

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hearing examiner shall, on the 20th day of September 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein shall within sixty (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 the order to cease and desist.

IN THE MATTER OF

HOFFMANN TRUSS CORPORATION ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8365. Complaint, Apr. 17, 1961—Decision, Sept. 20, 1961

Consent order requiring Minneapolis distributors of their "Hoffmann Shield" trusses to cease making a variety of misrepresentations in advertising their said devices, as in the order below set forth.

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 Hoffmann Truss Corporation, a corporation, and H. L. Hoffmann and Lola Hoffmann, individually and as officers of said corporation, trading under the name of Hoffmann Surgical Appliance Company, 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 in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Hoffmann Truss Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota. Respondents H. L. Hoffmann and Lola Hoffmann are individuals and officers of said corporate respondent, and as such officers dominate, control and direct the policies, acts and practices of said corporation, including the acts and practices

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hereinafter set forth. All of said respondents do business and trade under the name of Hoffmann Surgical Appliance Company. The address of all respondents is 953 Plymouth Building, Minneapolis, Minnesota.

PAR. 2. Respondents are now, and for some years last past have been, engaged in the business of selling and distributing devices, as "device" is defined in the Federal Trade Commission Act. Said devices are designated as "Hoffmann Shield".

PAR. 3. Respondents have caused, and now cause, said devices, when sold, to be transported from their place of business in the State of Minnesota to purchasers thereof located in various other States of the United States, and at all times mentioned herein maintain, and have maintained, a course of trade in said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act. The volume of business in such commerce is and has been substantial.

PAR. 4. In the course and conduct of their aforesaid business, respondents disseminated, and caused the dissemination of, certain advertisements concerning said devices by the United States mails and by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act, including, but not limited to, advertisements inserted in various newspapers, and brochures, circulars and other advertising media, for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said devices; and said respondents have disseminated, and caused the dissemination of, advertisements concerning said devices, including, but not limited to, the advertisements referred to above, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 5. Among and typical of the statements and representations contained in said advertisements and other material disseminated, and caused to be disseminated, by respondents, as hereinabove set forth, but not all inclusive, are the following:

RUPTURED?

A Free Demonstration will be given by the Well-Known Expert H. L. Hoffmann in.....

If you cannot have or do not want surgery you may get immediate and permanent relief wearing a Hoffmann Shield. A newly developed vacuum pad holds appliance firmly in position. Over 30 years of experience with tens of thousands of customers to prove it, Hoffmann can help you too. Work in comfort and safety. Please come early.

Caution: If neglected, rupture may cause weakness, backache, nervousness, stomach and gas pains. Those having large ruptures which have returned after operation or injection are especially invited.

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Hoffmann's Surgical Appliance Co.
 953 Plymouth Building Minneapolis 3, Minnesota

RUPTURE
 Vital FACTS
 Concerning
 Its Cause and Correction

* * *

RUPTURE CORRECTION

As Featured by

THE HOFFMANN SURGICAL APPLIANCE CO.

W. W. Brown, M.D.,
 Advisor

H. L. Hoffmann
 Technician

* * *

Of necessity operations must leave scars. Scar tissue, as before stated, all too frequently gives away. Incisional hernia develops. In consequence, the last condition is worse than the first. On the other hand, however, the frantic sufferer, in his efforts to avoid the knife, too often tries other ineffectual treatments or devices. An already acute situation quickens * * * invariably becomes alarming. Money is spent; uselessly many times. There are no lasting, beneficial results.

THESE FINDINGS ARE NOT THEORETICAL: They are not even remote, random or occasional happenstances. They are the definitely PROVEN outcome of myriads of cases over many years of wide experience in the light of repeated opportunities for first hand information.

Rupture correction is a vitally important procedure.

Our shield is superior in design and construction. * * * obvious support EXACTLY where support is needed.

It is designed to produce a highly beneficial infiltration of lymphatic-plastic tissue * * * frequently restoring the Hernial Ring to its normal status.

REMEMBER!

UNDER NO CIRCUMSTANCES must the HOFFMANN shield be confused with another device even remotely similar in any particular. It is above and beyond the ordinary truss pads so indiscriminately offered . . . and often appallingly injurious.

BY THE HOFFMANN METHOD of correction there will be no discomforting heat pressure, no further weakening of tissues or of thinning belly walls. Instead there will be STRENGTH and STIMULATION!

A newly developed vacuum pad—patented and registered—holds hernia firmly in place. It's almost magic. No surgery. No injection. No loss of time.

PAR. 6. Through the use of the statements and representations contained in the advertisements set out in Paragraph Five hereof, and

others similar thereto but not specifically set out herein, respondents represented, directly or by implication, that:

- (a) Their said devices will retain or hold all ruptures or hernias.
- (b) The use of their said devices will correct hernial defect or cure ruptures or hernias.
- (c) Their said devices will retain or hold ruptures or hernias under all conditions.
- (d) Their devices will cause a forming of tissue at the rupture or hernia that restores the hernial ring to its normal status.
- (e) Their device is not a truss.
- (f) Their devices will effect results not obtainable from other trusses.
- (g) Their devices are a more effective treatment in the relief, correction and curing of hernia than surgery.

(h) Surgery is not effective in the correction and curing of a hernia.

PAR. 7. The aforesaid statements were and are misleading in material respects and constituted, and now constitute, "false advertisements" as that term is defined in the Federal Trade Commission Act. In truth and in fact:

- (a) Said devices will not retain or hold ruptures or hernias, except those that are reducible.
- (b) The use of said devices will not correct a hernial defect or cure ruptures or hernias.
- (c) Respondents' devices will not retain ruptures or hernias under many conditions of activity and strains.
- (d) Respondents' devices will not cause a forming of tissue at the rupture or hernia, thereby restoring the hernia ring to its normal status.
- (e) Respondents' devices are trusses.
- (f) Respondents' devices do not differ in principle from other trusses and will not give results unobtainable from other trusses.
- (g) Respondents' devices are not a more effective treatment in the correction and curing of hernia than surgery.

(h) Surgery, properly done, provides the only known means of correcting, obtaining permanent relief, or cure for hernia, and it is usually successful.

PAR. 8. The dissemination by respondents of the false advertisements, as aforesaid, constituted, and now constitutes, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. William A. Somers for the Commission;

Mr. Stanley V. Shanedling, Minneapolis, Minn., for respondents.

INITIAL DECISION BY ABNER E. LIPSCOMB, HEARING EXAMINER

The complaint herein was issued on April 17, 1961, charging Respondents with violation of the Federal Trade Commission Act by the dissemination of false advertisements with respect to their devices, designated as "Hoffmann Shield".

Thereafter, on July 17, 1961, Respondents, their counsel, and counsel supporting the complaint herein entered into an Agreement Containing Consent Order To Cease And Desist, which was approved by the Commission's Acting Chief, Division of General Advertising, and Director, Bureau of Deceptive Practices, and thereafter, on August 2, 1961, submitted to the Hearing Examiner for consideration.

The agreement identifies Respondent Hoffmann Truss Corporation as a Minnesota corporation, and Respondents H. L. Hoffmann and Lola Hoffmann as individuals and officers of said corporate Respondent, who direct and control the policies, acts and practices of the corporate Respondent. The agreement states that all of the said Respondents do business and trade under the name of Hoffmann Surgical Appliance Company, and have their office and principal place of business located at 953 Plymouth Building, Minneapolis, Minnesota.

Respondents admit all the jurisdictional facts alleged in the complaint, and agree that the record may be taken as if findings of jurisdictional facts had been duly made in accordance with such allegations.

Respondents waive any further procedure before the Hearing Examiner and the Commission; the making of findings of fact and conclusions of law; and all of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with the agreement. All parties agree that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the order to cease and desist, as contained in the agreement, when it shall have become a part of the decision of the Commission, shall have the same force and effect as if entered after a full hearing, and may be altered, modified or set aside in the manner provided for other orders; that the complaint herein may be used in construing the terms of said order; and that the agreement is for settlement purposes only and does not constitute an admission by Respondents that they have violated the law as alleged in the complaint.

After consideration of the allegations of the complaint, and the provisions of the agreement and the proposed order, the Hearing Examiner is of the opinion that such order constitutes a satisfactory disposition of this proceeding. Accordingly, in consonance with the

terms of the aforesaid agreement, the Hearing Examiner accepts the Agreement Containing Consent Order To Cease And Desist; finds that the Commission has jurisdiction over the Respondents and over their acts and practices as alleged in the complaint; and finds that this proceeding is in the public interest. Therefore,

It is ordered, That Respondents Hoffmann Truss Corporation, a corporation, and its officers, and H. L. Hoffmann and Lola Hoffmann, individually and as officers of said corporation, doing business as Hoffmann Surgical Appliance Company, or under any other name or names, 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 devices known as Hoffmann Shield, or any device of substantially similar construction or design, whether sold under said name, or any other name, do forthwith cease and desist, directly or indirectly, from:

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

(a) Said devices will retain or hold ruptures or hernias, unless limited to reducible ruptures or hernias.

(b) Said devices will correct a hernial defect or cure ruptures or hernias;

(c) Said devices will retain or hold ruptures under all conditions of activity or strain;

(d) Said devices cause a forming of tissue or restore the hernial ring to its normal status;

(e) Said devices are not trusses;

(f) Respondents' devices will afford results that are different from those afforded by all other trusses;

(g) Said devices are a more effective treatment in the relief, correction or curing of hernia than surgery;

(h) Surgery is not effective in the correction or curing of hernia;

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 devices, which advertisement contains any of the representations prohibited in Paragraph 1 hereof.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, published May 6, 1955, as amended, the initial decision of the hear-

MODERN STUDIOS

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ing examiner shall, on the 20th day of September 1961, become the