

IN THE MATTER OF

BROOKS APPLIANCE COMPANY ET AL.

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

Docket 5072. Complaint, Nov. 26, 1943¹—Decision, Jan. 27, 1944

Where a corporation, and two officers thereof, who dominated and controlled its sales policies and advertising program, engaged in the manufacture and interstate sale and distribution of their "Brooks Rupture Appliance" or "Brooks Automatic Air Cushion," and "Natural Uterine Supporter," for use by women suffering from ailments caused by displacements of the womb; and their advertising agency; in advertisements thereof, directly and by implication—

- (1) Represented falsely that use of their "Rupture Appliance" constituted a competent remedy or cure for hernia, which would assure the user cessation of all discomfort and worry occasioned thereby, enable the wearer comfortably to resume and fully enjoy all activities of a normal life, including hard work and strenuous play, and in all cases of reducible hernia hold it securely and comfortably in place at all times; that the air cushion attachment was automatic and always clung to the spot to which it was adjusted without slipping, and that the device adjusted itself to every bodily movement, enabling nature to heal the hernia so that the need for wearing a truss or support of any kind would be obviated, and eliminating the possibility of strangulation;

Facts being that there are many reducible hernias which can not be retained by merely wearing an appliance or truss, no device or possible truss is the best appliance for use in all cases of reducible hernia, many types being superior for some hernias to that herein involved; fact that where a truss is properly fitted and succeeds in holding back the hernia, a small percentage of cases will heal to a point where the appliance may be laid aside, such does not mean hernia's permanent healing since unusual activity or straining may cause it to become active again; and every person thus affected can not expect through the use of a truss, either their's or others, to return to normal daily activities of manual labor or hard play, but must take reasonable precautions, to avoid further trouble from the hernia including possible strangulation of the part entering the sack; and

- (2) Falsely represented that use of their "Natural Uterine Supporter" constituted a competent and effective treatment for all uterine displacements and would relieve and cure all ailments and diseases caused by womb displacements;

Facts being use of said device might readily exaggerate many uterine or female sex difficulties, and no such device should be used unless it is determined by a competent physician that it will be beneficial and is not likely to be injurious to the wearer;

With capacity to mislead and deceive the purchasing public into the erroneous belief that such representations were true and because of such mistaken belief, into the purchase of said devices:

Held, that such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. R. P. Bellinger for the Commission.

¹ Amended.

AMENDED 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 Brooks Appliance Company, a corporation, Harold C. Brooks, and Craig W. Brooks, individually and as officers of Brooks Appliance Company, and Fogarty-Jordan-Phelps Company, a corporation, hereinafter referred to as the respondents, have violated the provisions of the 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 amended complaint in that respect as follows:

PARAGRAPH 1. The respondent, Brooks Appliance Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Michigan with its principal place of business located in Brooks Building at Marshall, Mich., and with branch offices at 500 Fifth Avenue, New York, N. Y. and 5 North Wabash Avenue, Chicago, Ill. The respondents, Harold C. Brooks and Craig W. Brooks, are individuals and officers of the said corporate respondent with their address also Marshall, Mich., and as officers of the said corporation they dominate and control the sales policies and advertising program thereof, particularly with respect to the use of the advertising statements and representations hereinafter referred to.

PAR. 2. The corporate respondent, Brooks Appliance Company, and the individual respondents, Harold C. Brooks and Craig W. Brooks are now, and for more than five years last past have been, engaged in manufacturing and in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of a device generally known as a truss designed for use in cases of hernia and designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion, and a device designated as Natural Uterine Supporter intended for use by women suffering from ailments caused by displacements of the womb.

The above-named respondents conduct their said business through the mails, selling directly to the individual users of their said devices, and the said respondents cause the same to be transported from their aforesaid places of business in the States of Michigan, New York and Illinois to the purchasers thereof located in various other States of the United States and in the District of Columbia.

Said respondents maintain, and at all times mentioned herein, have maintained a course of trade in their said devices in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 3. The respondent, Fogarty-Jordan-Phelps Company, is an Illinois corporation with its place of business located at 307 North Michigan Avenue, Chicago, Ill. This respondent is an advertising agency engaged in preparing, disseminating and causing to be published, advertising material for its patrons, and as such is the advertising representative of the respondents, Brooks Appliance Company, Harold C. Brooks and Craig W. Brooks, and prepares and has prepared, and aids and has aided, in the preparation, circulation and placing of the advertising matter used in the manner hereinafter set out, in connection with the sale and distribution in commerce of the said devices. All of the respondents named herein act

and have acted in full cooperation with one another in the performance of the acts and practices herein alleged.

PAR. 4. In the furtherance of the sale and distribution of the said devices sold and distributed by the respondents, Brooks Appliance Company and Harold C. Brooks and Craig W. Brooks, the respondents have disseminated and are now disseminating and have caused and are now causing the dissemination of, false advertisements concerning said devices by means of the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and the respondents have also disseminated and are now disseminating and have caused and are now causing the dissemination of, false advertisements concerning said devices, by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Among and typical of the false statements and representations contained in said advertisements disseminated and caused to be disseminated, as aforesaid, are the following:

With respect to the device generally known as a truss:

RUPTURED MEN NOW DO FULL TIME WAR WORK. Stop your rupture worries. Do you want to enjoy life again? Do you want to have a part in its normal activities, to work, to live and to do your share in the winning of the war? Then let us make this simple suggestion. Try a Brooks Rupture Appliance. Over four million rupture sufferers have had heavenly relief through this effective device. This simple acting invention holds reducible rupture in place securely and gives nature a chance to strengthen the muscles.

don't WORRY ABOUT RUPTURE. Why put up with years of needless discomfort and worry? Try a Brooks Automatic Air Cushion. This marvelous appliance permits the opening to close, yet holds reducible rupture securely, comfortably—day and night. Thousands report amazing results.

STOP Your Rupture Worries! Why worry and suffer any longer? Learn about our perfected invention for all forms of reducible rupture in men, women and children. Support fitted with automatic air cushion, assists Nature in a natural strengthening of the weakened muscles. Thousands made happy.

Don't let RUPTURE stop you. Although the armed services may not accept you, industry forging the tools of war CAN use you, providing you make yourself fit for full-time, all-out war effort. Learn now how the Brooks Rupture Appliance has made it possible for thousands of ruptured men and women to go about their daily duties, with full efficiency and in absolute comfort.

Why worry any longer? Learn now about this perfected invention for all forms of reducible rupture. It has brought comfort and happiness to millions of men, women and children, by assisting Nature to restore strength to the weakened muscles. Imagine how happy thousands of rupture sufferers were to report that they had no further use for any kind of support. How would YOU like to be able to feel the same happiness, and to write such a message?

Patented AIR-CUSHION Support Gives Nature a Chance. The perfected Automatic Air Cushion supports the weakened parts, allowing Nature, the Great Healer, to swing into action! You should experience the most heavenly comfort and security. . . Wouldn't you like to say "Goodbye" to rupture worries and enjoy NEW glory in living? . . . NEW happiness with the help of Mother Nature and the Brooks Perfected Air Cushion Appliance?

Every RUPTURE Sufferer Can Now Have The Benefit of My Automatic Air Cushion Sent on Trial! See for yourself how this marvelously soft, flexible AIR-CUSHION SUPPORT automatically adjusts itself to every move of the body; how it firmly supports reducible Rupture in men, women or children without gouging or punishing; how it stays without slipping . . . and how this light weight Air-Cushion truss invention will enable you to say "Goodbye" to Rupture Worries.

Why put up with days . . . months . . . YEARS of discomfort, worry and fear? Learn now about this perfected invention for all forms of reducible rupture. Surely you keenly desire—you eagerly CRAVE to enjoy life's normal activities and pleasures once again. To work . . . to play . . . to live . . . to love . . . with the haunting Fear of Rupture banished from your thoughts! Literally, thousands of rupture sufferers have entered this Kingdom of Paradise Regained. Why not you? Some wise man said, "Nothing is impossible in this world"—and it is true, for where others fail is where we have had our greatest success in many cases!

Patented AIR-CUSHION Support Gives Nature a Chance to CLOSE the OPENING. Think of it! Here is a surprising yet simple-acting invention that permits Nature to close the opening—that holds the rupture securely, but gently, day and night, at work and at play.

It brings heavenly comfort and security—while the automatic Air Cushion continually works, in its own unique way, to help Nature get results!

Why worry and suffer any longer? Learn now about my perfected invention for all forms of reducible rupture. It has brought ease, comfort and happiness to thousands of men, women and children. You can imagine how happy many of these rupture sufferers were when they wrote to me that they had no further use for any kind of support. How would YOU like to be able to experience that same happiness? The only way to find out is to actually try this remarkable appliance.

Why not Give Nature a Chance? As long as Your rupture can be put back and held in place with the fingers—in other words, if your rupture is completely reducible, why block all hope for a natural recovery by wearing something that prevents Nature from working for you? Why not help Nature by using the Brooks Automatic AIR-CUSHION support, that works with natural physical laws and holds the rupture gently but securely!

Doctor Says Cured.

I discarded your appliance about three months ago, having no further need for it. By that I mean I am perfectly cured and have no discomfort whatever after lifting pianos, etc., at my work.

Completely recovered.

IS YOUR Rupture GETTING Worse? It is terrible to feel that your rupture is constantly getting worse, taking the joy out of life, even making you feel despondent—without your seeming to be able to DO anything about it! And yet, it is so needless! We have information for you that has brought deliverance and joy to thousands of men, women and children.

STOP IT, STOP IT!

Be Yourself Again!

As sure as you live and breathe, if you have a reducible rupture, you can stop your rupture worries—find yourself alive and energetic and rid of all the old fears that made your existence a bad dream! THE FAMOUS BROOKS AUTOMATIC AIR-CUSHION APPLIANCE WILL SET YOU FREE. There is nothing experimental about the famous BROOKS Air-Cushion Rupture Appliance . . . The very day you put on a BROOKS Patented Air-Cushion, you will feel reborn! That's because the Air-Cushion clings as nothing else can! No more fear of slipping, to let the rupture down. No more dread of strangulation!—and—at last!—complete freedom to indulge in every normal activity!

Why continue to suffer with rupture? Stop your worries and fears.

The Cure of Rupture.

According to thousands of reducible rupture sufferers who have written us to report not only relief from pain and suffering but also in many cases a cure through the assisting agency of a Brooks Air Cushion Appliance, it is possible for you to believe that here at last is real proof that brains and inventive power—centered on this long-felt want—have accomplished their great object.

Its efficiency is primarily due to the AUTOMATIC AIR-CUSHION WHICH follows every movement of the body, always covers the ruptured spot and is always where it should be to do you the most good.

The Brooks Air Cushion Appliance . . . covers the rupture perfectly and binds the parts together as you would a broken limb, drawing the weakened muscles together and holding them firmly in place, making a cure possible, assuming that your rupture is curable through the assistance of such constant and perfect retention.

The correct Appliance will retain rupture under all circumstances—in heavy lifting and in all positions of the body. With its gentle pressure always over the ruptured parts, it gives instant relief and allows nature to make a cure where cure is possible.

With respect to the Natural Uterine Supporter:

Uterine Displacements and Their Treatments with Our Natural Uterine Supporter.

Many ailments with which women are afflicted are caused by DISPLACEMENTS OF THE WOMB, and our object in presenting our NATURAL UTERINE SUPPORTER is to furnish an instrument or combination that will not only alleviate the affliction, but entirely eradicate the disease.

PAR. 5. By the use of the statements and representations hereinabove set forth, and others similar thereto, not specifically set out herein, respondents represent, and have represented, directly and by implication, that the use of their device designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion constitutes a competent remedy or cure for hernia; that its use by one suffering from hernia will assure the cessation of all discomfort and worry occasioned by such ailment; that its use in cases of hernia will enable the user to comfortably resume and fully enjoy all activities of a normal life, including hard work and strenuous play; that its use in all cases of reducible hernia will hold the hernia securely and comfortably in place at all times; that respondents' so-called air cushion attachment is automatic and always clings to the spot to which it is adjusted, without slipping; that it adjusts itself to every bodily movement; that its use will enable nature to heal the hernia so that the need for wearing a truss or support of any kind will be obviated; that its use will eliminate the possibility of a strangulated hernia; that the use of their device designated as Natural Uterine Supporter constitutes a competent and effective treatment for all uterine displacements, and will relieve and cure all ailments and diseases caused by womb displacements.

PAR. 6. The aforesaid representations and advertisements used and disseminated by the respondents as hereinabove described are grossly exaggerated, false and misleading. In truth and in fact, use of respondents' device designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion does not constitute a competent remedy or cure for hernia; its use by one suffering from hernia will not assure the cessation of all discomfort and worry occasioned by such ailment; its use in cases of hernia will not enable the user to comfortably resume and fully enjoy all activities of a normal life, including hard work and strenuous play; its use in all

cases of reducible hernia will not hold the hernia securely and comfortably in place at all times. Respondents' so-called air cushion attachment is not automatic and does not always cling to the spot to which it is adjusted, without slipping; it does not adjust itself to every bodily movement; its use will not enable nature to heal the hernia so that the need for wearing a truss or support of any kind will be obviated; its use will not eliminate the possibility of a strangulated hernia; the use of respondents' device designated as Natural Uterine Supporter does not constitute a competent and effective treatment for all uterine displacements, and will not relieve and cure all ailments and diseases caused by womb displacements. The use of this device might readily exaggerate many uterine or female sex difficulties, and no such device should be used unless it is determined by a competent physician that it will be beneficial and not likely injurious to the wearer.

PAR. 7. There are many reducible hernias which cannot be retained merely by wearing an appliance or truss, and neither respondents' device nor any other possible truss is the best appliance for use in all cases of reducible hernia; there are types of trusses superior to the Brooks Appliance for some hernias. A very small percentage of reducible hernias may, without the use of a truss, close the opening sufficiently by the ordinary process of healing so as to retain the hernia, provided the individual exercises care to avoid activities or straining which will cause the opening to periodically stretch or become filled with the organs which customarily enter it. Where a truss is properly fitted and where it succeeds in holding back the hernia, a small percentage of cases will heal to a point where the appliance may be laid aside. This does not mean, however, that the hernia has completely and permanently healed. Unusual activity or straining may cause the hernia to become active again. The mere fact that a person who has previously worn a truss reports that he no longer required the truss does not mean that he will not need it again in the future. No person who has a hernia can expect through the use of a truss, either respondents' or others, to return to normal daily activities of manual labor or hard play. Even if a person so afflicted has a well fitted truss, he must take reasonable precautions in order to avoid further trouble from the hernia and possible strangulation of the part which enters the hernia sack.

PAR. 8. The use by the respondents of the foregoing false, deceptive and misleading statements and advertisements with respect to their said devices, disseminated as aforesaid, 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 statements and advertisements are true and because of such erroneous and mistaken belief, to purchase substantial quantities of respondents' said devices.

PAR. 9. The aforesaid acts and practices of 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 26th day of November 1943 issued and subsequently served its amended complaint in this proceeding upon the respondents, charging them with the use of unfair and deceptive acts and

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practices in commerce in violation of the provisions of said act. The respondents have not filed answer to the said amended complaint, but a stipulation has been entered into whereby it was stipulated and agreed that a statement of facts signed and executed by the respondents and Richard P. Whiteley, Assistant 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 amended 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 proceeding without the presentation of argument or the filing of briefs. Thereafter, this proceeding regularly came on for final hearing before the Commission on said amended complaint 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 respondent, Brooks Appliance Company, is a corporation, organized, existing and doing business under and by virtue of the laws of the State of Michigan, with its principal place of business located in Brooks Building at Marshall, Mich., and with branch offices at 500 Fifth Avenue, New York, N. Y., and 5 North Wabash Avenue, Chicago, Ill. The respondents, Harold C. Brooks and Craig W. Brooks, are individuals and officers of the said corporate respondent with their address also Marshall, Mich., and as officers of the said corporation they dominate and control the sales policies and advertising program thereof, particularly with respect to the use of the advertising statements and representations hereinafter referred to.

PAR. 2. The corporate respondent, Brooks Appliance Company, and the individual respondents, Harold C. Brooks and Craig W. Brooks, are now, and for more than five years last past have been, engaged in manufacturing and in the sale and distribution in commerce between and among the various States of the United States and in the District of Columbia of a device generally known as a truss designed for use in cases of hernia and designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion, and a device designated as Natural Uterine Supporter intended for use by women suffering from ailments caused by displacements of the womb.

The above named respondents conduct much of their said business through the mails, selling directly to many individual users of their said devices, and the said respondents cause the same to be transported from their aforesaid places of business in the States of Michigan, New York; and Illinois to the purchasers thereof located in the various other States of the United States and in the District of Columbia.

Said respondents maintain, and at all times mentioned herein have maintained, a course of trade in their said devices in commerce, between and among the various States of the United States and in the District of Columbia.

PAR. 3. The respondent, Fogarty-Jordan-Phelps Company, is an Illinois corporation now in the process of dissolution. This respondent, when

actively engaged in business, was an advertising agency, wholly owned and operated by its three officers, Cecil C. Fogarty, Walter Jordan, and Norman J. Phelps, with its place of business located at 307 North Michigan Avenue, Chicago, Ill. Application for dissolution of said corporation was filed with the Secretary of State of the State of Illinois on October 30, 1943. The said corporate respondent, when active, was engaged in preparing, disseminating and causing to be published, advertising material for its patrons, and as such was the advertising representative of the respondents, Brooks Appliance Company, Harold C. Brooks and Craig W. Brooks, and prepared and aided in the preparation, circulation and placing of the advertising matter used in the manner hereinafter set out, in connection with the sale and distribution in commerce of the said devices.

All of the respondents named herein, including the individuals Cecil C. Fogarty and Norman J. Phelps, act and have acted in full cooperation with one another in the performance of the acts and practices herein described. On October 30, 1943, the individuals Cecil C. Fogarty and Norman J. Phelps formed a copartnership in the name of Fogarty-Phelps Company and as such took over the entire ownership, management, operation and control of the said corporation, Fogarty-Jordan-Phelps Company, since which date the said Cecil C. Fogarty and Norman J. Phelps have been conducting the said business as copartners in the name of Fogarty-Phelps Company, at the same address, with the same connections and relationships to the respondents, Brooks Appliance Company, Harold C. Brooks, and Craig W. Brooks, and their advertising representations, hereinafter set forth, as the corporation Fogarty-Jordan-Phelps Company previously had.

PAR. 4. In the furtherance of the sale and distribution of the said devices sold and distributed by the respondents, Brooks Appliance Company and Harold C. Brooks and Craig W. Brooks, the respondents have disseminated and are now disseminating, and have caused and are now causing the dissemination of advertisements concerning said devices by means of the United States mails and by various other means in commerce, as "commerce" is defined in the Federal Trade Commission Act; and the respondents have also disseminated and are now disseminating, and have caused and are now causing the dissemination of, advertisements concerning said devices, by various means for the purpose of inducing and which are likely to induce, directly or indirectly, the purchase of said devices 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 aforesaid, are the following:

With respect to the device generally known as a truss:

RUPTURED MEN NOW DO FULL TIME WAR WORK. Stop your rupture worries. Do you want to enjoy life again? Do you want to have a part in its normal activities, to work, to live and to do your share in the winning of the war? Then let us make this simple suggestion. Try a Brooks Rupture Appliance. Over four million rupture sufferers have had heavenly relief through this effective device. This simple acting invention holds reducible rupture in place securely and gives nature a chance to strengthen the muscles.

don't WORRY ABOUT RUPTURE. Why put up with years of needless discomfort and worry? Try a Brooks Automatic Air Cushion. This marvelous appliance permits

the opening to close, yet holds reducible rupture securely, comfortably—day and night. Thousands report amazing results.

STOP Your Rupture Worries! Why worry and suffer any longer? Learn about our perfected invention for all forms of reducible rupture in men, women and children. Support fitted with automatic air cushion, assists Nature in a natural strengthening of the weakened muscles. Thousands made happy.

Don't let RUPTURE stop you. Although the armed services may not accept you, industry forging the tools of war CAN use you, providing you make yourself fit for full-time, all-out war effort. Learn now how the Brooks Rupture Appliance has made it possible for thousands of ruptured men and women to go about their daily duties, with full efficiency and in absolute comfort.

Why worry any longer? Learn now about this perfected invention for all forms of reducible rupture. It has brought comfort and happiness to millions of men, women and children, by assisting Nature to restore strength to the weakened muscles. Imagine how happy thousands of rupture sufferers were to report that they had no further use for any kind of support. How would YOU like to be able to feel the same happiness, and to write such a message?

Patented AIR-CUSHION Support Gives Nature a Chance. The perfected Automatic Air Cushion supports the weakened parts, allowing Nature, the Great Healer, to swing into Action! You should experience the most heavenly comfort and security . . . Wouldn't you like to say "Goodbye" to rupture worries and enjoy NEW glory in living? . . . NEW happiness with the help of Mother Nature and the Brooks Perfected Air Cushion Appliance?

Every RUPTURE Sufferer Can Now Have The Benefit of My Automatic Air Cushion Sent on Trial! See for yourself how this marvelously soft, flexible AIR-CUSHION SUPPORT automatically adjusts itself to every move of the body; how it firmly supports reducible Rupture in men, women or children without gouging or punishing; how it stays without slipping . . . and how this light weight Air-Cushion truss invention will enable you to say "Goodbye" to Rupture Worries.

Why put up with days . . . months . . . YEARS of discomfort, worry and fear? Learn now about this perfected invention for all forms of reducible rupture. Surely you keenly desire—you eagerly CRAVE to enjoy life's normal activities and pleasures once again. To work . . . to play . . . to live . . . to love . . . with the haunting Fear of Rupture banished from your thoughts! Literally, thousands of rupture sufferers have entered this Kingdom of Paradise Regained. Why not you? Some wise man said, "Nothing is impossible in this world"—and it is true, for where others fail is where we have had our greatest success in many cases!

Patented AIR CUSHION Support Gives Nature a Chance to CLOSE the OPENING. Think of it! Here is a surprising yet simple-acting invention that permits Nature to close the opening—that holds the rupture securely, but gently, day and night, at work and at play.

It brings heavenly comfort and security—while the automatic Air Cushion continually works, in its own unique way, to help Nature get results!

Why worry and suffer any longer? Learn now about my perfected invention for all forms of reducible rupture. It has brought ease, comfort and happiness to thousands of men, women and children. You can imagine how happy many of these rupture sufferers were when they wrote to me that they had no further use for any kind of support. How would YOU like to be able to experience that same happiness? The only way to find out is to actually try this remarkable appliance.

Why not Give Nature a Chance? As long as Your rupture can be put back and held in place with the fingers—in other words, if your rupture is completely reducible, why block all hope for a natural recovery by wearing something that prevents Nature from working for you? Why not help Nature by using the Brooks Automatic AIR-CUSH-

ION support, that works with natural physical laws and holds the rupture gently but securely!

Doctor Says Cured.

I discarded your appliance about three months ago, having no further need for it. By that I mean I am perfectly cured and have no discomfort whatever after lifting pianos, etc., at my work.

Completely recovered.

IS YOUR Rupture GETTING Worse? It is terrible to feel that your rupture is constantly getting worse, taking the joy out of life, even making you feel despondent—without your seeming to be able to DO anything about it! And yet, it is so needless! We have information for you that has brought deliverance and joy to thousands of men, women and children.

STOP IT, STOP IT!

Be yourself Again!

As sure as you live and breathe, if you have a reducible rupture, you can stop your rupture worries—find yourself alive and energetic and rid of all the old fears that made your existence a bad dream! THE FAMOUS BROOKS AUTOMATIC AIR-CUSHION APPLIANCE WILL SET YOU FREE. There is nothing experimental about the famous BROOKS Air-Cushion Rupture Appliance . . . The very day you put on a BROOKS Patented Air-Cushion, you will feel reborn! That's because the Air-Cushion clings as nothing else can! No more fear of slipping, to let the rupture down. No more dread of strangulation!—and—at last!—complete freedom to indulge in every normal activity!

Why continue to suffer with rupture? Stop your worries and fears.

The Cure of Rupture.

According to thousands of reducible rupture sufferers who have written us to report not only relief from pain and suffering but also in many cases a cure through the assisting agency of a Brooks Air Cushion Appliance, it is possible for you to believe that here at last is real proof that brains and inventive power—centered on this long-felt want—have accomplished their great object.

Its efficiency is primarily due to the AUTOMATIC AIR-CUSHION WHICH follows every movement of the body, always covers the ruptured spot and is always where it should be to do you the most good.

The Brooks Air Cushion Appliance . . . covers the rupture perfectly and binds the parts together as you would a broken limb, drawing the weakened muscles together and holding them firmly in place, making a cure possible, assuming that your rupture is curable through the assistance of such constant and perfect retention.

The correct Appliance will retain rupture under all circumstances—in heavy lifting and in all positions of the body. With its gentle pressure always over the ruptured parts, it gives instant relief and allows nature to make a cure where cure is possible.

With respect to the Natural Uterine Supporter:

Uterine displacements and Their Treatments with our Natural Uterine Supporter.

Many ailments with which women are afflicted are caused by DISPLACEMENTS OF THE WOMB, and our object in presenting our NATURAL UTERINE SUPPORTER is to furnish an instrument or combination that will not only alleviate the affliction, but entirely eradicate the disease.

PAR. 5. By the use of the statements and representations hereinabove set forth, and others similar thereto, not specifically set out herein, respondents represent, and have represented, directly and by implication, that the use of their device designated as Brooks Rupture Appliance and

as Brooks Automatic Air Cushion constitutes a competent remedy or cure for hernia; that its use by one suffering from hernia will assure the cessation of all discomfort and worry occasioned by such ailment; that its use in cases of hernia will enable the user to comfortably resume and fully enjoy all activities of a normal life, including hard work and strenuous play; that its use in all cases of reducible hernia will hold the hernia securely and comfortably in place at all times; that respondents' air cushion attachment is automatic and always clings to the spot to which it is adjusted, without slipping; that the device adjusts itself to every bodily movement; that its use will enable nature to heal the hernia so that the need for wearing a truss or support of any kind will be obviated; that its use will eliminate the possibility of a strangulated hernia; that the use of their device designated as Natural Uterine Supporter constitutes a competent and effective treatment for all uterine displacements, and will relieve and cure all ailments and diseases caused by womb displacements.

PAR. 6. The aforesaid representations and advertisements, used and disseminated by the respondents as mentioned herein, are exaggerated, false and misleading. The use of respondents' device designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion does not constitute a competent remedy or cure for hernia; its use by all persons suffering from hernia will not assure the cessation of all discomfort and worry occasioned by such ailment; its use in all cases of hernia will not enable the user to comfortably resume and fully enjoy all activities of a normal life, including hard work and strenuous play; its use in all cases of reducible hernia will not hold the hernia securely and comfortably in place at all times. Respondents' air cushion attachment is not fully automatic and does not always cling to the spot to which it is adjusted, without slipping; the device does not adjust itself to every bodily movement; its use will not, in most cases, enable nature to heal the hernia so that the need for wearing a truss or support of any kind will be obviated; its use will not eliminate the possibility of a strangulated hernia; the use of respondents' device, designated as Natural Uterine Supporter, does not constitute a competent and effective treatment for all uterine displacements, and will not relieve and cure all ailments and diseases caused by womb displacements. The use of this device might readily exaggerate many uterine or female sex difficulties, and no such device should be used unless it is determined by a competent physician that it will be beneficial and not likely injurious to the wearer.

PAR. 7. There are many reducible hernias which cannot be retained merely by wearing an appliance or truss; and neither respondents' device nor any other possible truss is the best appliance for use in all cases of reducible hernia; there are types of trusses superior to the Brooks Appliance for some hernias. Where a truss is properly fitted and where it succeeds in holding back the hernia, a small percentage of cases will heal to a point where the appliance may be laid aside. This does not mean, however, that the hernia has completely and permanently healed. Unusual activity or straining may cause the hernia to become active again. The mere fact that a person who has previously worn a truss reports that he no longer required the truss does not mean that he will not need it again in the future. Every person who has a hernia cannot expect through the use of a truss, either respondents' or others, to return to normal daily activities of manual labor or hard play. Even if a person so afflicted has a well-fitted truss, he must take reasonable precautions in order to avoid

further trouble from the hernia and possible strangulation of the part which enters the hernia sack.

PAR. 8. The use by the respondents of the foregoing false, deceptive, and misleading statements and advertisements with respect to their said devices, disseminated as aforesaid, has the capacity and tendency to mislead and deceive the purchasing public into the erroneous and mistaken belief that such statements and advertisements are true and, because of such erroneous and mistaken belief, into the purchase of respondents' said devices.

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.

MODIFIED ORDER TO CEASE AND DESIST¹

This matter coming on to be considered by the Commission upon the request of the respondents, dated February 3, 1944, for modification of the order to cease and desist issued in this proceeding on January 27, 1944, and the Commission having duly considered said request and the record herein, and being now fully advised in the premises.

It is ordered, That the order to cease and desist issued in this proceeding on January 27, 1944, be, and the same hereby is, modified so as to read as follows:

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the Commission and a stipulation as to the facts entered into between the respondents herein and Richard P. Whiteley, Assistant 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, Brooks Appliance Company, a corporation; Harold C. Brooks and Craig W. Brooks, individually and as officers of Brooks Appliance Company; and Fogarty-Jordan-Phelps Company, a corporation,* and 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 the device designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion or the device designated as Natural Uterine Supporter, or any other device of substantially similar construction and performing substantially similar functions, whether sold under the same names or under any other names 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—

¹ Order published as of Feb. 7, 1944.

Order

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(a) That the device designated as Brooks Rupture Appliance and as Brooks Automatic Air Cushion constitutes a competent remedy or cure for hernia;

(b) That its use by all persons suffering from hernia will assure the cessation of all discomfort and worry occasioned by such ailment;

(c) That its use in all cases of hernia will enable the wearer to comfortably resume and fully enjoy the activities of a normal life, including hard work and strenuous play;

(d) That its use in every case of reducible hernia will hold the hernia securely and comfortably in place at all times;

(e) That said device adjusts itself to every bodily movement;

(f) That the use of said device can be depended upon in most cases to assist nature in healing hernia to the extent that the need of a truss or other support will be eliminated;

(g) That its use will eliminate the possibility of a strangulated hernia;

(h) That the air cushion attachment incorporated in said device is fully automatic and clings to any spot to which it is adjusted, and will not slip;

(i) That the use of the device designated as Natural Uterine Supporter constitutes a competent and effective treatment for uterine displacements, and will relieve or cure ailments or diseases caused by displacements of the womb.

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 the said devices, 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 modified 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
RODIN NOVELTY COMPANY

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

Docket 5082. Complaint, Nov. 17, 1943—Decision, Jan. 28, 1944

Where a corporation engaged in the competitive interstate sale and distribution of cigarette lighters, ash trays, knives, luggage, clocks, blankets, toys, leather goods, novelties and other merchandise, including various assortments of merchandise so packed and assembled with punch boards and push cards as to involve use of games of chance when sold to purchasers, a typical assortment being composed of 12 "House-Broke Pete" ash trays and a punch board containing 800 2¢ punches, for use in their sale and distribution under a plan by which chance punching of certain numbers entitled purchaser to an ash tray or package of cigarettes, value of which exceeded said amount, others receiving nothing for their money; while second similar assortment included 10 cigarette lighters and a punch board containing 600 punches at 5¢ each, with lucky purchasers receiving a lighter or a package of cigarettes—

Sold such assortments to retail dealers, clubs and other organizations in various states by whom they were directly or indirectly exposed and sold to the purchasing public in accordance with aforesaid sales plan, involving sale of chance to procure articles at much less than normal retail price thereof; and thereby supplied to and placed in the hands of others means of conducting lotteries in the sale of its products, contrary to an established public policy of the United States government and in competition with many who do not use chance sales methods or any other methods contrary to public policy;

With result that many persons were attracted by said sales methods and the element of chance involved therein and were thereby induced to buy and sell its merchandise in preference to that of aforesaid competitors, and with tendency and capacity unfairly to divert trade in commerce to it from them to the substantial injury of competition;

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

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

Mr. David Singer, of Sioux City, Ia., 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 Rodin Novelty Company, 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, Rodin Novelty Company, is a corporation, organized and doing business under and by virtue of the laws of the State