

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

Complaint

77 F.T.C.

business activities of Chinchilla Corporation of America, including the acts and practices hereinafter set forth. His address is 2100 Madison, Tifton, Georgia. The activities of respondents insofar as they are applicable to respondent Robert A. Lemke are referred to in the past tense.

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 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 Georgia 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 by means of television and radio broadcasts, direct mail, newspaper and magazine advertising and through oral statements and display of promotional materials 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 purchasers of respondents' chinchillas.

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

Many beginning ranchers start in their homes. . . .

When starting with a few strings of chinchillas, it is advisable to use existing facilities, let your herd grow and pay for their housing from the sale of your pelts.

Gestation period [of female chinchillas] is 111 days and babies are born in litters of one to five. . . . The parents in most instances will breed back the same day they litter, so it is possible for them to litter every 111 days, although this will not continue indefinitely. . . .

With a 111-day gestation period, it is of course possible for each female [chinchilla] to produce three litters per year.

. . . by following a few simple rules and instructions it [raising chinchillas] is in no way difficult.

We endeavor to instruct and help the new rancher to become successful.

If you would like to add \$5,000 or more to your annual farm income write

241

Complaint

If you have been looking for the business that will give you additional income, why not mail the coupon below today and learn just how profitable the fascinating field of chinchilla ranching can be.

[Chinchilla Corporation of America is]

member of

E.C.B.C.

U.C.A.

Georgia State Chamber
of Commerce

WE GUARANTEE IN WRITING* that your Chinchilla herd will double within the first 18 months.

WE GUARANTEE IN WRITING* to replace all animals that die during the first 60 days.

WE GUARANTEE IN WRITING* that female chinchillas will reproduce.

WE GUARANTEE IN WRITING* that we will purchase all the chinchillas you produce.

*All guarantees detailed
in printed literature.

Chinchillas are hardy animals and can be successfully raised anywhere. . . .

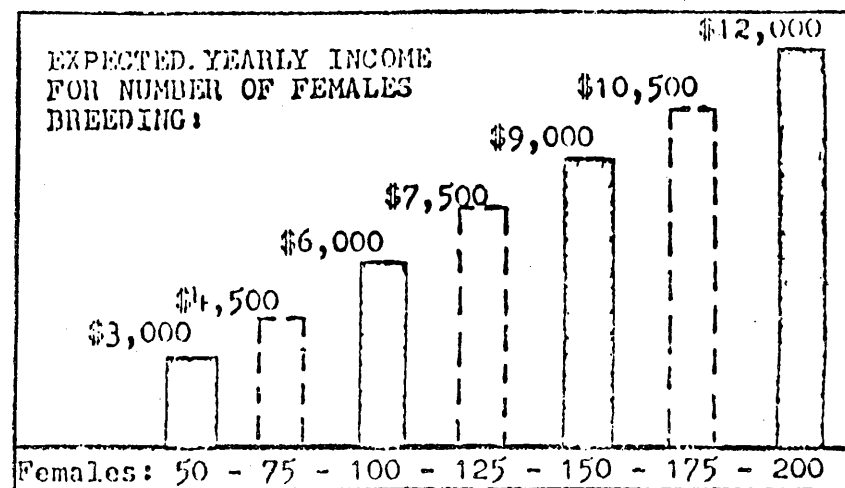
. . . Chinchillas are unusually free of serious or contagious illness.

It [chinchilla] has no disagreeable scent. . . . This makes it ideal to raise the animal in or near the home.

We will guarantee to pay a minimum of \$40 per mixed pair of standards and \$100 each pure beige mutation [chinchillas]. We emphasize that this price is the minimum price; if the current pelt prices . . . are higher, then our price to you will be higher.

CCA may purchase any or all animals consigned for pelting at \$40.00 per animal.

ESTIMATED EARNINGS CHART



Complaint

77 F.T.C.

... this heretofore unheard of arrangement [availability of bank financing] means that financial institutions have now recognized the great potential of the chinchilla business.

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 statements and representations made by their salesmen and representatives, respondents have 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, garages and spare buildings, 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. Each female chinchilla purchased from respondents and each female offspring will usually litter successively several times annually producing one to seven offspring per litter averaging two to three offspring per litter.

4. The offspring referred to in Paragraph Five, subparagraph 3 above will sell for as much as \$120 each and will have pelts selling for an average price of \$20 per pelt, and that pelts from offspring of respondents' breeding stock generally sell from \$20 to \$60 each.

5. A purchaser with 50 females of respondents' chinchilla breeding stock will have a yearly income of \$3,000 from the sale of pelts.

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

7. The respondents will promptly fulfill all of their obligations and requirements set forth in or represented directly or by implication to be contained in the guarantee applicable to each and every chinchilla.

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

9. Respondents will purchase any or all the chinchilla offspring raised by purchasers of respondents' chinchilla breeding stock, without distinction as to the quality or condition of such offspring, for \$40 per mixed pair of standard and \$100 per beige mutation chinchilla.

10. 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.

11. Respondents' business operations in the sale of respondents' breeding stock are in the purview of and are approved by the Federal Trade Commission, Interstate Commerce Commission and Federal Communications Commission.

12. The purchase price of respondents' chinchilla breeding stock includes chinchilla feed for one year.

13. Chinchilla Corporation of America is a member of Empress Chinchilla Breeders Cooperative, United Chinchilla Association and Georgia State Chamber of Commerce.

14. Bank financing for the purchase of respondents' chinchilla breeding stock is available because financial institutions recognize the great potential of the chinchilla business.

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, garages, or spare buildings 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. Each female chinchilla purchased from respondents and each female offspring will not usually litter successively several times annually producing one to seven offspring per litter, averaging two to three offspring per litter, but generally less than that number.

4. The offspring referred to in Paragraph Six, subparagraph 3 above will neither sell for \$20 to \$120 each nor will they produce pelts selling for an average price of \$20 per pelt but substantially less than that amount; and pelts from offspring of respondents' breeding stock will generally not sell for \$20 to \$60 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. A purchaser with 50 females of respondents' chinchilla breeding stock will not have a yearly income of \$3,000 from the sale of pelts but substantially less than that amount.

6. Chinchilla breeding stock purchased from respondents is not unconditionally guaranteed to live and reproduce but such guarantee

Complaint

77 F.T.C.

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

7. Respondents do not in fact promptly fulfill all of their obligations and requirements set forth in or represented directly or by implication to be contained in the guarantee applicable to each and every chinchilla.

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

9. Respondents will seldom if ever purchase any or all chinchilla offspring raised by purchasers of respondents' breeding stock without distinction as to the quality or condition of such offspring, for \$40 per mixed pair of standard and \$100 per beige mutation chinchilla.

10. 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.

11. Respondents' business operations in the sale of respondents' breeding stock are not in the purview of or approved by the Federal Trade Commission, Interstate Commerce Commission and Federal Communications Commission.

12. The purchase price of respondents' chinchilla breeding stock does not include feed for one year, but generally for a lesser period.

13. Chinchilla Corporation of America is not a member of either Empress Chinchilla Breeders Cooperative, United Chinchilla Association or Georgia State Chamber of Commerce.

14. Bank financing for the purchase of respondents' chinchilla breeding stock is not available because financial institutions recognize the great potential of the chinchilla business, but because of respondent Richard B. Winkler's personal endorsement of the sales contracts.

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 pur-

chasing 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 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.

Order

77 F.T.C.

Respondent Richard B. Winkler is an individual and officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, including the acts and practices under investigation. His address is the same as that of the corporate respondent.

Respondent Robert A. Lemke is an individual and former general manager of the division Chinchilla Corporation of America and in that capacity he cooperated and acted together with respondent Richard B. Winkler in the acts and practices referred to. His address is 2100 Madison, Tifton, Georgia.

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 Southern Motor Lodges, Inc., a corporation, doing business as Chinchilla Corporation of America, or trading and doing business under any other name or names, and its officers, and Richard B. Winkler, individually and as an officer of said corporation, and Robert A. Lemke, individually and as former general manager of Chinchilla Corporation of America, a division 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, is 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, garages or spare buildings, 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. Each female chinchilla purchased from respondents and each female offspring will usually litter successively

several times annually producing one to seven offspring per litter, or an average of two to three offspring per litter.

4. 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.

5. Offspring of respondents' chinchilla breeding stock sell for as much as \$120 each and will have pelts that sell for an average price of \$20 per pelt; or that pelts from the offspring of respondents' breeding stock generally sell from \$20 to \$60 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 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.

7. A purchaser with 50 females of respondents' chinchilla breeding stock will have a yearly income of \$3,000 from the sale of pelts.

8. 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 those purchasers under circumstances similar to those of the purchaser to whom the representation is made.

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

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

10. Respondents' chinchillas are guaranteed unless respondents do in fact promptly fulfill all of their obligations and requirements set forth in or represented, directly or by implication, to be contained in any guarantee or warranty applicable to each and every chinchilla.

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

12. Respondents will purchase all or any of the offspring raised by purchasers of respondents' breeding stock for \$40 per mixed pair of standard and \$100 per beige mutation chinchillas or any other price or prices unless respondents do in fact purchase all of the offspring offered by said purchasers at the prices and on the terms and conditions represented.

13. 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.

14. Respondents' business operations in the sale of respondents' breeding stock are in the purview of and approved by the Federal Trade Commission, Interstate Commerce Commission or Federal Communications Commission.

15. The purchase price of respondents' chinchilla breeding stock includes feed for such animals for one year or any other time period unless in fact the feed to be supplied would be sufficient to last for the period represented.

16. Chinchilla Corporation of America is a member of Empress Chinchilla Breeders Cooperative, United Chinchilla Association or Georgia State Chamber of Commerce.

17. Bank financing for the purchase of respondents' chinchilla breeding stock is available because financial institutions recognize the great potential of the chinchilla business.

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 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 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 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 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.

IN THE MATTER OF
MARRIELLO FABRICS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION, THE TEXTILE FIBER PRODUCTS
IDENTIFICATION AND THE WOOL PRODUCTS LABELING ACTS

Docket C-1705. Complaint, Mar. 10, 1970—Decision, Mar. 10, 1970

Consent order requiring a New York City manufacturer of wool and textile garments to cease misbranding its wool and textile fiber products, decep-