

IN THE MATTER OF
ILLINOIS CHINCHILLA COMPANY, ET AL.

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

Docket C-1523. Complaint, Apr. 28, 1969—Decision, Apr. 28, 1969

Consent order requiring a Springfield, Ill., seller 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 services 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 Illinois Chinchilla Company, a corporation, and Charles E. Wagner, 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 Illinois Chinchilla Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1316 South 15th Street, Springfield, Illinois.

Respondent Charles E. Wagner is an individual and officer of the corporate respondent. 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, sale and distribution of chinchilla breeding stock to the public.

PAR. 3. In the course and conduct of their business as aforesaid, 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 Illinois 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 products 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 have made, and are now making, numerous statements and representations 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 or reproduction of said animals, the expected return from the sale of their pelts, the market value of said animals as breeding stock, their quality, their warranty, and the training assistance and inspection services to be made available to purchasers.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

Investigate this money making business. Act now return this card for complete information.

Yes! I would like to make \$2,500.00 to \$15,000.00 in my spare time, by raising top quality chinchillas.

If you need extra money * * * RAISE CHINCHILLAS * * *

TURN THAT SPARE GARAGE, BEDROOM, UTILITY ROOM OR STORAGE INTO MONEY * * * .

Complaint

Professional assistance plus
Market for pelts
Market for breeders
3 year warrantee on all Guild Breeder Stock

WE TRAIN YOU!

PAR. 5. By and 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 the oral statements and representations of their salesmen and representatives, the respondents represented, and are now representing, directly or by implication, that:

1. It is commercially feasible to breed and raise chinchillas from breeding stock purchased from respondents in homes, basements, garages or spare rooms and large profits can be made in this manner.
2. The breeding of chinchillas from breeding stock purchased from respondents, as a commercially profitable enterprise, requires no previous experience in the breeding, caring for and raising of such animals.
3. The breeding stock of four female chinchillas and one male chinchilla purchased from respondents will result in live offspring as follows: 16 the first year, 64 the second year, 208 the third year, 640 the fourth year, and 1,936 the fifth 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, and that pelts from offspring of respondents' breeding stock generally sell for from \$20 to \$55 each.
5. Chinchillas sold by respondents are choice quality breeding stock and have a market value ranging from \$150 to \$350 each.
6. Each female chinchilla purchased from respondents and each female offspring will produce at least four live young per year.
7. A purchaser starting with three mated pairs of respondents' chinchillas will have a minimum gross income of at least \$12,000 a year from the sale of pelts at the end of the fifth year.
8. Chinchilla breeding stock purchased from respondents is unconditionally warranted to live three years and reproduce.
9. Purchasers of respondents' breeding stock will have their chinchillas inspected at least three times per year or as required.
10. Chinchillas are hardy animals and are not susceptible to diseases.

11. Purchasers of respondents' breeding stock will be given guidance in the care of and breeding of chinchillas.

PAR. 6. In truth and in fact:

1. It is not commercially feasible to breed or raise chinchillas from breeding stock purchased from respondents 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 of chinchillas on a commercial basis.

2. The breeding of chinchillas, from breeding stock purchased from respondents, as a commercially profitable enterprise, requires specialized knowledge in the breeding, caring for and raising of said animals, much of which must be acquired through actual experience.

3. The initial breeding stock of four females and one male purchased from respondents will not result in the number specified in subparagraph (3), 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; and pelts from offspring of respondents' breeding stock will generally not sell for from \$20 to \$55 each since some of the pelts are not marketable at all and others would not sell for \$20 but substantially less than that amount.

5. Chinchillas sold by respondents are not choice quality breeding stock and do not have a market value ranging from \$150 to \$350 each but substantially less than those amounts.

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

7. A purchaser starting out with three mated pairs of respondents' breeding stock will not have a minimum gross income of at least \$12,000 from the sale of pelts at the end of the fifth year but substantially less than that amount.

8. Chinchilla breeding stock purchased from respondents is not unconditionally warranted to live three years and reproduce but

such guarantee as is provided is subject to numerous terms, limitations and conditions.

9. Purchasers of respondents' breeding stock do not have their chinchillas inspected three times a year, but generally less than that number nor do they receive inspection services as required.

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

11. Purchasers of respondents' breeding stock are given little, if any, guidance in the care of and breeding of 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 aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of chinchilla breeding stock of the same general kind and nature as that sold by respondents.

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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Illinois Chinchilla Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 1316 South 15th Street, Springfield, Illinois.

Respondent Charles E. Wagner is an officer of said corporation and his address is the same as that of said corporation.

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 Illinois Chinchilla Company, a corporation, and its officers, and Charles E. Wagner, 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 advertising, offering for sale, sale or distribution of chinchilla breeding stock or any other product 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 buildings, or other quarters or buildings unless in immediate con-

junction therewith it is clearly and conspicuously disclosed that the represented quarters or buildings can only be adaptable to and suitable for the breeding and raising of chinchillas on a commercial basis if they have the requisite space, temperature, humidity, ventilation and other environmental conditions.

2. Breeding chinchillas, as a commercially profitable enterprise, can be achieved without previous knowledge or experience in the breeding, caring for and raising of such animals.

3. The breeding stock consisting of four females and one male chinchillas purchased from respondents will produce live offspring of 16 the first year, 64 in the second year, 208 the third year, 640 the fourth year and 1,936 the fifth year.

4. The number of live offspring produced by or from respondents' chinchilla breeding stock is any number or range thereof; or representing, in any manner, the past number or range of numbers of live offspring produced by or from respondents' chinchilla breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring thereof produced by or from respondents' chinchilla breeding stock of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

5. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of \$25 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell for from \$20 to \$55 each.

6. Chinchilla pelts from respondents' breeding stock will sell for any price, average price, or range of prices; or representing, in any manner, the past price, average price or range of prices of pelts from chinchillas of respondents' breeding stock unless in fact the past price, average price or range of prices represented are those of a substantial number of purchasers and accurately reflect the price, average price or range of prices realized by these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

7. Purchasers of respondents' chinchilla breeding stock will receive choice quality chinchillas; or that respondents' chinchilla breeding stock has a market value of from \$150 to \$350 each or any amount, price or range of prices unless respondents' purchasers do actually receive chinchillas of the represented market value, amount, price or range of prices.

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

9. The number of live offspring produced per female chinchilla is any number or range of numbers; or representing, in any manner, the past number or range of numbers of live offspring produced per female chinchilla from respondents' breeding stock unless in fact the past number or range of numbers represented are those of a substantial number of purchasers and accurately reflect the number or range of numbers of live offspring produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

10. A purchaser starting with three mated pairs will have, from the sale of pelts, a minimum gross income, earnings or profits of \$12,000 at the end of the fifth year after purchase.

11. Purchasers of respondents' breeding stock will realize earnings, profits or income in any amount or range of amounts; or representing, in any manner, the past earnings, profits or income of purchasers of respondents' breeding stock unless in fact the past earnings, profits or income represented are those of a substantial number of purchasers and accurately reflect the average earnings, profits or income of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

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

13. Purchasers of respondents' chinchilla breeding stock will be furnished with inspection services by respondents three times each year or as often as such services may be required by the purchaser unless the represented inspection services are actually furnished.

14. Chinchillas are hardy animals or are not susceptible to disease.

15. 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 unless purchasers are actually given the represented guidance in the care and breeding of chinchillas and are furnished the represented advice by respondents as to the breeding of chinchillas.

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

C. Misrepresenting, in any manner, the earnings or profits to purchasers or the quality or reproduction capacity of any 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.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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.

Complaint

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IN THE MATTER OF

CHINCHILLA BREEDERS COMPANY, INC., ET AL.

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

Docket C-1524. Complaint, Apr. 28, 1969—Decision, Apr. 28, 1969

Consent order requiring a Lafayette, Calif., seller 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 services 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 Chinchilla Breeders Company, Inc., a corporation, and William R. Kinsel, 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 Chinchilla Breeders Company, Inc., is a corporation organized, existing and which did business under and by virtue of the laws of the State of California, with its principal office and place of business located at 529 Silverado Drive, Lafayette, California.

Respondent William R. Kinsel is an individual and officer of Chinchilla Breeders Company, Inc. 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 for some time prior to November 1967 were 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 have caused their said chinchillas, when sold, to be shipped from their place of business in the State of California to purchasers thereof located in various other States of the United States, and at all times mentioned herein maintained a sub-