

IN THE MATTER OF

SUNFLOWER CHINCHILLA COMPANY ET AL.

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

Docket C-1100. Complaint, Aug. 23, 1966—Decision, Aug. 23, 1966

Consent order requiring copartners of Great Bend, Kansas, operators of a chinchilla breeding ranch to cease misrepresenting the production and quality of their chinchilla breeding stock and exaggerating the earnings purchasers can expect.

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 Sunflower Chinchilla Company, a partnership, and Alvin Gerstner and Robert K. Marmie, individually and as copartners, trading and doing business as the above partnership, 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. Respondents Alvin Gerstner and Robert K. Marmie are individuals and copartners trading as Sunflower Chinchilla Company, with their principal office and place of business located at 1013 McKinley Street, Great Bend, Kansas 67530.

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

PAR. 3. In the course and conduct of their business, respondents

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now cause, and for some time have caused, their said chinchillas, when sold, to be shipped from their place of business in the State of Kansas 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 of 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, the respondents make numerous statements and representations in television and direct mail advertising and through the oral statements and representations of salesmen to prospective purchasers of chinchillas, with respect to the breeding, pelting and profits from the sale of said chinchillas.

Typical and illustrative, but not all inclusive of the statements made in respondents' direct mail and television advertising, are the following:

Many ranchers start successfully in their own basements, garages, and even the spare bedroom, the only requirement being that the temperature be held at a fairly constant level and fairly cool. That is why the basement is such an ideal place.

All of Sunflower chinchilla breeding stock have been prejudged and selected to insure that all of our new ranchers are getting quality stock to start off their new business.

People who have purchased chinchillas in the past and had no experience with chinchillas have made a great success.

We feel that there is no other known industry which would show such tremendous and continued earning power with equal maximum of safety than raising chinchillas of a superior quality and under the proper management. We consider chinchilla farming as safe or safer and far more profitable when properly conducted than most investments or other lines of business.

There is no experience needed in order to succeed.

PAR. 5. Through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with oral statements and representations made by respondents' salesmen and other representatives in direct sales presentations to prospective purchasers, respondents represent, and have represented, directly or by implication, that:

1. It is practicable to raise chinchillas in the home and large profits can be made in this manner.
2. The breeding of chinchillas for profit requires no previous knowledge or experience.

3. Chinchilla breeding stock sold by respondents is select or choice quality.

4. The breeding stock of five female chinchillas and one male chinchilla purchased from respondents will result in live offspring as follows:

20 the first year
60 the second year
180 the third year
540 the fourth year

5. All of the offspring referred to in the salesmen's representations will have good quality pelts bringing an average net profit of \$25 per pelt.

6. A purchaser starting with five females and one male of respondents' chinchilla breeding stock will have a net income in excess of \$10,000 at the end of the fourth year.

7. Each female chinchilla purchased from respondents and each female offspring thereafter will produce at least four live young per year.

PAR. 6. In truth and in fact:

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

2. The breeding of chinchillas for profit requires specialized knowledge in the feeding, care and breeding of said animals, much of which must be acquired through actual experience.

3. Chinchilla breeding stock sold by respondents is not select or choice quality.

4. The initial chinchilla breeding stock of five females and one male purchased from respondents will not result in the number of live offspring specified since these figures do not allow for deaths at delivery, miscarriages, sterile animals, and other causes.

5. All of the offspring produced by respondents' chinchilla breeding units will not produce good quality pelts nor will the average net profit be \$25 per pelt, but substantially less than that amount.

6. A purchaser starting with five females and one male of respondents' breeding stock will not have a gross income of \$10,000 from the sale of pelts in the fourth year, but substantially less than that amount.

7. Female chinchillas purchased from respondents and female offspring thereafter will not produce, on the average, four live young per year, but generally less than that number.

Therefore, the statements and representations as set forth in

Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. In the course and 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. 8. 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.

PAR. 9. 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 methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the respondents that the law has been violated as alleged in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having reason to believe that the respondents have violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement,

makes the following jurisdictional findings, and enters the following order:

1. Respondent Sunflower Chinchilla Company is a copartnership with its office and principal place of business located at 1013 McKinley Street, Great Bend, Kansas 67530.

Respondents Alvin Gerstner and Robert K. Marmie are individuals and copartners trading and doing business as Sunflower Chinchilla Company and their office and principal place of business is located at 1013 McKinley Street, Great Bend, Kansas.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Sunflower Chinchilla Company, a partnership, and Alvin Gerstner and Robert K. Marmie, individually and as copartners trading and doing business as Sunflower Chinchilla Company, or under any other name, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, 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, that:

1. It is practicable to raise chinchillas in the home or that large profits can be made in this manner.

2. Breeding chinchillas for profit can be achieved without previous knowledge or experience in the feeding, care and breeding of such animals.

3. Chinchilla breeding stock sold by respondents is select or choice quality, or otherwise misrepresenting the quality of respondents' chinchilla breeding stock.

4. The initial chinchilla breeding stock of five females and one male purchased from respondents will produce live offspring of 20 the first year, 60 the second year, 180 the third year or 540 the fourth year; or that they will produce live offspring in any number in excess of the number of live offspring generally produced by chinchilla breeding stock, or their offspring, when such breeding stock is purchased from respondents.

5. All of the offspring of chinchilla breeding stock purchased from respondents will produce good quality pelts; or

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that the average net profit is \$25 per pelt; or that a purchaser of respondents' breeding stock will receive for chinchilla pelts any net profits in excess of that usually received for pelts of offspring produced by respondents' breeding stock.

6. A purchaser starting with five females and one male of respondents' breeding stock will have an income of \$10,000 from the sale of pelts in the fourth year after purchase, or that the earnings or profits from the sale of pelts is any amount in excess of the amount generally earned by purchasers of respondents' chinchilla breeding stock.

7. Each female chinchilla purchased from respondents and each female offspring thereof will produce at least four live young per year; or that the number of live offspring produced by each of such female chinchillas is any number in excess of the number generally produced.

It is further 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 this order.
