

GOLD SEAL CHINCHILLAS, INC., ET AL.

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

Docket 8058. Complaint, July 29, 1960—Decision, Oct. 24, 1961

Consent order requiring a Tacoma, Wash., seller of chinchilla breeding stock to cease misrepresenting—directly and through his salesmen, by written and oral statements—the ease and simplicity of raising such animals for profit, their rate of production, value of the animals raised, the returns to be expected from sale of the pelts, and the terms and conditions of the sale of the animals.

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 Gold Seal Chinchillas, Inc., a corporation, and Estell G. Streets, individually and as an officer of said 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 in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Gold Seal Chinchillas, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Oregon, with its principal office and place of business located at 8604 South Tacoma Way, in the City of Tacoma, State of Washington.

Respondent Estell G. Streets is an officer of said corporation and is the principal stockholder. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, and distribution of chinchilla breeding stock to the public.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said chinchillas when sold, to be shipped from their place of business in the State of Washington to purchasers thereof located in various other states of the United States, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said chinchillas in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business and for the purpose of inducing the sale of their chinchillas, respondents and their salesmen have made written and oral statements with respect to the ease and simplicity of raising such animals for profit, their rate of production, the value of chinchillas raised, the expected returns from their pelts, and the terms and conditions of the sale of such animals. Typical of said representations are the following:

1. That it is practicable to raise chinchillas in the home and large profits can be made in this manner.

2. That every mated pair of chinchillas offered for sale or sold by respondents will produce 3 pairs of breeding stock in one year, 8 pairs in two years and 22 pairs in three years; and that two pairs of chin-

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chillas purchased from respondents will at the end of four years, or less, produce at least fifty mated pairs of top quality breeding stock.

3. That such fifty pairs of chinchillas raised from breeding stock purchased from respondents will produce two hundred or more chinchillas with top quality pelts each year thereafter for the pelting market.

4. That forty pairs of chinchillas raised from respondents' stock will result in an annual income of from \$6,472.50 to \$26,250.; that thirty pairs will result in an annual income of from \$4,315.00 to \$17,500.00.

5. That a grower of chinchillas, starting with two mated pairs purchased from respondents, will at the end of 3½ years or less have an annual income from pelts, depending upon their quality, of \$8,630.00, \$20,200.00 or \$35,000.00

6. That the value of two pairs of chinchillas purchased from respondents, and their increase, will be \$4,900.00 at the end of the first year and \$34,300.00 at the end of the third year.

7. That a pair of young unproven chinchillas is given free with the purchase of each pair of proven chinchillas as a special offer.

8. That a purchaser of respondents' chinchillas could expect to receive a price of from \$40, to \$160, for each pelt produced.

PAR. 5. Said statements and representations were false, misleading and deceptive. In truth and in fact:

1. It is not practicable to raise chinchillas in the home and large profits cannot be made by raising chinchillas in such manner.

2. In most cases mated pairs of respondents' chinchillas will not produce 3 pairs of breeding stock in one year, 8 pairs in two years or 22 pairs in three years; and two pairs of chinchillas purchased from respondents will not in most cases produce fifty mated pairs of top quality breeding stock at the end of four years or less.

3. Fifty pairs of offspring from chinchillas purchased from respondents will rarely, if ever, produce as many as two hundred top quality pelts each year.

4. Forty pairs of chinchillas raised from respondents' stock will not result in an annual income of from \$6,472.50 to \$26,250, and thirty pairs of such chinchillas will not result in an annual income of from \$4,315.00 to \$17,500, but substantially less than these amounts.

5. A grower of chinchillas starting with two mated pairs purchased from respondents will not at the end of 3½ years have an annual income depending on quality of \$8,630.00, \$20,200.00 or \$35,000.00, but substantially less than these amounts.

6. The value of two pairs of chinchillas purchased from respondents, and the increase from the same, will not at the end of the first year

be \$4,900.00 nor \$34,300.00 at the end of the third year, but substantially less than these amounts.

7. The inclusion of a pair of unproven chinchillas with the purchase of each pair of chinchillas is not a special offer but is the customary way in which respondents sell their chinchillas.

8. A purchaser of respondents' chinchillas could not expect to receive a price of from \$40.00 to \$160 for each pelt produced, but substantially less than such amounts.

PAR. 6. In the conduct of their business at all times mentioned herein, respondents have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of chinchilla breeding stock.

PAR. 7. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of respondents' chinchillas by reason of said erroneous and mistaken belief. As a consequence thereof, substantial trade in commerce has been, and is being, unfairly diverted to respondents from their competitors and substantial injury has thereby been, and is being, done to competition in commerce.

PAR. 8. The aforesaid acts and practices of the respondents, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair and deceptive acts and practices and unfair methods of competition, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. Charles W. O'Connell for the Commission.

Mr. E. Albert Morrison, Tacoma, Wash., for respondents.

INITIAL DECISION BY LOREN H. LAUGHLIN, HEARING EXAMINER

The Federal Trade Commission (sometimes also hereinafter referred to as the Commission) on July 29, 1960, issued its complaint herein, charging the above-named respondents with having violated the provisions of the Federal Trade Commission Act in certain particulars, and respondents were duly served with process.

On August 30, 1961, there was submitted to the undersigned hearing examiner of the Commission, for his consideration and approval, an "Agreement Containing Consent Order To Cease And Desist", which had been entered into by and between respondents and counsel for both parties, under date of August 14, 1961, subject to the approval

of the Bureau of Deceptive Practices of the Commission, which had subsequently duly approved the same.

On due consideration of such agreement, the hearing examiner finds that said agreement, both in form and in content, is in accord with Section 3.25 of the Commission's Rules of Practice for Adjudicative Proceedings, and that by said agreement the parties have specifically agreed to the following matters:

1. Respondent Gold Seal Chinchillas, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 5446 South Washington, in the City of Tacoma, State of Washington. The former office and principal place of business of the corporate respondent, as stated in the complaint, was 8604 South Tacoma Way, Tacoma, Washington. Respondent Estell G. Streets is an officer of the corporate respondent. His address is the same as that of the corporate respondent.

2. 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.

3. This agreement disposes of all of this proceeding as to all parties.

4. Respondents waive:

- (a) Any further procedural steps before the hearing examiner and the Commission;

- (b) The making of findings of fact or conclusions of law; and

- (c) All of the rights they may have to challenge or contest the validity of the order to cease and desist entered in accordance with this agreement.

5. The record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and this agreement.

6. This agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

7. This 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.

8. The following order to cease and desist may be entered in this proceeding by the Commission without further notice to respondents. When so entered, it shall have the same force and effect as if entered after a full hearing. It may be altered, modified or set aside in the manner provided for other orders. The complaint may be used in construing the terms of the order.

Upon due consideration of the complaint filed herein and the said "Agreement Containing Consent Order To Cease And Desist", the

hearing examiner approves and accepts this agreement, and finds that the Commission has jurisdiction of the subject-matter of this proceeding and of the respondents herein; that the complaint states a legal cause for complaint under the Federal Trade Commission Act against the respondents, both generally and in each of the particulars alleged therein; that this proceeding is in the interest of the public; that the order proposed in said agreement is appropriate for the just disposition of all the issues in this proceeding as to all of the parties hereto; and that said order therefore should be, and hereby is, entered as follows:

It is ordered, That respondent Gold Seal Chinchillas, Inc., a corporation, and its officers and respondent Estell G. Streets, individually and as an officer of said corporation, 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 chinchilla breeding stock in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

(1) That the earnings or profits which may be derived through raising chinchillas for pelts is any amount in excess of the amount usually and customarily earned by growers of chinchillas purchased from respondents;

(2) That a mated pair of chinchillas purchased from respondents will produce breeding stock in any number in excess of the number usually and customarily produced by them; or that every two pairs of chinchillas purchased from respondents will produce at least fifty mated pairs of top quality breeding stock within four years;

(3) That every fifty pairs of offspring from chinchillas purchased from respondents will produce 200 or more top quality pelts each year for the pelting market; or that the number of top quality pelts produced from fifty pairs of such chinchillas is any number in excess of the number of top quality pelts usually and customarily produced by breeding stock purchased from respondents;

(4) That forty pairs of chinchillas will result in an annual income of \$6,472.50 to \$26,250.00; or that thirty pairs of chinchillas will result in an annual income of from \$4,315.00 to \$17,500.00 or that a grower of chinchillas starting with two mated pairs will at the end of 3½ years or less have an annual income from pelts of from \$8,630.00 to \$35,000.00; or that the earnings or profits which may be derived through raising chinchillas for pelts is any amount in excess of the amount usually and customarily earned by growers of chinchillas purchased from respondents under usual and normal conditions;

(5) That the value of two pairs of chinchillas purchased from re-

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spondents, and their offspring, will be \$4,900.00 at the end of the first year, or \$34,300.00 at the end of the third year; or that the value of two pairs of said chinchillas and their offspring at the end of any year will be any value in excess of the actual value of said animals;

(6) That a pair of young unproven chinchillas is given free or any other thing of value is given free unless such is the fact;

(7) That a purchaser of respondents' breeding stock will receive for the average chinchilla pelt produced any amount in excess of the amount usually and customarily received therefor.

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 hearing examiner shall, on the 24th day of October, 1961, become the decision of the Commission; and, accordingly:

It is ordered, That the above-named respondents 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.
