

IN THE MATTER OF
MIDWESTERN CHINCHILLA CORPORATION ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-1246. Complaint, June 30, 1967—Decision, June 30, 1967

Consent order requiring a Harlan, Iowa, seller of chinchilla breeding stock to cease making exaggerated profit claims, exaggerating the number of live offsprings, deceptively guaranteeing its stock, and falsely stating the extent of seller service to purchasers in selling its chinchilla 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 Midwestern Chinchilla Corporation, a corporation, and Grant D. Rice, Lowell G. Schmidt, John F. Sawin and Ronald R. Davis, individually and as officers of said corporation, and Richard W. Pauley, Donald E. Morgan and Fred Wollschlager, individually and as di-

rectors 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 Midwestern Chinchilla Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its principal office and place of business located at 613 Court Street, Harlan, Iowa.

Respondents Grant D. Rice, Lowell G. Schmidt, John F. Sawin and Ronald R. Davis are individuals and officers of Midwestern Chinchilla Corporation. Respondents Richard W. Pauley, Donald E. Morgan and Fred Wollschlager are individuals and directors of Midwestern Chinchilla Corporation and with the said Lowell G. Schmidt and John F. Sawin are the sole stockholders of said corporation. All of said individual respondents cooperate and act together to formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Respondent Richard W. Pauley's address is the same as that of the corporate respondent. Respondent Grant D. Rice's address is 801 Market Street, Harlan, Iowa. Respondent John F. Sawin's address is 711 Court Street, Harlan, Iowa. Respondent Ronald R. Davis' address is 1619 Farnan, Harlan, Iowa. Respondent Lowell G. Schmidt's address is 801 South Broadway, New Ulm, Minnesota. Respondent Donald E. Morgan's address is Cambria, Minnesota. Respondent Fred Wollschlager's address is Fairmont, Minnesota.

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 aforesaid 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 Iowa 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 commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas, the respondents make numerous statements and representations by means of television and radio broadcasts, in direct mail advertising and

through the oral statements and display of promotional material to prospective purchasers by their salesmen, with respect to the breeding of chinchillas for profit without previous experience, the rate of reproduction of said animals, the expected return from the sale of their pelts and the training assistance to be made available to the purchasers of respondents' chinchillas.

Typical and illustrative, but not all inclusive of the said statements and representations made in respondents' television broadcasts and promotional literature, are the following:

The average pelt price received by Midwestern Chinchilla associate breeders is \$25.00, with top quality pelts reaching the sixty dollar range. Starting with a small herd of six females and one male, the income can reach 5 figures in a relatively short span, if the guidance and direction of Midwestern Chinchilla Corp. is utilized.

* * * The animals can be housed anywhere, basement, spare room, out building, garage * * *.

* * * The detail man * * * will follow up and call on the ranchers every 90 days to assist the new rancher, to give him proper background and proper direction in the chinchilla industry * * *.

* * * Our program consists of starting with 6 females and 1 male, estimating only 3 offspring per year per female. Now the gestation period being 111 days. You will sometimes get 3 litters per year, but as a rule, you will get 2 litters per year per female * * *. The first year you would have 18 offspring. Your second year 33 offspring * * *. The third year 69 offspring * * * right on down to the fifth year. Your fifth year you would have 303 offspring * * * at the end of the fifth year you would have had 285 males, 288 females * * *. Now the income at the end of the sixth year if you take your 288 females plus 3 babies per year—this would give you 778 offspring times your \$21.60 using the 1964 national pelt average again—so this would give you an income of \$16,814.80.

Also The Midwestern Corporation will guarantee that these animals will live and litter.

PAR. 5. By and through the use of the aforesaid statements and representations and others of similar import and meaning, but not expressly set out herein, and through the oral statements and representations made in sales presentations to 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 experience.

3. The breeding stock of six female chinchillas and one male chinchilla purchased from respondents will result in live offspring as follows: 18 the first year, 33 the second year, 69 the third year,

144 the fourth year, 303 the fifth year and 778 the sixth year.

4. All of the offspring referred to in Paragraph Five (3) above will have pelts selling for an average price of \$25 per pelt.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least three live young per year.

6. Pelts from the offspring of respondents' breeding stock generally sell for \$21.60 to \$60 per pelt.

7. A purchaser starting with six females and one male of respondents' chinchilla breeding stock will have an annual income of \$16,814.80 from the sale of the pelts in the sixth year.

8. Chinchilla breeding stock purchased from respondents is unconditionally guaranteed to live one year and that all females will reproduce within one year.

9. Purchasers of respondents' breeding stock would be given guidance in the care and breeding of chinchillas.

10. Purchasers of respondents' breeding stock would receive service calls from respondents' service personnel every 90 to 120 days.

11. Purchasers of respondents' chinchilla breeding stock receive select or choice quality chinchillas.

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. The initial chinchilla breeding stock of six females and one male purchased from respondents will not result in the number specified in subparagraph (3) of Paragraph Five above since these figures do not allow for factors which reduce chinchilla production, such as those born dead or which die after birth, the culls which are unfit for reproduction, fur chewers and sterile animals.

4. All of the offspring referred to in subparagraph (4) of Paragraph Five above will not produce pelts selling for an average price of \$25 per pelt but substantially less than that amount.

5. Each female chinchilla purchased from respondents and each female offspring will not produce at least three live young per year but generally less than that number.

6. A purchaser of respondents' chinchillas could not expect to receive from \$21.60 to \$60 for each pelt produced since some of the pelts are not marketable at all and others would not sell for \$21.60 but for substantially less than that amount.

7. A purchaser starting with six females and one male of respondents' breeding stock will not have an annual income of \$16,814.80 from the sale of pelts in the sixth year but substantially less than that amount.

8. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed to live one year and all females are not unconditionally guaranteed to reproduce within one year; but said guarantee is subject to numerous terms, limitations and conditions.

9. Purchasers of respondents' breeding stock are not given guidance in the care and feeding of chinchillas.

10. Purchasers of respondents' breeding stock do not receive service calls from respondents' service personnel every 90 to 120 days.

11. Purchasers of respondents' breeding stock do not receive select or choice quality chinchillas.

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 capacity and tendency 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 Midwestern Chinchilla Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its office and principal place of business located at 613 Court Street, Harlan, Iowa.

Respondents Grant D. Rice, Lowell G. Schmidt, John F. Sawin and Ronald R. Davis are officers of said corporation. Respondents Richard W. Pauley, Donald E. Morgan and Fred Wollschlager are directors of said corporation. Respondent Richard W. Pauley's business address is the same as the corporate respondent. Respondent Grant D. Rice's residence address is 801 Market Street, Harlan, Iowa. Respondent John F. Sawin's residence address is 711 Court Street, Harlan, Iowa. Respondent Ronald R. Davis' residence address is 1619 Farnan, Harlan, Iowa. Respondent Lowell G. Schmidt's residence address is 801 South Broadway, New Ulm, Minnesota. Respondent Donald E. Morgan's residence address is Cambria, Minnesota. Respondent Fred Wollschlager's residence address is Fairmont, Minnesota.

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 Midwestern Chinchilla Corporation, a corporation, its officers and directors and Grant D. Rice, Lowell G. Schmidt, John F. Sawin and Ronald R. Davis, individually and as officers of said corporation, and Richard W. Pauley,

Donald E. Morgan and Fred Wollschlager, individually and as directors of said corporation, 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 or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. 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. The initial chinchilla breeding stock of six females and one male chinchilla purchased from respondents will produce live offspring of 18 the first year, 33 the second year, 69 the third year, 144 the fourth year, 303 the fifth year or 778 the sixth year.
4. Chinchillas will produce live offspring in any number: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented number of offspring are usually and customarily produced by the chinchillas sold by respondents or by the offspring of said chinchillas.
5. All of the offspring of chinchilla breeding stock purchased from respondents will produce pelts selling for the average price of \$25 each.
6. Purchasers of respondents' breeding stock will receive for chinchilla pelts any price or prices: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented price or prices per pelt are usually received for pelts produced by chinchillas purchased from respondents, or by the offspring of said chinchillas.
7. Each female chinchilla purchased from respondents and each female offspring produce at least three live young per year.
8. The number of live offspring produced per female chinchilla is any number: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented number of offspring are usually and custom-

arily produced by female chinchillas purchased from respondents or the offspring of said chinchillas.

9. Pelts from the offspring of respondents' breeding stock generally sell for \$21.60 to \$60 each.

10. Chinchilla pelts produced from respondents' breeding stock will sell for any price or range of prices per pelt: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented price or range of prices are usually received for pelts produced by chinchillas purchased from respondents or by the offspring of said chinchillas.

11. A purchaser starting with six females and one male will have, from the sale of pelts, an annual income, earnings or profits \$16,814.80 in the sixth year after purchase.

12. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented amount or range of amounts of earnings, profits or income are usually realized by purchasers of respondents' breeding stock.

13. Breeding stock purchased from respondents is warranted or guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform and the identity of the guarantor.

14. Purchasers of respondents' chinchilla breeding stock are given guidance in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas.

15. Purchasers of respondents' chinchilla breeding stock will receive service calls from respondents' service personnel every 90 to 120 days or at any other interval or frequency: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented service calls are actually furnished.

16. Purchasers of respondents' chinchilla breeding stock will receive select or choice or any other grade or quality, of chinchillas: *Provided, however*, That it shall

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be a defense in any enforcement proceeding instituted hereunder for respondents to establish that purchasers do actually receive chinchillas of the represented grade or quality.

B. 1. Misrepresenting in any manner, the assistance, training, services or advice supplied by respondents to purchasers of their chinchilla breeding stock.

2. Misrepresenting, in any manner, the earnings or profits of purchasers of respondents' chinchilla breeding stock.

C. Failing to deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of the respondents' products to purchasers; and failing to secure from each such person a signed statement acknowledging receipt of said order and agreeing to abide by the requirements of said order and to refrain from engaging in any of the acts or practices prohibited by said order; and for failing so to do, agreeing to dismissal or to the withholding of commissions, salaries and other remunerations or both to dismissal and to withholding of commissions, salaries and other remunerations.

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.
