.

Complaint

IN THE MATTER OF
GORDON FOODS, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4438. Complaint, Dec. 31, 1940—Decision, June 13, 1941*

Where a corporation engaged in the competitive interstate sale and distribution of food products including assortments of nuts, which were so packed and assembled as to involve the use of games of chance, gift enterprises, or lottery schemes when sold to the consuming public, and included, as typical, a display card with twenty-seven 5-cent packages of nuts each, three of which, however, concealed within them a printed slip of paper bearing the word "free" and were without cost to purchasers procuring same;

Sold such assortments to jobbers and, directly or indirectly, to retailers, by whom they were exposed and sold in accordance with said plan, involving game of chance to procure without cost, package of nuts, and thus supplied to and placed in the hands of others means of conducting lotteries in the sale of its products, contrary to established public policy of the United States Government, and in competition with many who, unwilling to sell their products by such or any method contrary to public policy, refrain therefrom;

With result that many persons were attracted by its said sales plan and the element of chance involved therein and were thereby induced to buy and sell its products in preference to those of its said competitors, and with tendency and capacity to divert trade unfairly to it from them:

Held, That such acts and practices were all to the prejudice and injury of the public and its competitors, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Mr. J. W. Brookfield, Jr. for the Commission.

Mr. Clarence H. Calhoun, of Atlanta, Ga., for respondent.

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 Gordon Foods, Inc., a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Gordon Foods, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business located at 1075 Sylvan Road SW., Atlanta, Ga. Respondent is now