

SUPREME COURT OF THE STATE OF NEW YORK
JEFFERSON COUNTY

PEOPLE OF THE STATE OF NEW YORK by
LETITIA JAMES, Attorney General of the State of
New York,

Petitioner,

- against -

BELL PET COMPANY, LLC, d/b/a THE PET ZONE,
and THEODORE BELL AND SHEILA BELL, both
individually and as owners of BELL PET COMPANY,
LLC,

Respondents.

**ORDER AND JUDGMENT
ON CONSENT**

Index No. EF00002018-1155

RJI No. 22-18-0458

Hon. James P. McClusky, J.S.C.

Petitioner People of the State of New York, by LETITIA JAMES, Attorney General (the “Attorney General”) brought a petition containing seven causes of action pursuant to Executive Law 63(12), New York General Business Law 22-A and Article 35-D 753, 753-a, and 753-b against the respondents Bell Pet Company LLC, d/b/a The Pet Zone, and Theodore Bell and Sheila Bell as principals (together “Respondents”), having moved this Court by Order to Show Cause for an Order and Judgment pursuant to Executive Law § 63(12) and Article 22-A of the General Business Law (“GBL”) enjoining Respondents from engaging in certain allegedly fraudulent, deceptive and illegal acts and practices, and demanding civil penalties and costs,

AND this Court by Decision and Judgment dated January 25, 2019 (NYSCEF # 99) having made a finding that Respondents’ use of a particular PetKey system “and failing to include the antibiotics in that system has the capacity or tendency to deceive or create an atmosphere conducive to fraud,” in violation of Executive Law § 63(12);

AND this Court having further determined that a hearing was necessary to determine the extent of such violation and the relief to be granted;

NOW, on motion of Letitia James, Attorney General of the State of New York (hereinafter “NYAG”), attorney for Petitioner, and on the above-referenced pleadings and the Decision and Judgment of the Court, and on the consent of Respondents, it is hereby

ORDERED, ADJUDGED AND DECREED that:

PARTIES SUBJECT TO THE CONSENT ORDER

1. Respondents Bell Pet Company, LLC, d/b/a The Pet Zone, and Theodore Bell and Sheila Bell, both individually and as owners of Bell Pet Company, LLC, their agents, trustees, servants, employees, successors, heirs and assigns, or any other subsidiaries or person under Respondents’ direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device through which they may now or hereafter act or conduct business, operating or doing business in New York State, including businesses in which they have any legal or beneficial interest (collectively “Respondents”), are bound by the terms of this Consent Order and Judgment (“Consent Order”), which shall resolve and dispose of all claims and issues raised in this proceeding by the parties, including any and all obligations and responsibilities previously imposed on Respondents pursuant to any prior orders of the Court in this proceeding; and it is further

ORDERED, ADJUDGED AND DECREED that:

RELIEF

2. Within thirty (30) days of execution of this Order, Respondents shall post conspicuously within close proximity to the cages of dogs and cats offered for sale, and also provide to each consumer upon sale of a pet, a notice, in the form annexed hereto as **Exhibit A**, citing General Business Law (“GBL”) § 753, commonly referred to as the Pet Lemon Law, and laying out the protections afforded consumers therein.

3. Respondents shall implement an employee training program dedicated to the provisions of GBL § 753, the Pet Lemon Law. Such training shall, at minimum, outline the steps any employee shall take when a consumer returns with a sick pet, and identify a corporate point of contact for all Pet Lemon Law claims. Such training shall be offered to all new employees and to all continuing employees every six months for their first two years of employment, after which such training shall be required only once per year. Respondent shall use the training materials agreed upon by the parties, copies of which are attached as **Exhibit B**, and written confirmation of the completion of the first session shall be provided to the NYAG within six months (6) of the execution of this Order.

4. Respondents shall comply with all provisions as described in GBL § 753-a and 753-b, including but not limited to ensuring that each pet, before sale, has been examined by a duly licensed veterinarian and has received all vaccinations as required by state and local law; and that accurate and comprehensive written statements and disclosures required by law are provided to each consumer. Additionally, Respondents must ensure that the record of veterinary treatment or veterinarian examination, or medications or treatments received by the cat or dog while in the possession of the pet dealer or provided to the pet dealer on the intake of the pet, be provided to consumers upon sale pursuant to GBL § 755-b(1)(e) and (2)(e); and further that such records be confirmed by a duly licensed veterinarian, with their license number clearly legible.

5. Respondents must disclose all services or products offered for sale that are ancillary to the purchase of the pet. Consumers must affirmatively acknowledge and agree to the purchase of such “add-on products,” including but not limited to PetKey; and it is further

ORDERED, ADJUDGED AND DECREED that:

MONTETARY RELIEF AND PENALTIES

6. Respondents will establish a Consumer Restitution Fund, which shall be open for a period of twelve (12) months, with an initial balance of Fifty Thousand Dollars (\$50,000), to be replenished back up to that amount whenever the fund is diminished to a balance of Ten Thousand Dollars (\$10,000), provided, however, that the total cap of Respondents' contributions to the fund shall in no event exceed Two Hundred Thousand Dollars (\$200,000). Restitution under the Fund will be available to consumers who purchased dogs and/or cats from Respondents on or after January 1, 2014, and who, within fourteen days of that sale, received certification from a licensed veterinarian that the animal was unfit for purchase due to illness or the presence of symptoms of a contagious or infectious disease, or, within one hundred eighty calendar days following such sale or receipt, whichever occurred last, received certification from a licensed veterinarian that such animal was unfit for purchase due to a congenital malformation which adversely affects the health of the animal. Eligible consumers will be reimbursed, in accordance with GBL § 753(1)(c), their reasonable veterinary costs directly related to the veterinarian's certification and veterinary services for the purpose of curing or attempting to cure the animal. Reasonable veterinary costs shall not exceed the purchase price of the animal. Respondents are entitled to a credit for any previous reimbursements or compensations made to-date for individual consumer claims. Within thirty days of execution of this Order, Respondents will establish a verifiable claims process to be administered for a period of twelve (12) months. Such claims process will be prominently displayed in each of Respondents' retail locations as well as on the front page of their website. The NYAG will provide to Respondents copies of the claims process notices it requires Respondents to prominently display in their retail locations and

on their website. Six (6) months and twelve (12) months after implementation of the claims process, Respondents shall provide to the NYAG an accounting of all claims paid out to-date, and an overview of any rejected claims, with consumer contact information and a reasoning for denial of the claim. Upon completion of the 12-month period set forth herein, the Fund shall be closed and any remaining balance in the fund at that time shall be returned to Respondents.

7. Respondents will pay a civil penalty to the Attorney General's Office in the sum of Two Thousand Five-Hundred Dollars (\$2,500), pursuant to Article 22-A of the General Business Law. On execution of this Consent Order and Judgment, payment of penalties shall be made by certified check payable to the State of New York, delivered to Letitia James, Attorney General of the State of New York, 317 Washington Street, 10th Floor, Watertown, NY 13601 Attention: Deanna R. Nelson, Assistant Attorney General In Charge.

ORDERED, ADJUDGED AND DECREED that:

NOTICES AND CHANGE OF ADDRESS

8. Any notices, statements or other written documents required by this Consent Order shall be provided by first-class mail to the intended recipient at the addresses set forth below, unless a different address is specified in writing by the party changing such address:

For the Petitioner, to

LETITIA JAMES
Attorney General of the State of New York
Attn.: Watertown Regional Office
317 Washington Street, 10th Floor
Watertown, New York 13601

For Respondents, to

William S. Nolan, Esq.
Whiteman Osterman & Hanna LLP
One Commerce Plaza
Albany, New York 12260

Such notices, statements and documents shall be deemed to have been given upon mailing.

9. Respondents shall provide written notice to the Attorney General of any change in address within ten days of such change; and it is further

ORDERED, ADJUDGED AND DECREED that:

CONTINUING JURISDICTION

10. This Court shall retain jurisdiction to enforce this Consent Order and to hear and decide any and all disputes arising hereunder, provided, however, that any and all disputes arising under this Consent Order shall be submitted to the Court for its review within One Year from the date of Respondents' 12 month-accounting, set forth in paragraph 6 above.

Dated: January ____, 2023
Watertown, New York

JAMES P. McCLUSKY, J.S.C.