

Consent order requiring a Louisville, Kentucky, 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 its customers.

Complaint

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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 J. F. Young-Boyd Bennett Inc., a corporation, doing business as Young-Bennett Chinchilla Ranch, and Boyd Bennett and J. F. Young, individually and as officers 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 J. F. Young-Boyd Bennett Inc., doing business as Young-Bennett Chinchilla Ranch, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its principal office and place of business located at 1280 Old Fern Valley Road, Louisville, Kentucky.

Respondents J. F. Young and Boyd Bennett are individuals and officers of J. F. Young-Boyd Bennett Inc. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their 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 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 Kentucky 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 chinchillas, the respondents make numerous statements and representations by means of television broadcasts, advertising in newspapers, direct mail advertising, and through 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 and assistance to be made available to purchasers of respondents' chinchillas.

Typical and illustrative, but not all inclusive of the statements and representations made on respondents' television programs, in newspaper advertisements and in promotional material, are the following:

Folks, this is a fabulous chinchilla. . . . you can make many, many extra dollars raising this animal in your home, in a basement or in outbuildings.

* * * * *

We deliver to you top-quality animals, tell you how to raise them and everything. You have no disease factor in these animals because they are vaccinated to make sure you have no epidemic type diseases. Chinchillas you buy are guaranteed to live and they are guaranteed to reproduce.

* * * * *

The Chinchilla breeding industry is one of the very few existing businesses that is still in its infancy. The annual demand for the precious Chinchilla pelt is growing faster than the supply. . . . Raising chinchillas for profit is not at all complex. Many ranchers have found it not too expensive and very simple for them without interfering with their regular work. Their spare time has become very profitable and the same can be true for you. There are only three main considerations. If you can answer "yes" to the following questions you can qualify to become a successful chinchilla rancher.

1. Do you love animals enough to work with them for about 3 years developing a herd from a small beginning?

2. Do you have a dry, well-ventilated place to keep animals where the temperature can be kept within 50 to 80 degrees F.?

3. Do you have available capital to invest in a new business?

* * * * *

Fur value—Empress and good quality up to \$65.00 per pelt.

* * * * *

The Y & B Ranch is a member of the Empress Chinchilla Breeders Association and all of the animals we sell to you as brood stock are certified by the Breeders Association to be of breeding quality.

* * * * *

Certified Breeding Stock—Chinchillas from Young-Bennett Chinchilla Ranch are carefully selected certified brood stock quality.

* * * * *

Where and how do I get chinchillas?

A. Directly from our top quality herd. We deliver to you and furnish cages and everything you need.

* * * * *

. . . Some females have only one baby while others have litters up to six babies. Normally a female will litter two or three times per year and the national average of babies per litter is almost two (1 9/10).

* * * * *

Productivity—111 day gestation period average 1.9 babies per litter (National Average).

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The YOUNG-BENNETT CHINCHILLA RANCH is the largest producer of fine quality breeding stock East of the Mississippi River. When you buy your stock look to a PRODUCER for quality. . . .

* * * * *

. . . The income expected per year can readily be estimated by referring to the chart on the next page. We at Young-Bennett Chinchilla Ranch feel that these figures are very conservative.

Estimated Earnings Chart—Expected yearly income for number of females breeding:

Females:

50	-----	\$3,000
75	-----	4,500
100	-----	6,000
125	-----	7,500
150	-----	9,000
175	-----	10,500
200	-----	12,000

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, separately and in connection with the oral statements and representations made by their salesmen and representatives to prospective purchasers and purchasers, respondents represent, and have represented, directly or by implication, that:

1. It is commercially feasible to breed and raise chinchillas from breeding stock purchased from respondents in homes, basements, or outbuildings, 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. Chinchillas are hardy animals and are free from disease.

4. Purchasers of respondents' breeding stock receive top quality or "Empress Certified" quality chinchillas.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least 3.8 live offspring per year.

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

7. The offspring referred to in Paragraph Five subparagraph (6) above will produce pelts selling for an average price of \$30 per pelt and the pelts from offspring of respondents' breeding stock generally sell from \$20 to \$65 each.

8. A purchaser with fifty females of respondents' chinchilla breeding stock will have a gross yearly income of \$3,000 from the sale of pelts.

9. Chinchilla breeding stock purchased from respondents is unconditionally guaranteed to live and reproduce.

10. Purchasers of respondents' breeding stock can expect a great demand for the offspring and for the pelts of the offspring of respondents' chinchillas.

11. Through the assistance and advice furnished to purchasers of respondents' breeding stock by respondents, purchasers are able to successfully breed and raise chinchillas as a commercially profitable enterprise.

12. Respondents' operation is the largest producer of chinchillas in the eastern United States.

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

4. Purchasers of breeding stock sold by respondents do not receive top quality or "Empress Certified" quality breeding stock.

5. Each female chinchilla purchased from respondents and each female offspring will not produce at least 3.8 live offspring per year, but generally less than that number.

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

7. The offspring referred to in subparagraph (6) of Paragraph Five above will not produce pelts selling for an average price of \$30 per pelt but substantially less than that amount; and pelts from

offspring of respondents' breeding stock will generally not sell for \$20 to \$65 each since some of the pelts are not marketable at all and others would not sell for \$20 but for substantially less than that amount.

8. A purchaser with fifty females of respondents' breeding stock will not have a yearly income of \$3,000 from the sale of pelts but substantially less than that amount.

9. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed to live and reproduce but such guarantee as is provided is subject to numerous terms, limitations and conditions.

10. Purchasers of respondents' breeding stock cannot expect a great demand for the offspring of and pelts from respondents' chinchillas.

11. Purchasers of respondents' breeding stock are not able to successfully breed and raise chinchillas as a commercially profitable enterprise through the assistance and advice furnished them by respondents.

12. Respondents' operation is not the largest producer of chinchillas in the eastern United States.

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, and 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 of the same general kind and nature as those 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 J. F. Young-Boyd Bennett Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kentucky, with its office and principal place of business located at 1280 Old Fern Valley Road, Louisville, Kentucky.

Respondents Boyd Bennett and J. F. Young are officers of said corporation. They formulate, direct and control the acts and practices of said corporation, including the acts and practices under investigation. Their address is the same as that of the corporate respondent.

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 J. F. Young-Boyd Bennett Inc., a corporation, and its officers, doing business as Young-Bennett Chinchilla Ranch,

or under any other trade name or names, and Boyd Bennett and J. F. Young, individually and as officers 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 or outbuildings, or other quarters or buildings, unless in immediate conjunction 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. Chinchillas are hardy animals or are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive top quality or "Empress Certified" quality chinchillas.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least 3.8 live young per year.

6. 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 of purchasers of 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.

7. Each female chinchilla purchased from respondents

and each female offspring will produce successive litters of one to six live offspring at 111-day intervals.

8. The number of litters or sizes thereof produced per female chinchilla is any number or range thereof; or representing, in any manner, the past number or range of numbers of litters or sizes produced per female chinchilla of purchasers of 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 litters or sizes thereof produced per female chinchilla of these purchasers under circumstances similar to those of the purchaser to whom the representation is made.

9. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of \$30 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell from \$20 to \$65 each.

10. Chinchilla pelts 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 of purchasers 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.

11. A purchaser with fifty females of respondents' breeding stock will have, from the sale of pelts, a yearly income of \$3,000.

12. 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.

13. Breeding stock purchased from respondents is guaranteed or warranted without clearly and conspicuously dis-

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closing, in immediate conjunction therewith, the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder and the identity of the guarantor.

14. Chinchillas or chinchilla pelts are in great demand; or that purchasers of respondents' breeding stock can expect to be able to sell the offspring or the pelts of the offspring of respondents' chinchillas because said chinchillas or pelts are in great demand.

15. The assistance or advice furnished to purchasers of respondents' chinchilla breeding stock by respondents will enable purchasers to successfully breed or raise chinchillas as a commercially profitable enterprise.

16. Respondents' operation is the largest producer of chinchillas in the eastern United States; or misrepresenting, in any manner, the size or kind of respondents' facilities.

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 to purchasers or the quality or reproduction capacity of any chinchilla breeding stock.

C. Failing to deliver a copy of this order to cease and desist to all present and future salesmen and 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 respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the 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

IN THE MATTER OF

SOUTHERN MOTOR LODGES, INC., DOING BUSINESS AS
CHINCHILLA CORPORATION OF AMERICA, ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-1704. Complaint, Mar. 9, 1970—Decision, Mar. 9, 1970*

Consent order requiring a Tifton, Georgia, seller of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing its fertility, implying that its business operations are approved by any Federal agency, that it is a member of any national chinchilla breeders association, and that bank financing is available for purchase of its stock.

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 Southern Motor Lodges, Inc., a corporation, doing business as Chinchilla Corporation of America, a division of said corporation, and Richard B. Winkler, individually and as an officer of said corporation, and Robert A. Lemke, individually and as former general manager of said division, 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 Southern Motor Lodges, Inc., doing business as Chinchilla Corporation of America, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia, with its principal office and place of business located at Industrial Park, Post Office Box 910, Tifton, Georgia.

Respondent Richard B. Winkler is an individual and an officer of Southern Motor Lodges, 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 said corporation.

Respondent Robert A. Lemke is an individual and former general manager of Chinchilla Corporation of America, a division of the corporate respondent. He supervised and controlled the day-to-day