

## Complaint

taken and any further actions proposed to be taken to notify customers of the flammability of said fabric and effect the recall of said fabric from customers, and of the results thereof, (4) any disposition of said fabric since October 1969, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

*It is further ordered*, That 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

## BAR-ZON FROCKS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION AND THE FLAMMABLE FABRICS ACTS

*Docket C-1856. Complaint, Jan. 26, 1971—Decision, Jan. 26, 1971*

Consent order requiring a New York City manufacturer and distributor of women's wearing apparel to cease violating the Flammable Fabrics Act by manufacturing or distributing any fabric which fails to conform to the standards of said Act.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Flammable Fabrics Act, as amended, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Bar-Zon Frocks, Inc., a corporation and Sam Garfinkel, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts, and the Rules and Regulations promulgated under

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the Flammable Fabrics Act, as amended, 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 Bar-Zon Frocks, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York. Respondent Sam Garfinkel is an officer of said corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporation.

The respondents are engaged in the manufacture, sale and distribution of women's wearing apparel and in the sale and distribution of fabrics, with their office and principal place of business located at 491 Seventh Avenue, New York, New York.

PAR. 2. Respondents now and for some time last past have sold and offered for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, fabric, as the terms "commerce" and "fabric" are defined in the Flammable Fabrics Act, as amended, which fabric failed to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the Flammable Fabrics Act, as amended.

Among such fabric mentioned hereinabove was 100 percent cotton white organdy fabric Style No. 8805 imported from Switzerland by Stern & Stern, Inc.

PAR. 3. The aforesaid acts and practices of respondents were and are in violation of the Flammable Fabrics Act, as amended, and the Rules and Regulations promulgated thereunder, and constituted, and now constitute, unfair methods of competition and unfair and deceptive acts and practices in commerce, within the intent and meaning of the Federal Trade Commission Act.

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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 Consumer Protection 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 Flammable Fabrics Act, as amended; and

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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 Acts, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed 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 the Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Bar-Zon Frocks, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York.

Respondent Sam Garfinkel is an officer of the corporate respondent. He formulates, directs and controls the acts, practices and policies of said corporate respondent.

Respondents are engaged in the manufacture, sale and distribution of women's wearing apparel and in the sale and distribution of fabrics, with their office and principal place of business located at 491 Seventh Avenue, New York, New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of the proceeding and of the respondents and the proceeding is in the public interest.

## ORDER

*It is ordered,* That respondents Bar-Zon Frocks, Inc., a corporation, and its officers, and Sam Garfinkel, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale of shipment in commerce, any product, fabric or related material; or manufacturing for sale, selling or offering for sale, any product

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made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material, fails to conform to an applicable standard or regulations continued in effect, issued or amended under the provisions of the aforesaid Act.

*It is further ordered,* That respondents notify all of their customers who have purchased or to whom has been delivered the fabric which gave rise to this complaint, of the flammable nature of said fabric, and effect the recall of said fabric from such customers.

*It is further ordered,* That the respondents herein either process the fabric which gave rise to this complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric.

*It is further ordered,* That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabric which gave rise to the complaint, (2) the amount of said fabric in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabric and effect and recall of said fabric from customers, and of the results thereof, (4) any disposition of said fabric since May 21, 1970, and (5) any action taken or proposed to be taken to bring said fabric into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabric and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of two ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than one square yard in size of any such product, fabric, or related material with this report.

*It is further ordered,* That respondents notify the Commission at least 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

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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.

## IN THE MATTER OF

## ASSOCIATED CHINCHILLA BREEDERS, INC., ET AL.

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

*Docket C-1857. Complaint, Jan. 27, 1971—Decision, Jan. 27, 1971*

Consent order requiring a Minot, North Dakota, distributor of chinchilla breeding stock to cease making exaggerated earning claims, misrepresenting that it is feasible to breed chinchilla stock in garages and basements, that each female chinchilla will produce four live offspring per year, that its stock is hardy and free from disease, and misrepresenting the average price or range of prices realized from the pelts of chinchillas purchased from respondents.

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Associated Chinchilla Breeders, Inc., a corporation, and Bruce Tibbals, 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 Associated Chinchilla Breeders, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Dakota, with its principal office and place of business located at 530 20th Avenue, SW., Minot, North Dakota.

Respondent Bruce Tibbals is an individual and an officer of Associated Chinchilla Breeders, Inc. He formulates, directs and controls

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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 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 North Dakota 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 business, and for the purpose of obtaining the names of prospective purchasers and inducing the purchase of said chinchillas, the respondents make 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 in the home for profit and without previous experience, the rate of reproduction of said animals, the expected income from the sale of their pelts, their hardiness and freedom from disease.

Typical and illustrative, but not all inclusive thereof, of the statement made in respondents' direct mail advertising and promotional literature are the following:

Raise Chinchillas      A Family Business \* \* \*  
Odorless (Can Be Raised in Basement, Garage or Spare Room) \* \* \*  
In Their Spare Time Second Income

\* \* \* \* \*  
Family Ranchers are a Large Part of This Fast Growing Fur Industry.  
\* \* \* \* \*  
Turn Extra Time and Room into a Part or Full Time Business for YOUR FUTURE.

Would You Like \* \* \* Working With Animals Having Another Income  
Building a Future For You and Yours To Be a Part of One of the Nation's  
Fastest Growing Businesses

\* \* \* \* \*  
For Your Family's Sake—INVESTIGATE  
The Work Can Be Very Pleasant and Profitable \* \* \*

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 statements and representations made by their salesmen and representatives to prospective purchasers and purchasers, the 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, basements or garages, 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 relatively free from diseases.

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

5. The offspring referred to in Paragraph Five subparagraph (4) above will have pelts selling for an average price of \$20 per pelt, and that pelts from offspring of respondents' breeding stock generally sell for from \$17 to \$40 each.

6. A purchaser starting with three females and one male of respondents' chinchilla breeding stock will have an annual income of at least \$5,000 from the sale of pelts in the third year.

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

5. The offspring referred to in subparagraph (4) of Paragraph Five above will not produce pelts selling for an average price of \$20

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per pelt but substantially less than that amount; and pelts from offspring of respondents' breeding stock will generally not sell for from \$17 to \$40 each since some of the pelts are not marketable at all and others would not sell for \$17 but for substantially less than that amount.

6. A purchaser starting with three females and one male of respondents' breeding stock will not have an annual income of at least \$5,000 from the sale of pelts in the third year but substantially less than that amount.

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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an ad-

mission 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 respondents Associated Chinchilla Breeders, Inc., and Bruce Tibbals 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 and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, now in further conformity with the procedure prescribed in such Rule, the Commission hereby issues its complaint in the form contemplated by said agreement makes the following jurisdictional findings, and enters the following order:

1. Respondent Associated Chinchilla Breeders, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of North Dakota, with its office and principal place of business located at Sawyer, North Dakota.

Respondent Bruce Tibbals is an officer of said corporation. He formulates, directs and controls the policies, acts and practices 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 Associated Chinchilla Breeders, Inc., a corporation, and its officers, and Bruce Tibbals, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of chinchilla breeding stock, or any other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. It is commercially feasible to breed or raise chinchillas in homes, basements, garages, or 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,

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temperature, humidity, ventilation and other environmental conditions.

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

3. Chinchillas are hardy animals or are relatively free from diseases.

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

5. 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 or 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.

6. Pelts from the offspring of respondents' chinchilla breeding stock sell for an average price of \$20 per pelt, or that they generally sell for from \$17 to \$40 each.

7. 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 purchases under circumstances similar to those of the purchaser to whom the representation is made.

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 these purchasers

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

B. 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 individual 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.

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IN THE MATTER OF

UNIVERSAL ELECTRONICS CORPORATION, ET AL.

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

*Docket 8815. Complaint, May 26, 1970—Decision, Jan. 28, 1971*

Order requiring a St. Louis Mo., distributor of radio and television tube testing devices and franchises for the sale of such products to cease misrepresenting that persons investing in respondents' franchises will receive any stated amount of income or any discounts from respondents on repeat business, that they will obtain profitable locations for their machines or can expect the sale of any certain number of tubes per day, that they will be granted exclusive territories in which to locate their machines, and that respondents will accept the return of, or aid in the resale of, the machines; respondents are also required to place in all franchise contracts a notification that such contracts may be cancelled within three days, and that respondents will refund all monies to customers cancelling contracts within this period.