

Consent order requiring a Des Moines, Iowa, seller and distributor of chinchilla breeding stock to cease misrepresenting that it is commercially feasible to raise chinchillas in homes, that chinchillas are hardy animals, that each pelt will sell for up to \$100, that purchasers will be given assistance and regular training, and making other misrepresentations to induce the purchase of chinchilla stock ; respondent is also required to insert in future contracts a provision that they may be cancelled within three days.

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 Dawn Mist Chinchilla, Inc., a corporation, and Barbara McLuen, 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 Dawn Mist Chinchilla, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Iowa, with its principal office and place of business located at 2125 Indianola Road, Des Moines, Iowa.

Respondent Barbara McLuen is an individual and an officer of the corporate respondent. She formulates, directs, and controls the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Her address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the advertising, offering for sale, sale and distribution of chinchilla breeding stock to the public.

PAR. 3. In the course and conduct of their business, as aforesaid, respondents now cause, and for some time last past have caused, their said chinchillas, when sold, to be shipped from their place of business in the State of Iowa 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 advertisements, oral statements and the 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/or animals and the training assistance to be made available to purchasers of respondents' chinchillas.

Typical and illustrative, but not all inclusive of the said statements

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and representations made in respondents' advertisements and promotional materials are the following:

Preferred Producers Contract

DAWN MIST CHINCHILLA, INC., AGREES:

1. To buy all descendants of the chinchillas purchased from Dawn Mist Chinchilla, Inc., * * *.

2. To pay the sum of One Hundred Dollars (\$100) per pair for said offspring.

* * * * *

5. That only clean animals in smooth condition and in normal good health will be involved under the terms of this agreement.

* * * * *

THIS AGREEMENT shall be in effect for a period of five (5) years * * * thereafter * * * renewed annually, providing both parties are in agreement as to the terms and conditions.

* * * * *

WARRANTIES AND SERVICES

1. * * * stock originally purchased are guaranteed for a full FOUR (4) years against fatalities * * * replacement shall be made for 25% of the original purchase price.

* * * * *

4. Regular inspections and professional advice * * *.

5. Availability of pick up and refrigerated transportation of 8 month old animals designated for priming, pelting, and dressing.

* * * * *

Chinchilla care is so simple and enjoyable many herds are taken care of by mothers and children while the fathers go about their regular work.

* * * * *

Starting With 4 Females, 1 Male. Assuming Your Females Produce An Average Of 2 Offspring Yearly * * *.

5th YEAR: Your 64 Females Would Produce—

128 Offspring Yearly * * *

That's A Gross Income Of \$6,400 A Year

(Based on Preferred Producer Contract at \$100 per pair.)

* * * * *

Starting With 8 Females and 2 Males * * *

5th YEAR: Your 128 Females Would Produce—

256 Offspring Yearly * * *

That's A Gross Income of \$12,800 A Year

* * * * *

Dramatic growth in only six years has put the Chinchilla market in the multi-million dollar bracket * * * A stronger market is expected in the years ahead.

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, made by respondents in their advertising and promotional material, separately and in connection with the oral statements and representations made by their salesmen and representatives, the respondents have represented and are 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 spare bedrooms, 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, raising and caring for such animals.
3. Chinchillas are hardy animals and are not susceptible to disease.
4. Purchasers of respondents' breeding stock will receive very good, top quality, or highest prime chinchillas.
5. Female chinchillas purchased from respondents and their female offspring will produce two to three litters per year.
6. Female chinchillas purchased from respondents and their female offspring will produce at least two offspring per litter if not more.
7. Pelts from the offspring of female chinchillas purchased from respondents will sell at a number of various prices with the representations ranging from as low as \$20 a piece to as high as \$100 a piece.
8. Purchasers of respondents' breeding stock receive periodic service calls from respondents' service personnel.
9. Purchasers of respondents' breeding stock are given guidance in the care and breeding of chinchillas through periodic rancher meetings, newsletters, and training bulletins.
10. 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.
11. Respondents will purchase, through the "Preferred Producers Contract," all of the clean animals in smooth condition and in normal good health raised by purchasers of respondents' chinchilla breeding stock at the price agreed to in the contract.
12. A purchaser starting with four females and one male of respondents' breeding stock will earn at least \$6,400 per year after 4 years of operation.
13. The demand for chinchillas has experienced dramatic growth, and an even stronger market is expected in the years ahead.

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

spare bedrooms, 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, raising and care 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. Chinchilla breeding stock sold by respondent is not very good, top quality, or the highest prime.

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

6. Each female chinchilla purchased from respondents and each female offspring will not produce at least two offspring per litter, but generally less than that number.

7. Pelts sold on the open market sell at an average price which is below \$20.

8. Purchasers of respondents' breeding stock do not receive the represented number of service calls from respondents' service personnel but generally less than that number.

9. Purchasers of respondents' breeding stock are given little if any guidance in the care and breeding of chinchillas.

10. 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.

11. Respondents seldom, if ever, through the "Preferred Producers Contract," or any other plan, purchase all of the clean animals in smooth condition and in normal good health raised by purchasers of respondents' chinchilla breeding stock at the agreed to price.

12. A purchaser of four females and one male of respondents' chinchilla breeding stock cannot reasonably expect to earn profits of at least \$6,400 per year after four years of operation, but substantially less than that amount.

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

Therefore, the statements and representations as set forth in Para-

graphs Four and Five hereof were and are false, misleading, and deceptive.

PAR. 7. In the further course and conduct of their business, and in furtherance of a sales program for inducing the purchase of their chinchillas, respondents and their salesmen and or representatives have engaged in the following additional unfair and false, misleading and deceptive acts and practices:

1. In a substantial number of instances and in the usual course of their business, respondents sell and transfer their customers' obligations, procured by the aforesaid unfair, false, misleading, and deceptive means, to various financial institutions. In any subsequent legal action to collect on such obligations, these financial institutions or other third parties, as a general rule, have available and can interpose various defenses which may cut off certain valid claims customers may have against respondents for failure to perform or for certain other unfair, false, misleading, or deceptive acts and practices.

2. In a substantial number of instances, through the use of the false, misleading, and deceptive statements and representations set out in Paragraphs Four and Five above, respondents have been able to induce customers into signing a contract with the respondents on the respondents' initial contact with the customer. In such a situation, it is highly improbable that the customer was able to seek out independent advice or make an independent decision on whether or not he should enter into the contract and therefore, had to rely heavily on the advice and information given to him by the respondents.

Therefore, the acts and practices as set forth in Paragraph Seven hereof, were and are unfair and false, misleading and deceptive acts and practices.

PAR. 8. 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.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity 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. 10. 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 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 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 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, 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 Dawn Mist Chinchilla, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Iowa with its office and principal place of business located at 2125 Indianola Road, Des Moines, Iowa.

Respondent Barbara McLuen is an individual and officer of said corporation. She formulates, directs, and controls the acts and practices of said corporation, and her 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 respondents Dawn Mist Chinchilla, Inc., a corporation, and its officers, and Barbara McLuen, individually and as an

officer of said corporation, trading under said corporate name or under any trade name or names, 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 or service in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. It is commercially feasible to conduct a profitable chinchilla business in homes, basements, or in spare bedrooms or that large profits can be made in this manner.

2. Breeding chinchillas as a commercially profitable enterprise requires no previous experience in their breeding, raising, and care.

3. Chinchillas are hardy animals and are not susceptible to disease.

4. Purchasers of respondents' chinchilla breeding stock will receive very good, top quality, or highest prime chinchillas or any other grade or quality of chinchillas unless purchasers do actually receive chinchillas of the represented grade and quality.

5. Each female chinchilla purchased from respondents, and each female offspring can be expected to produce two to three litters per year; or, that the number of litters produced by each of such female chinchillas is any number in excess of the number generally produced by respondents' breeding stock.

6. Each female chinchilla purchased from respondents, and each female offspring, will produce two or more offspring per litter; or, that the number of offspring produced by each of such female chinchillas is any number in excess of the number generally produced by respondents' breeding stock.

7. Purchasers of respondents' breeding stock can expect to receive \$20 up to \$100 for each chinchilla pelt produced; or, that purchasers of respondents' breeding stock will receive for chinchilla pelts any price in excess of that usually received for pelts of offspring produced by respondents' breeding stock.

8. A serviceman will call periodically to give assistance, bring and pick up animals, and provide supplies; or, misrepresent in any manner the services available to purchasers of respondents' breeding stock.

9. Purchasers of respondents' breeding stock are given guidance in the care and breeding of chinchillas through periodic rancher meetings, newsletters, and training bulletins, or misrepresent in

any manner the guidance available to purchasers of respondents' breeding stock.

10. 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.

11. 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.

12. Respondents will purchase, through the "Preferred Producers Contract," all of the clean animals in smooth condition and in normal good health raised by purchasers of respondents' chinchilla breeding stock at the price agreed to in the contract or for any other price, unless respondents do in fact purchase all the offspring offered by said purchasers at the prices and on the terms and conditions represented, and unless respondents fully explain those terms and conditions orally and in writing in laymen's terms before a purchase is made.

13. A purchaser starting with four females and one male of respondents' breeding stock will earn at least \$6,400 per year after four years of operation; or, that the earnings from the sale of respondents' breeding stock is any amount in excess of the amount generally earned by purchasers of respondents' breeding stock.

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

It is further ordered, That respondents do forthwith cease and desist from misrepresenting in any manner the chinchilla ranching operation which respondents have to offer to prospective purchasers including statements as to assistance, training, service, advice, earnings, profits, demand, and the quality of the animals.

It is further ordered, That respondents:

A. Cease and desist from assigning, selling, or otherwise transferring respondents' notes, contracts or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against any assignee or subsequent holder of such note, contract or other such documents evidencing the indebtedness.

B. Include the following statement clearly and conspicuously on the face of any note, contract, or other evidence of indebtedness executed by or on behalf of respondents' customers:

"Notice"

"Any holder of this instrument takes it subject to all rights and defenses which would be available to the purchaser in any action arising out of the contract or transaction which gave rise to the debt evidenced hereby, notwithstanding any contractual provisions or other agreement waiving said rights or defenses."

C. Shall cease and desist from contracting for any sale which shall become binding on the buyer prior to midnight of the third day, excluding Sundays and legal holidays, after the date of consummation of the transaction.

D. Disclose, orally prior to the time of sale, and in writing on any conditional sales contract, promissory note or other instrument executed by the buyer with such conspicuousness and clarity as likely to be observed and read by such buyer that the buyer may rescind or cancel the sale by directing or mailing a notice of cancellation to respondents' address prior to midnight of the third day, excluding Sundays and legal holidays, after the date of the sale.

E. Provide a separate and clearly understandable form which the buyer may use as a notice of cancellation.

F. Refund immediately all monies to customers who have requested contract cancellation in writing within three (3) days from the execution thereof.

G. Shall forthwith distribute a copy of this order to each of its operating divisions and to all present and future salesmen and other persons engaged in the sale of the respondents' products or services and to secure from each such salesman or other person a signed statement acknowledging receipt of said order.

H. Notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, merger or sale resulting in the emergence of a successor, or any other change in the corporation which may affect compliance obligations arising out of the order.

I. 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

CARTE BLANCHE CORPORATION

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

Docket C-2006. Complaint, Aug. 13, 1971—Decision, Aug. 13, 1971

Consent order requiring a major credit card service with headquarters in Los Angeles, Calif., to cease misrepresenting that any excess payment by a cardholder will be applied to the customer's account so as to decrease the amount of finance charges imposed, misrepresenting that no affirmative action by cardholder is required to so credit excess payments, and failing to clearly incorporate a statement on its monthly bills that excess payments will be credited against customer's deferred airline contract.

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 Carte Blanche Corporation, a corporation, hereinafter referred to as respondent, has 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 Carte Blanche Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3460 Wilshire Boulevard, Los Angeles, California.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale, and sale of memberships in a credit card service known as "Carte Blanche" to individuals and business enterprises. Each member cardholder pays an annual membership fee which entitles him to charge purchases and services sold or rendered by many hotels, motels, gasoline service stations, airlines, gift shops, retail stores and similar establishments throughout the United States.

PAR. 3. In the course and conduct of its credit card service, respondent now sells, and for some time last past has sold, from its place of business in the State of California, its credit card service to purchasers thereof located in various other States of the United States, and maintains and at all times mentioned herein has maintained, a substantial course of trade in said credit card service in commerce, as "commerce" is defined in the Federal Trade Commission Act.