
IN THE MATTER OF
ASSOCIATED CHINCHILLA BREEDERS, INC., ET AL.
ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 8762. Complaint, May 27, 1968—Decision, Oct. 29, 1968

Complaint

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Order requiring a San Jose, Calif., distributor of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing the fertility of its stock, and misrepresenting its service to purchasers.

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 Associated Chinchilla Breeders, Inc., a corporation, and A. W. Halvorson, individually and as an officer of said corporation, and Bryon R. Hoffman individually and as a former 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 the respect as follows:

PARAGRAPH 1. Respondent Associated Chinchilla Breeders, 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 998 South 2nd Street, San Jose, California. Prior to its establishment at the said location respondent's principal office and place of business was located at The Dalles, Oregon.

Respondent A. W. Halvorson is an individual and officer of Associated Chinchilla Breeders, Inc. Respondent Bryon R. Hoffman is an individual and former officer of Associated Chinchilla Breeders, Inc. Together they formulated, directed and controlled the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Respondent A. W. Halvorson continues to formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Respondent Bryon R. Hoffman's address is 3452 Outlook, San Jose, California. Respondent A. W. Halvorson's 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, sale and distribution of chinchilla breeding stock to the public. Respondent Bryon R. Hoffman is no longer engaged in the advertising, offering for sale, sale and distribution of chinchilla breeding stock to the public. He was engaged in the aforementioned activities at the time the acts and practices hereinafter set forth occurred.

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

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respondents caused, and for some time last past have caused, and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to cause, their said chinchillas, when sold, to be shipped from their places of business 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 aforesaid business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas, the respondents made and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to make, numerous statements and representations by means of television broadcasts, in magazine 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 and the expected return from the sale of their pelts.

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

Chinchillas can be an exciting and profitable business * * *. Are odorless, quiet, have no body parasites * * *. A garage, basement, or spare room is large enough to allow you to build your own business.

Every name on this page sold chinchilla pelts for \$28 to \$61 last month * * *. The average price for all pelts sold was \$28.44 * * *.

I have been in the Chinchilla Business for fifteen months, and I'm happy to report, that I have sold my first pelt at the price of forty dollars * * *.

Litters vary from one to five young and females may produce several successive litters at 111 day intervals without taking a rest * * *.

The nature of the animal and the value of its fur make the farming of chinchillas a pleasant and profitable business, easily managed by almost anyone * * *.

For example, one rancher reported a \$6,000 annual income. He raises the animals in his basement and spends approximately two hours a day with them. Further inquiry revealed that he worked full time at his trade of well-drilling during the same period * * *.

Statistics establish that chinchillas are hardy and that farm mortality is low * * *.

Associated Chinchilla Breeders, Inc., offers * * * animal warranties * * * fine quality breeding stock * * * advisory services * * *.

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 represented and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to represent, directly or by implication:

1. That it is commercially feasible to breed and raise chinchillas in homes, basements, garages or spare rooms and large profits can be made in this manner.
2. That the breeding of chinchillas for profit requires no previous experience.
3. That pelts from the offspring of respondents' breeding stock generally sell for \$28 to \$61 per pelt.
4. That pelts from the offspring of respondents' breeding stock sell for an average price of \$28.44.
5. That chinchillas are hardy animals, and are not susceptible to diseases.
6. That each female chinchilla purchased from respondents and each female offspring will produce at least three live offspring per year.
7. That each female chinchilla purchased from respondents and each female offspring will produce several successive litters of one to five live offspring at 111 day intervals.
8. That a purchaser starting with three females and one male of respondents' chinchillas breeding stock will have an annual income of \$10,000 from the sale of pelts in the fourth year.
9. That chinchilla breeding stock purchased from respondents is unconditionally guaranteed.
10. That purchasers of respondents' breeding stock would be given guidance in the care and breeding of chinchillas.
11. Through the use of the corporate name, "Associated Chinchilla Breeders, Inc.," that they are an association or other organization of chinchilla breeders and that respondents are chinchilla breeders.

PAR. 6. In truth and in fact:

1. It is not commercially feasible to breed or raise chinchillas in homes, basements, garages or spare rooms and large profits cannot be made in this manner. Such quarters or buildings, unless they have adequate space and the requisite temperature, humidity, ventilation and other necessary environmental conditions are not adaptable to or suitable for the breeding or raising of chinchillas on a commercial basis.
2. The breeding of chinchillas for profit requires specialized

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knowledge in the feeding, care and breeding of said animals much of which must be acquired through actual experience.

3. A purchaser of respondents' chinchillas could not expect to receive from \$28 to \$61 for each pelt produced since some of the pelts are not marketable at all and others would not sell for \$28 but for substantially less than that amount.

4. A purchaser of respondents' chinchillas could not expect to receive an average price of \$28.44 for each pelt produced but substantially less than that amount.

5. Chinchillas are not hardy animals and are susceptible to pneumonia and other diseases.

6. 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.

7. Each female chinchilla purchased from respondents and each female offspring will not produce several successive litters of one to five live offspring at 111 day intervals but generally less than that number.

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

9. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed but said guarantee is subject to numerous terms, limitations and conditions.

10. Purchasers of respondents' breeding stock are given little if any guidance in the care and breeding of chinchillas.

11. Respondents are not an association or organization of chinchilla breeders and are not themselves chinchilla breeders. The corporate respondent is simply a private corporation operated for a profit and sells chinchilla breeding stock secured from various breeders.

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 engaged 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

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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.

Mr. Fauster Vittone and *Mr. Ian M. Rodway* supporting the complaint.

Mr. E. Albert Morrison, Tacoma, Washington, and *Mr. Brennan John Newsome*, San Francisco, California, for the respondents.

INITIAL DECISION BY LEON R. GROSS, HEARING EXAMINER
AUGUST 19, 1968

INITIAL DECISION UPON DEFAULT

The complaint in this proceeding issued May 27, 1968, and was served upon respondents on June 6, 1968. It alleges that respondents, in the interstate sale of chinchillas, engage in acts and practices which violate Section 5 of the Federal Trade Commission Act. On July 3, 1968, the hearing examiner received a telegram from Brennan John Newsome, Attorney at Law, San Francisco, California, which the hearing examiner treated as a motion, and pursuant to which the hearing examiner extended respondents' time to answer the complaint to and including August 15, 1968, and reset the hearing from July 15, 1968, until September 3, 1968. On July 29, 1968, a document captioned "Withdrawal and Substitution of Attorney for Respondents" was filed by E. Albert Morrison, Esq., 1211 Sixth Avenue, Tacoma, Washington.

Respondents, and each of them, have failed to answer the complaint herein as required by the hearing examiner's order of July 3, 1968, and are hereby found to be in default for failure to answer in accordance with the Rules of Practice for Adjudicative Proceedings of the Federal Trade Commission, Section 3.12(2) (c).

Now, therefore, in accordance with the provisions of said rules the hearing examiner makes the following findings of fact and conclusions of law and issues the following order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. (a) Respondent Associated Chinchilla Breeders, 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 998 South Second Street, San Jose, California. Prior to its establishment at the said location respondent's principal office and place of business was located at The Dalles, Oregon.

(b) Respondent A. W. Halvorson is an individual and officer of Associated Chinchilla Breeders, Inc. Respondent Bryon R. Hoffman is an individual and former officer of Associated Chinchilla Breeders, Inc. Together they formulated, directed and controlled the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Respondent A. W. Halvorson continues to formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Respondent Bryon R. Hoffman's address is 3452 Outlook, San Jose, California. Respondent A. W. Halvorson's address is the same as that of the corporate respondent.

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. Respondent Bryon R. Hoffman is no longer engaged in the advertising, offering for sale, sale and distribution of chinchilla breeding stock to the public. He was engaged in the aforementioned activities at the time the acts and practices hereinafter set forth occurred.

3. In the course and conduct of their aforesaid business, respondents caused, and for some time last past have caused, and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to cause, their said chinchillas, when sold, to be shipped from their place of business 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.

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 made and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to make, numerous statements and representations by means of television broadcasts, in magazine

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 and the expected return from the sale of their pelts.

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

Chinchillas can be an exciting and profitable business * * *. Are odorless, quiet, have no body parasites * * *. A garage, basement, or spare room is large enough to allow you to build your own business.

Every name on this page sold chinchilla pelts for \$28 to \$61 last month * * *. The average price for all pelts sold was \$28.44 * * *.

I have been in the Chinchilla Business for fifteen months, and I'm happy to report, that I have sold my first pelt at the price of forty dollars * * *.

Litters vary from one to five young and females may produce several successive litters at 111 day intervals without taking a rest * * *.

The nature of the animal and the value of its fur make the farming of chinchillas a pleasant and profitable business, easily managed by almost anyone * * *.

For example, one rancher reported a \$6,000 annual income. He raises the animals in his basement and spends approximately two hours a day with them. Further inquiry revealed that he worked full time at his trade of well-drilling during the same period * * *.

Statistics establish that chinchillas are hardy and that farm mortality is low * * *.

Associated Chinchilla Breeders, Inc., offers * * * animal warranties * * * fine quality breeding stock * * * advisory services * * *.

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 represented and respondents A. W. Halvorson and Associated Chinchilla Breeders, Inc., continue to represent, directly or by implication, contrary to the fact:

(a) That it is commercially feasible to breed and raise chinchillas in homes, basements, garages or spare rooms and large profits can be made in this manner.

(b) That the breeding of chinchillas for profit requires no previous experience.

(c) That pelts from the offspring of respondents' breeding stock generally sell for \$28 to \$61 per pelt.

(d) That pelts from the offspring of respondents' breeding stock sell for an average price of \$28.44.

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(e) That chinchillas are hardy animals, and are not susceptible to diseases.

(f) That each female chinchilla purchased from respondents and each female offspring will produce at least three live offspring per year.

(g) That each female chinchilla purchased from respondents and each female offspring will produce several successive litters of one to five live offspring at 111 day intervals.

(h) That a purchaser starting with three females and one male of respondents' chinchilla breeding stock will have an annual income of \$10,000 from the sale of pelts in the fourth year.

(i) That chinchilla breeding stock purchased from respondents is unconditionally guaranteed.

(j) That purchasers of respondents' breeding stock would be given guidance in the care and breeding of chinchillas.

(k) Through the use of the corporate name, "Associated Chinchilla Breeders, Inc.," that they are an association or other organization of chinchilla breeders and that respondents are chinchilla breeders.

6. The statements, representations and acts set forth in Paragraphs 4 and 5 were, and are, false, misleading and deceptive, and constitute deceptive acts and practices proscribed by the Federal Trade Commission Act.

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 engaged in the sale of chinchilla breeding stock.

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.

9. The aforesaid acts and practices of the respondents, as herein found, 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.

Now, therefore,

It is ordered, That respondents Associated Chinchilla Breeders, Inc., a corporation, and its officers, and A. W. Halvorson, in-

dividually and as an officer of said corporation, and Bryon R. Hoffman individually and as a former officer 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 commercially feasible to breed or raise chinchillas in homes, basements, garages, or spare rooms or other quarters or buildings or that large profits can be made in this manner: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented quarters or buildings have the requisite space, temperature, humidity, ventilation and other environmental conditions which would make them adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis and 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. Pelts from the offspring of respondents' breeding stock generally sell for \$28 to \$61 each.

4. 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.

5. The offspring of chinchilla breeding stock purchased from respondents will produce pelts selling for the average price of \$28.44 each.

6. Purchasers of respondents' breeding stock will receive for chinchilla pelts from such stock any average price or prices: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the represented

average price or prices per pelt are those usually received for pelts produced by chinchillas purchased from respondents, or by the offspring of said chinchillas.

7. Chinchillas are hardy animals or are not susceptible to diseases.

8. Each female chinchilla purchased from respondents or each female offspring produce at least three live young per year.

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

10. Each female chinchilla purchased from respondents and each female offspring will produce successive litters of one to five live offspring at 111 day intervals.

11. The number of litters and sizes thereof produced per female 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 litters and sizes thereof are usually and customarily produced by the chinchillas sold by respondents or the offspring of said chinchillas.

12. A purchaser starting with three females and one male will have, from the sale of pelts, an annual income, earnings or profits of \$10,000 in the fourth year after purchase.

13. 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 who invest substantially the same amount.

14. 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 thereunder and the identity of the guarantor.

15. Purchasers of respondents' chinchilla breeding

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stock are given guidance in the care and breeding of chinchillas or are furnished advice by respondents as to the breeding of chinchillas: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that purchasers are actually given the represented guidance in the care and breeding of chinchillas or are furnished the represented advice by respondents as to the breeding of chinchillas.

B. 1. Using the trade or corporate name "Associated Chinchilla Breeders, Inc.," or any other name of similar import or meaning.

2. Representing, directly or by implication, that respondents are an association or group or organization of chinchilla breeders.

3. Representing, directly or by implication, that respondents are chinchilla breeders.

4. Misrepresenting, in any manner, the organization, kind, nature or character of respondents' business.

C. 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.

D. 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 or services, and failing to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

FINAL ORDER

The initial decision of the hearing examiner having been filed on August 20, 1968, containing findings, conclusions and an order to cease and desist;

Respondent Hoffman not having filed a notice of intent to appeal;

Respondent Associated Chinchilla Breeders, Inc., and respondent Halvorson not having filed an appeal brief after the Commission, by Order of October 3, 1968, had extended the time for such filing; and

The Commission having received a motion to set aside the

initial decision by respondent Associated Chinchilla Breeders, Inc., and respondent A. W. Halvorson, on the grounds that they were denied an opportunity to reply to complaint counsel's motion to the hearing examiner for a default order, which motion is without merit because said motion by complaint counsel was moot at the time it was filed and was never acted upon,

It is ordered, That the motion of respondent Associated Chinchilla Breeders, Inc., and respondent Halvorson dated October 14, 1968, to set aside the initial decision is hereby denied.

It is further ordered, That the initial decision of the hearing examiner shall, on the 29th day of October, 1968, become the decision of the Commission.

It is further ordered, That respondents Associated Chinchilla Breeders, Inc., a corporation; A. W. Halvorson, individually and as an officer of said corporation; and Bryon R. Hoffman, individually and as a former officer of said corporation, shall, within sixty (60) days after service of this order upon them, file with the Commission a report in writing, signed by such respondents setting forth in detail the manner and form of their compliance with the order to cease and desist.
