

THE FEDERAL TRADE COMMISSION ACT

Docket C-1720. Complaint, Apr. 7, 1970—Decision, Apr. 7, 1970

Consent order requiring a Nampa, Idaho, seller of chinchilla breeding stock and its subsidiary located in Portland, Oregon, to cease making exaggerated earning claims, misrepresenting the quality of its stock, deceptively guaranteeing the fertility of its stock, falsely using the word "association," 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 Ken-Chilla, Inc., and Chinchilla Producers Association, Inc., corporations, and Ken-

neth R. Sadler and Jeannine E. Sadler, individually and as officers of said corporations, and Alfred G. Glessing, individually and as a former salesman for said corporations, 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 Ken-Chilla, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Idaho, with its principal office and place of business located at 1720 Amity Avenue, Nampa, Idaho.

Respondent Chinchilla Producers Association, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Idaho, with its principal office and place of business located at 1720 Amity Avenue, Nampa, Idaho. It is a wholly owned subsidiary of Ken-Chilla, Inc., and maintains its principal sales office at 7315 Northeast Glisan Street, Portland, Oregon.

Respondents Kenneth R. Sadler and Jeannine E. Sadler are individuals and are officers and directors of both corporate respondents. They own 90 percent of the capital stock of Ken-Chilla, Inc., and formulate, direct, and control the acts and practices of both corporate respondents, including the acts and practices hereinafter set forth.

Respondent Alfred G. Glessing is an individual and former salesman for Chinchilla Producers Association, Inc. He was the manager of its said sales office and as such has cooperated in and effectuated the acts, policies, and practices of said corporation, including acts and practices hereinafter set forth.

The address of respondents Kenneth R. and Jeannine E. Sadler is 1720 Amity Avenue, Nampa, Idaho. Respondent Alfred G. Glessing's address is 917 Northeast 125th Avenue, Vancouver, Washington.

In December 1964, respondents Kenneth R. Sadler and Jeannine Sadler and two other individuals organized and incorporated said Ken-Chilla, Inc., which for some 21½ years engaged directly in the acts and practices hereinafter described and continues to be an integral factor therein. On or about June 8, 1966, the Sadlers and another individual organized and incorporated in Idaho one Quali-Chin Producers, Inc., which did business under such name and style until respondents Kenneth R. Sadler and Jeannine E. Sadler, acting as its sole shareholders, caused its name to be changed to Chinchilla Producers Association, Inc., on April 26, 1967.

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 Idaho 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 have made and are now making, numerous statements and representations by means of direct mail advertising, television broadcasts, newspaper advertising, and through the oral statements and display of promotional material by their salesmen to prospective purchasers, 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, the market value of such animals as breeding stock, their quality, hardiness, and warranty, and the training assistance to be made available to purchasers.

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

IF YOU NEED MONEY FOR . . .

... Education
New Car
Travel
New Home
Retirement

Chinchilla Ranchers are earning Thousands of Dollars a year, in their SPARE TIME. Turn that extra space in your garage—spare bedroom—basement or what have you . . . into:

\$\$ DOLLARS \$\$

A small investment of time and money could put you into this Fascinating business that is bringing hundreds of families that EXTRA INCOME for College Fund—Travel—Retirement—New Car or Home!!!

* * * * *
Friends, here is your opportunity to earn additional income in a fast growing fur industry that is yielding thousands of dollars in profits each year to part-time chinchilla ranchers.

* * * * *
... take a close look at the Chinchilla Producers Association Ranching Program

CHINCHILLA [one pictured] . . .

Produces 3 to 4 chinchillas
which bring \$100 per year.

* * * * *

. . . It could have been *you* who received this check showing an average net price of \$25.85 for 16 pelts before commission and dressing charges.

* * * * *

QUALITY PLUS

- *Warranted Satisfaction
- *Guaranteed Life
- *Guaranteed Production
- *Pedigreed Foundation stock (Five Generation)
- *Specializing in Mutations. . . .

* * * * *

Gestation period of the chinchilla is only 111 days. Thus, it's possible to obtain up to three litters per year with litters of from one to six babies.

. . . despite increasing numbers of ranchers, the supply of top quality pelts cannot meet the demand in the foreseeable future. . . . Large commercial ranches are not the answers to the problems of supply. Due to the sensitivity and response of chinchillas to individual human contact and care, the bulk of quality animals and pelts are bred and raised in small home units by interested individuals. These are tucked away in odd spare space, and provide both the environment and personal attention to which chinchillas respond best.

The CPA and its affiliates are the largest producers of beige mutations in the world. This new color lavishly complements virtually any complexion and hair color of the wearer, and will be in tremendous demand for years to come.

* * * * *

WOULD YOU LIKE . . . To be assured an adequate retirement income. . . . THIS PROVEN FORMULA HAS MADE AMBITIOUS FAMILIES FINANCIALLY INDEPENDENT

QUALI-CHIN . . . Starts you with pedigreed select quality foundation breeding stock.

- Guarantees your animals to live and reproduce.
- Teaches you all phases of Chinchilla ranching at our school. . . .
- Maintains priming, pelting and marketing facilities. . . .
- Provides one year membership in a chinchilla association.

Q.P. HAS HUNDREDS OF HAPPY AND SUCCESSFUL
RANCHERS—SOME LIVE IN YOUR AREA. . . .

Q.P. is a local association operated by local people.

* * * * *

Mutation Development Is The Latest Breakthrough—Which Opens A Whole New Market To The Chinchilla Industry

The Market Demand Is Tremendous. . . .

QUALITY PELTS (Natural Color)

BRING AS HIGH AS \$60.00 EACH

ON TODAY'S MARKET!!!

MUTATIONS???

This animal is naturally hardy and can be raised by nearly anyone with the proper training. . . .

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THE FINEST PELTS ARE FROM HERDS RAISED BY THE SMALL
PART TIME RANCHER

* * * * *

When interested in Chinchillas, "don't trust individual promoters". Check thru your local recognized assocn listed in the yellow pages . . .

* * * * *

Our association is unique, as we are a group of ranchers that get together for the benefit of ourselves and the industry as a whole. We do things for the small rancher that he couldn't do unless he had a lot of money.

* * * * *

We train you, provide financing, guarantee producing animals and take your live animals for pelting and marketing.

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 oral statements and representations made by their salesmen and representatives, 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, garages or spare buildings, and that 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 not susceptible to disease.

4. Purchasers of respondents' breeding stock receive select or top quality or "Empress" quality chinchillas, or chinchillas which will produce "Empress" quality offspring or offspring yielding "Empress" quality pelts.

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

6. Each female chinchilla purchased from respondents and each female offspring will produce two or three litters of one to six live offspring per year.

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

8. The offspring of breeding stock purchased from respondents 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 \$15 to \$60 each.

9. A purchaser starting with three females and three males of respondents' chinchilla breeding stock will have, from the sale of pelts, a gross annual income in excess of \$4,800 during and after the fourth year.

10. Purchasers of respondents' chinchilla breeding stock can expect to realize therefrom a net income sufficient for financial independence, retirement, college education or a new home, or sufficient to replace the earnings of a working wife.

11. Chinchilla breeding stock purchased from respondents is unconditionally guaranteed to live, breed, and litter.

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

13. Through the use of the word "association" in respondents' trade name, that Chinchilla Producers Association is an association or group formed for the mutual aid, benefit, and protection of chinchilla ranchers.

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

4. Purchasers of respondents' breeding stock do not receive select or top quality chinchillas, and few if any of the pelts produced from said stock by such purchasers are of "Empress" quality. The term "Empress" is not a designation accepted and widely recognized in the chinchilla industry as denoting a specific grade or quality standard for breeding stock.

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

6. Each female chinchilla purchased from respondents and each

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female offspring will not produce two or three litters of one to six offspring per year, but generally less than that number.

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

8. The offspring of breeding stock purchased from respondents will not produce pelts selling for an average price of \$25 per pelt; and pelts from offspring of respondents' breeding stock will generally not sell for \$15 to \$60 each since some of the pelts are not marketable at all and others would not sell for \$15 but for substantially less than that amount.

9. A purchaser starting with three females and three males of respondents' breeding stock will not have a gross annual income of \$4,800 from the sale of pelts in the fourth year, but substantially less than that amount.

10. Purchasers of respondents' breeding stock cannot expect to realize therefrom a net income sufficient for financial independence, retirement, college education or a new home, or sufficient to replace the earnings of a working wife.

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

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

13. Respondent Chinchilla Producers Association, Inc. is not an association or group formed for the mutual aid, benefit and protection of chinchilla ranchers, but is a business formed for the purpose of selling respondents' chinchilla breeding stock for a profit.

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 in substantial competition in commerce with corporations, firms and individuals in the sale of chinchilla breeding stock.

PAR. 8. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices had had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said state-

ments 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 Ken-Chilla, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Idaho, with its office and principal place of business located at 1720 Amity Avenue, Nampa, Idaho.

Respondent Chinchilla Producers Association, Inc., is a corporation organized, existing and doing business under and by virtue of

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the laws of the State of Idaho, with its office and principal place of business located at 1720 Amity Avenue, Nampa, Idaho.

Respondents Kenneth R. Sadler and Jeannine E. Sadler are officers of each of said corporations. They formulate, direct and control the policies, acts and practices of said corporations and their address is the same as that of said corporations.

Respondent Alfred G. Glessing is a former salesman for each of said corporations, and was manager of the principal sales office of Chinchilla Producers Association, Inc. He cooperated in and effectuated the acts, policies and practices of said corporations. His address is 917 Northeast 125th, Vancouver, Washington.

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 Ken-Chilla, Inc., and Chinchilla Producers Association, Inc., corporations, and their officers, and Kenneth R. Sadler and Jeannine E. Sadler, individually and as officers of said corporations, and Alfred G. Glessing, individually and as a former salesman for said corporations, 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 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 in spare time or without 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 select or top quality or "Empress" quality chinchillas, or chinchillas which will produce "Empress" quality offspring or offspring yielding "Empress" quality pelts.

5. Each female chinchilla purchased from respondents and each female offspring will produce at least three 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. Female chinchillas purchased from respondents and female offspring thereof will produce two or three litters of one to six offspring per year.

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 proposed 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. Chinchillas or chinchilla pelts are in great demand, that the demand exceeds the supply, 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.

10. Pelts from the offspring of chinchilla breeding stock sell for an average price of \$25 per pelt, or that they generally sell for from \$15 to \$60 each.

11. Chinchilla pelts from respondents' breeding stock will sell for any price, average price, or range of prices; or rep-

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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.

12. Purchasers of respondents' breeding stock will realize earnings, profits, or income in any amount or range of amounts, or sufficient for financial independence, retirement, college education or a new home; 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 disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform thereunder, and the identity of the guarantor.

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

B. Using the word "association" or any other word of similar import or meaning in or as a part of respondents' trade or corporate name, or representing directly or by implication that respondents are an association or group formed for the mutual aid, benefit and protection of chinchilla ranchers; or misrepresenting in any manner the nature or character of respondents' business.

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

D. Misrepresenting in any manner the earnings or profits to purchasers or the quality or reproduction capacity of any chinchilla breeding stock.

E. Failing to deliver a copy of this order to cease and desist

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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 individual a signed statement acknowledging receipt of said order.

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

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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

KNITS INTERNATIONALE, INC., ET AL.

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