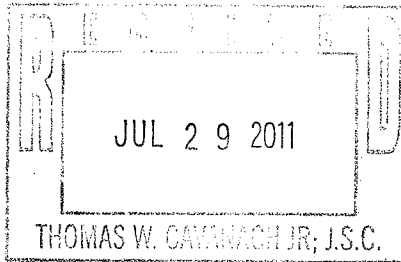


PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for Plaintiffs



By: Jah-Juin Ho
Deputy Attorney General
(973) 648-4726

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
MONMOUTH COUNTY
DOCKET NO. C-119-11

PAULA T. DOW, Attorney General of the State
of New Jersey, and THOMAS R. CALCAGNI,
Director of the New Jersey Division of Consumer
Affairs,

Plaintiffs,

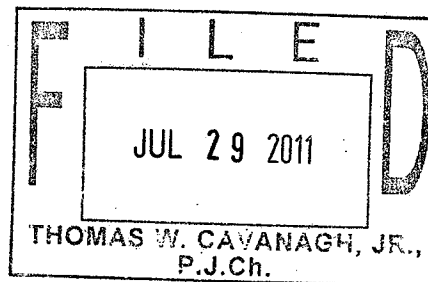
v.

ALLAN LEVINE d/b/a AL'S SPECIAL
FRIENDS; ALLAN LEVINE, INC.; VAN DAM,
INC.; and JANE and JOHN DOES 1-10,
individually and as owners, officers, directors,
shareholders, founders, managers, agents,
employees, representatives and/or independent
contractors of AL'S SPECIAL FRIENDS;
ALLAN LEVINE, INC.; VAN DAM, INC.; and
XYZ CORPORATIONS 1-10,

Defendants.

Civil Action

VERIFIED COMPLAINT



Plaintiffs Paula T. Dow, Attorney General of the State of New Jersey ("Attorney General"),
with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey, and Thomas R.
Calcagni, Director of the New Jersey Division of Consumer Affairs ("Director"), with offices

located at 124 Halsey Street, Seventh Floor, Newark, New Jersey, by way of Verified Complaint state:

PRELIMINARY STATEMENT

1. People purchase pets for many reasons ranging from companionship to the assistance with disabilities. Disclosures of an animal's disease, illness, or other defect protect unsuspecting consumers from purchasing and becoming attached to animals that may otherwise cause significant emotional distress and expenditure for medical treatment. At all relevant times, Defendants, Allan Levine d/b/a AI's Special Friends ("Allan Levine" or "Levine"), Allan Levine, Inc., and Van Dam, Inc. (collectively "Defendants") were engaged in the sale and offer for sale of animals to consumers.

2. In conducting their business, Defendants, among other things, violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), Regulations Governing the Sale of Animals, N.J.A.C. 13:45A-12.1 et seq. ("Pet Regulations"), and Charitable Registration and Investigation Act, N.J.S.A. 45:17A-18 et seq. ("Charities Act") by: (1) failing to provide consumers with animal health records; (2) providing consumers with animal health records that did not reflect when the animals were examined by a licensed veterinarian or whether such animals carried any diseases or congenital defects; (3) failing to have animals examined by a licensed veterinarian at least three days prior to sale; (4) selling animals with diseases, illnesses or defects to unsuspecting consumers; (5) refusing to refund consumers' money after selling them sick or defective animals; (6) refusing to refund consumers for the cost of veterinary fees associated with the treatment of the sick animals sold by Defendants; (7) inoculating and/or vaccinating animals without the written authorization of a licensed veterinarian; (8) commingling the assets of a

charitable organization with personal accounts without maintaining records; (9) misrepresenting the purpose and nature of a charitable organization; (10) misrepresenting the beneficiary of a charitable organization; (11) failing to submit financial records pursuant to the Charities Act; and (12) failing to comply with an investigative subpoena and interrogatory requests issued by the Attorney General. Additionally, it appears that Defendants continue to offer for sale and sell animals without complying with the requirements of the Pet Regulations. As such, this instant action and immediate injunctive and other equitable relief are warranted.

PARTIES AND JURISDICTION

3. The Attorney General is charged with the responsibility of enforcing the CFA, Pet Regulations and Charities Act. The Director is charged with the responsibility of administering the CFA, Pet Regulations, and Charities Act on behalf of the Attorney General.

4. By this action, the Attorney General and Director (collectively, "Plaintiffs") seek injunctive relief and other relief for violations of the CFA, Pet Regulations and Charities Act. Plaintiffs bring this action pursuant to their authority under the CFA, specifically N.J.S.A. 56:8-6, -8, -11, -13 and -19 and N.J.S.A. 45:17A-33. Venue is proper in Monmouth County, pursuant to R. 4:3-2(b), because it is a county in which Defendants conduct business.

5. Defendant Allan Levine resides at 384 Monmouth Road, Millstone Township, New Jersey 08510 ("Levine Residence")

6. At all relevant times, Defendant Allan Levine, Inc. is or has been a foreign corporation established in the State of Delaware and registered in the State of New Jersey (0101001900). At all relevant times, Defendant Allan Levine, Inc. has maintained a business address at the Levine Residence.

7. The registered agent for Defendant Allan Levine, Inc. is The Company Corporation who maintains a mailing address of 2711 Centerville Road, Ste 400, Wilmington, Delaware 19808.

8. At all relevant times, Defendant Van Dam, Inc. is or has been a New Jersey corporation which maintains a mailing address of 1015 Old York Avenue, East Windsor, New Jersey 08520.

9. The registered agent for Defendant Van Dam, Inc. is Ann Levine, located at 1015 Old York Avenue, East Windsor, New Jersey 08520.

10. Upon information and belief, John and Jane Does 1 through 10 are fictitious individuals meant to represent the owners, officers, directors, shareholders, founders, managers, agents, servants, employees, and/or representatives of Defendants who have been involved in the conduct that gives rise to this Verified Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Verified Complaint to include them.

11. Upon information and belief, XYZ Corporations 1 through 10 are fictitious corporations meant to represent any additional corporations who have been involved in the conduct that gives rise to this Verified Complaint, but are heretofore unknown to Plaintiffs. As these defendants are identified, Plaintiffs shall amend the Verified Complaint to include them.

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

12. Upon information and belief, since at least 2007, Defendant Allan Levine, individually and through his control and operation of the businesses Al's Special Friends, Allan Levine, Inc. and Van Dam, Inc., has engaged in the advertisement, offer for sale and sale of merchandise, namely dogs, to consumers in this State.

13. In 2007 Defendant Levine placed eighty-five (85) advertisements and offers for the sale of dogs in the Asbury Park Press newspaper.

14. In 2008 Defendant Levine placed eighty-six (86) advertisements and offers for the sale of dogs in the Asbury Park Press newspaper.

15. In 2009 Defendant Levine placed sixty-two (62) 30-day advertisements and offers for the sale of dogs in the Asbury Park Press newspaper.

16. In 2010 Defendant Levine placed thirty-one (31) 30-day advertisements and offers for the sale of dogs in the Asbury Park Press newspaper.

17. From January 1, 2011 to June 20, 2011, Defendant Levine placed twelve (12) 30-day advertisements and offers for sale of dogs in the Asbury Park Press newspaper.

18. Since at least June 15, 2007, individually and through the business names AI's Special Friends and Allan Levine, Inc., Defendant Levine sold at least ten (10) dogs with illnesses to consumers in this State.

19. Defendant Levine further used the business account of Defendant Van Dam, Inc. for both his own personal purposes as well as the purported charitable purposes of Defendant Allan Levine, Inc. without maintaining books or records.

20. The following provide more specific examples of Defendants' misrepresentations, deceptions, unconscionable business practices, and failures to comply with the CFA, Pet Regulations and Charities Act. Upon information and belief the unlawful practices of Defendants are ongoing and Plaintiffs reserve their right to amend this Verified Complaint to include other consumers who are injured as a result of Defendants' unlawful practices. As such, the following

allegations are pled as illustrations of Defendants' unlawful business practices and are not meant to be exhaustive.

Consumer Mary Ann Randisi:

21. In June 2007, Mrs. Randisi saw an advertisement in the Asbury Park Press for the sale of a puppy.

22. Mrs. Randisi called the number listed in the advertisement to purchase a puppy as a gift for her husband who had been diagnosed with leukemia. Mrs. Randisi spoke with Defendant Allan Levine to schedule a time to see the puppy.

23. On June 15, 2007, Mrs. Randisi and her husband drove to the Levine Residence.

24. The Randisis looked at two yorkies and a shih-tzu. The Randisis purchased the shih-tzu for \$535.00 and signed a "Contract Agreement."

25. The contract did not include any "Know Your Rights – A Statement of New Jersey Law Governing the Sale of Dogs and Cats" language.

26. Upon purchase, Defendant Levine provided the Randisis with a "Health Record" which disclosed the birth and sex of their shih-tzu. The health record did not indicate whether their shih-tzu had been examined by a licensed veterinarian.

27. The Randisis did not sign a waiver of veterinary examination.

28. Defendant Levine also provided the Randisis with a business card of a licensed veterinarian, Robert H. Cohen, V.M.D., and a business card for "Al's Special Friends" listing the Levine Residence.

29. After purchase, the Randisis puppy became ill.

30. The Randisis informed Defendant Levine of their puppy's condition.

31. On or about June 25, 2007, ten days after bringing him home, the Randisis' puppy began having problems standing and would lay limp. The Randisis immediately contacted Defendant Levine.

32. Defendant Levine asked the Randisis to return their puppy, which the Randisis did that day.

33. Later that evening, the Randisis called Defendant Levine to check in on their puppy. Defendant Levine informed the Randisis that their puppy had died.

34. On or about June 27, 2007, the Randisis returned to the Levine Residence.

35. Defendant Levine asked the Randisis to choose between two replacement puppies. The Randisis chose a westie, which they named Boost, and took him home that day.

36. That evening Boost became ill.

37. The next morning, the Randisis took Boost to Dr. Cohen, the veterinarian recommended by Defendant Levine.

38. Dr. Cohen diagnosed Boost with an upper respiratory infection, a cold, a temperature of 103, and a coccidian infection.

39. Dr. Cohen did not issue a certificate of unfitness for sale.

40. On or about June 28, 2007, the Randisis informed Defendant Levine of Boost's condition.

41. On July 17, 2007, Boost suddenly went into convulsive seizures. The Randisis immediately rushed Boost to the Garden State Veterinary Specialists where they put him in the intensive care unit.

42. After three days, Boost was still suffering and the Randisis agreed with the veterinarians that it was best to euthanize Boost.

43. On July 21, 2007, Dr. Noemie Bernier, D.V.M., D.A.C.V.I.M. (Neurology) wrote a letter stating that the neurological exam of Boost “was consistent with diffuse central nervous system disorder. The possible cause of these signs and the seizures included: metabolic, toxic, structural (inflammatory/infectious or not (Distemper, other), anomaly, trauma and less likely neoplasia, heavy burden of parasites. There was no history of toxin exposure because Boost had been crated.” Dr. Bernier further stated that “[i]nfectious causes and congenital anomalies are the mostly likely” cause of Boost’s seizures.

44. Defendant Levine refused to pay for any of the veterinary costs.

Consumer Jonathan Prytherch:

45. In October 2008, Jonathan Prytherch saw an advertisement in the Asbury Park Press for the sale of animals by Defendant Levine. Prytherch contacted Defendant Levine via telephone and arranged for a time to meet.

46. On or about October 17, 2008, Prytherch went to the Levine Residence.

47. At the residence, Defendant Levine showed Prytherch approximately four puppies to choose from.

48. On or about October 19, 2010, Prytherch returned and signed a “Contract Agreement” with Defendant Levine for the purchase of a yorkie for \$600.00, which he named Diva

49. The contract indicated no money was exchanged in consideration for Diva and that \$600.00 was assessed in “Administrative fees and pledges.” The contract also indicated that the pledges were not tax deductible.

50. On or about October 20, 2008, Prytherch's wife took Diva to Cedars Veterinary Hospital for an examination. The veterinarian diagnosed Diva with giardiasis and coccidiosis and issued a "Certificate of Unfitness."

51. On October 29, 2008, Diva was euthanized at the Cedars Veterinary Hospital. The veterinarian issued a second "Certificate of Unfitness" due to the "moribund" condition of Diva's health.

52. On or about November 1, 2008, three days after Diva was euthanized, Prytherch sent Defendant Levine a letter, including both certificates of unfitness and itemized veterinary bills, electing for a refund the money he paid for Diva and reimbursement for his veterinary expenses.

53. Defendant Levine did not comply with Prytherch's election and did not contest Prytherch's election with the Director of the New Jersey Division of Consumer Affairs ("Division").

Consumer Walter Turchak:

54. On or about April 25, 2008, Walter Turchak saw an advertisement in the Asbury Park Press for the sale of puppies. Turchak called the number listed on the advertisement and spoke with Defendant Levine to arrange for a time to see the puppies.

55. On or about April 26 and 27, 2008, Turchak went to the Levine Residence, to see two puppies. Defendant Levine informed Consumer Turchak that the puppies could not be taken home until they were eight-weeks old.

56. Turchak, along with his wife and children, brought the puppies, Baylea and Max, home on June 16, 2008.

57. Defendant Levine dewormed and gave both Baylea and Max shots before letting the Turchaks take the puppies home.

58. The Turchaks signed a "Contract Agreement" with Defendant Levine. The contract stated that no consideration was paid for Max and Baylea and that the \$1000.00 had been paid by the Turchaks as "administrative fees and pledges."

59. Defendant Levine also gave the Turchaks animal health records for both Baylea and Max. The "Medical Record" section in the animal health records received by the Turchaks was blank.

60. Max and Baylea became sick and began vomiting on the Turchaks' drive home from the Levine Residence

61. Upon their arrival at home, the Turchaks immediately contacted Defendant Levine.

62. By late afternoon, that day, the Turchaks had returned Max to Defendant Levine.

63. By the next day, June 17, 2008, the Turchaks called to see how Max was doing. Defendant Levine told the Turchaks that Max had died that morning.

64. On June 18, 2008, Baylea also appeared ill. The Turchaks took Baylea to a veterinarian the next day.

65. On June 19, 2008, at approximately 6:00 p.m. the Turchaks took Baylea to Animal Health Care of Marlboro.

66. By approximately 11:30 p.m. that night, the Turchaks had taken Baylea to the Garden State Veterinary Specialists.

67. Baylea was diagnosed with parvoviral enteritis and neutropenia. She remained in the hospital until June 23, 2008.

68. The veterinarian issued a certificate of unfitness for sale, dated June 23, 2008.

69. The Turchaks then contacted Defendant Levine, electing to receive reimbursement for Baylea's veterinary fees.

70. Defendant Levine did not comply with the Turchaks' election and did not contest the Turchaks' election with the Director of the Division.

Consumers Chuck and Delores Ragazzo:

71. On or about October 9, 2009, Chuck and Delores Ragazzo purchased a bichon puppy from Defendant Allan Levine, Inc., which they named Cindy.

72. Shortly thereafter, Cindy became ill and on October 12, 2009 the Ragazzos took Cindy to the Gateway Animal Hospital.

73. The Gateway Animal Hospital diagnosed Cindy with "giardia, coccidian, kennel cough, [and] URI" and issued a "Veterinary Certification of Unfitness of Dog for Purchase" on October 19, 2009.

74. On October 20, 2009, the Ragazzos elected to keep Cindy and requested reimbursement for their veterinary fees associated with the treatment of their puppy.

75. Defendant Allan Levine, Inc. failed to comply with the Ragazzos election and did not contest the Ragazzo's election with the Director of the Division.

Issuance of Investigative Subpoena and Interrogatories

76. On May 28, 2010, the Division served a subpoena duces tecum and interrogatories directed to Defendants Allan Levine, Al's Special Friends, and Allan Levine, Inc., on Defendant Allan Levine at the Levine Residence.

77. On or about July 9, 2010, Defendant Levine produced limited documents pursuant to the Division's subpoena duces tecum but failed to respond to interrogatories and failed to produce tax returns and the books and ledgers of Defendant Allan Levine, Inc.

78. On October 19, 2010, the Division duly served an administrative subpoena duces tecum and interrogatories on the registered agent of Allan Levine, Inc. located at "Allan Levine, Inc. c/o The Company Corporation, located at 2711 Centerville Road, Ste. 400, Wilmington, Delaware 19808."

79. Defendant Allan Levine, Inc. has failed to respond to the Division's interrogatories and produce documents pursuant to the Division's subpoena duces tecum.

COUNT I

VIOLATION OF THE CFA BY DEFENDANTS (FAILURE TO RESPOND TO INTERROGATORIES AND OBEY SUPOENA)

80. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 79 above as if more fully set forth herein.

81. The CFA, N.J.S.A. 56:8-3, provides that:

When it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

- (a) Require such person to file on such forms as are prescribed a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

82. N.J.S.A. 56:8-4 of the CFA further provides that:

To accomplish the objectives and to carry out the duties prescribed by this act, the Attorney General, in addition to other powers conferred upon him by this act, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate such rules and regulations, and prescribe such forms as may be necessary, which shall have the force of law.

83. N.J.S.A. 56:8-6 of the CFA further provides that:

If any person shall fail or refuse to file any statement or report, or obey any subpoena issued by the Attorney General, the Attorney General may apply to the Superior Court and obtain an order:

- (a) Adjudging such person in contempt of court;
- (b) Granting injunctive relief without notice restraining the sale or advertisement of any merchandise by such persons;
- (c) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this State or revoking or suspending the certificate of authority to do business in this State of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and
- (d) Granting such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

84. Defendants Allan Levine and Allan Levine, Inc. refused to file a statement and obey a subpoena duly served and issued by the Attorney General in violation of N.J.S.A. 56:8-3 and -4.

COUNT II

VIOLATION OF THE CHARITIES ACT BY DEFENDANTS (FAILURE TO RESPOND TO INTERROGATORIES AND OBEY SUPOENA)

85. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 78 above as if more fully set forth herein.

86. The Charities Act, N.J.S.A. 45:17A-33, provides that:

- (c) Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest to inquire whether a violation may exist, the Attorney General may:
1. Require any person to file, on a form to be prescribed by the Attorney General, a statement or report in writing under oath, or otherwise, concerning any relevant and material information in connection with an act or practice subject to this act;
 -
 5. Require an audited financial statement of the financial records of the organization or person registered, exempted or required to be registered under this act, prepared in accordance with generally accepted accounting principles which has been examined by an independent certified public accountant for the purpose of expressing an opinion thereof;
87. Defendants Levine and Allan Levine, Inc. have violated N.J.S.A. 45:17A-33 by:
- a. Failing or refusing to respond to interrogatories issued by the Attorney General;
 - b. Failing to obey a subpoena issued by the Attorney General; and
 - c. Failing or refusing to submit a financial statement or the financial records for Defendant Allan Levine, Inc.

COUNT III

**VIOLATION OF THE CFA BY DEFENDANTS
(UNCONSCIONABLE COMMERCIAL PRACTICES AND MISREPRESENTATIONS)**

88. Plaintiffs repeat and reallege the allegations contained in Paragraphs 1 through 78 above as if more fully set forth herein.

89. The CFA, N.J.S.A. 56:8-2, prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing [] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise . . .

90. The CFA defines “merchandise” as including “any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale.” N.J.S.A. 56:8-1(c).

91. Defendants have engaged in unconscionable commercial practices and misrepresentations including, but not limited to, the following:

- a. Selling sick and defective animals to consumers without having such animals examined by a veterinarian licensed in the State of New Jersey;
- b. Refusing to refund consumers for their purchase of sick and defective animals;
- c. Leading consumers to believe donations to Defendant Allan Levine, Inc. were for a charitable purpose when in fact the monies were used for Defendant Levine’s personal purposes;
- d. Commingling the monies, funds, and assets of a charitable organization, Defendant Allan Levine, Inc., with the personal monies, funds and assets of Defendant Levine without maintaining records; and
- e. Using the bank account of Defendant Van Dam, Inc. for the purported charitable purposes of Defendant Allan Levine, Inc. and the personal purposes of Defendant Allan Levine without maintaining records.

92. Each unconscionable commercial practice or misrepresentation by Defendants constitutes a separate violation under the CFA, N.J.S.A. 56:8-2.

COUNT IV

VIOLATIONS OF THE PET REGULATIONS BY DEFENDANTS

93. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 92 above as if more fully set forth herein.

94. The Pet Regulations, among other things, govern the sale of animals, including the

requisite health verification requirements and the disclosures to consumers.

95. Specifically, N.J.A.C. 13:45A-12.2 provides, in relevant part:

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 et seq., the following acts, practices or omissions shall be deceptive practices in the conduct of the business of a pet dealer:

1. To sell an animal within the State of New Jersey without an animal history and health certificate and without providing the consumer with a completed animal history and health certificate. The animal history and health certificate shall be signed by the pet dealer, his agent or employee, and shall contain the following information:

....

(vii) The date or dates on which the animal was examined by a veterinarian licensed to practice in the State of New Jersey, the name and address of such veterinarian, the findings made and the treatment, if any, taken or given to the animal;

(viii) A statement of all vaccinations and inoculations administered to the animal, including the identity and quantity of the vaccine or inoculum administered, the name and address of the person or licensed veterinarian administering the same, and the date of administering the vaccinations and inoculations.

....

4. To directly or indirectly refer, promote, suggest, recommend or advise that a consumer consults with, use, seek or obtain the services of a licensed veterinarian unless the consumer is provided with the names of not less than three licensed veterinarians from whom only one may be the veterinarian retained by the pet dealer for its purposes.

96. The Pet Regulations further govern the disclosure to consumers of health and fitness for sale of animals, specifically, in relevant part, N.J.A.C. 13:45A-12.3 provides that:

(a) Without limiting the prosecution of any other practices which may be unlawful under N.J.S.A. 56:8-1 et seq., it shall be a deceptive practice for a pet dealer to sell animals within the State of New Jersey without complying with the following minimum standards relating to the health of animals and fitness for sale and purchase:

1. A pet dealer shall have each animal examined by a veterinarian licensed to practice in the State of New Jersey prior to the sale of the animal. The name and address of the examining veterinarian, together with the findings made and treatment (if any) ordered as a result of the examination, shall be noted on each animal's history and health certificate as required by N.J.A.C. 13:45A-12.2(a)1vii.
.....
4. A pet dealer shall be permitted to inoculate and vaccinate animals prior to purchase only on the order of a veterinarian licensed to practice in the State of New Jersey
5. A pet dealer shall have any animal which has been examined more than 14 days prior to purchase reexamined by a licensed New Jersey veterinarian for the purpose of disclosing its condition at the time of purchase. Such examination shall take place within 72 hours of delivery of the animal to the consumer unless the consumer waives this right of reexamination in writing
6. If at any time within 14 days following the sale and delivery of an animal to a consumer, a licensed veterinarian certifies such animal to be unfit for purchase due to a non-congenital cause or condition or within six months certifies an animal to be unfit for purchase due to a congenital or hereditary cause or condition, a consumer shall have the right to elect one of the following options:
 - (i) The right to return the animal and receive a refund of the purchase price, including sales tax, plus reimbursement of the veterinary fees incurred prior to the consumer's receipt of the veterinary certification. The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;
 - (ii) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinary certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal. The pet dealer's liability under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;
 - (iii) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus reimbursement of veterinary fees incurred prior to the consumer's receipt of the veterinary certification.

The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal;

- (iv) In the event of the animal's death within 14 days of its delivery to the consumer, except where death occurs by accident or injury sustained during that period, the right to receive a full refund of the purchase price plus sales tax for the animal, or in exchange an animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees incurred prior to the death of the animal. The pet dealer's liability for veterinary fees under this option shall not exceed a dollar amount equal to the purchase price, including sales tax, of the animal.

....

- 8. When a consumer presents a veterinary certification of unfitness to the pet dealer, the pet dealer shall confirm the consumer's election in writing. . . .
- 9. A pet dealer shall comply with the consumer's election as required by (a)7i through iv above not later than 10 days following receipt of a veterinary certification. In the event that a pet dealer wishes to contest a consumer's election, he shall notify the consumer and the Director of the Division of Consumer Affairs in writing within five days following the receipt of the veterinarian's certification, and he may require the consumer to produce the animal for examination by a veterinarian of the dealer's choice at a mutually convenient time and place. . . .
- 10. A pet dealer shall give the following written notice to a consumer prior to the delivery of the animal. Such notice, signed by both the pet dealer and the consumer, shall be embodied in a separate document and shall state the following in 10 point boldface type:

KNOW YOUR RIGHTS--A STATEMENT OF NEW JERSEY LAW GOVERNING THE SALE OF DOGS AND CATS

The sale of dogs and cats is subject to a regulation of the New Jersey Division of Consumer Affairs. In the event that a licensed veterinarian certifies your animal to be unfit for purchase within 14 days following receipt of your animal or within six months in the case of a congenital or hereditary cause or condition, you may:

- i. Return your animal and receive a refund of the purchase price including sales tax; or

ii. Keep your animal and attempt to cure it; or

iii. Return your animal and receive an animal of your choice of equivalent value.

Veterinary fees limited to the purchase price of the animal, including sales tax, which were related to the condition rendering the animal unfit for sale, must be paid by the dealer in the event that you choose to keep the animal. If you choose to return the animal, veterinary fees incurred prior to receipt of the veterinary certification, limited to the purchase price of the animal, including sales tax, which were related to the condition rendering the animal unfit for sale, must be paid by the dealer.

Further, in the event of your animal's death within this 14-day period, except when death occurs by accident or as a result of injuries sustained after delivery, you may choose to receive either a full refund of the purchase price, plus sales tax, or an animal of equivalent value. In addition, veterinary fees, limited to the purchase price, including sales tax must be paid by the pet dealer.

In order to exercise these rights, you must present to the pet dealer a written veterinary certification that the animal is unfit for purchase and an itemized bill of all veterinary fees incurred prior to your receipt of the certification. Both of these items must be presented no later than five days after you have received the certification of unfitness. In the event that the pet dealer wishes to contest the certification or the bill, he may request a hearing at the Division of Consumer Affairs. If the pet dealer does not contest the matter, he must make the refund or reimbursement not later than ten days after receiving the veterinary certification. Although your dog or cat is required to be examined by a licensed veterinarian prior to sale, symptoms of certain conditions may not appear until after sale. If your dog or cat appears ill, you should have it examined by a licensed veterinarian of your choice at the earliest possible time. . . .

11. A pet dealer shall maintain copies of all notices required pursuant to (a)10 above, signed by both the pet dealer and the consumer, for at least one year from the date the notice was signed and shall ensure that such notices are readily available for inspection, upon request, by an authorized representative of the Division of Consumer Affairs.
12. It shall be a deceptive practice within the meaning of this section for a pet dealer to secure or attempt to secure a waiver of any of the provisions of this section except as specifically authorized under (a)5 above.

97. Defendants violated the Pet Regulations by engaging in certain acts including, but not limited to, the following:

- a. Selling an animal within the State of New Jersey without an animal history and health certificate or without providing the consumer with a completed animal history and health certificate as required by N.J.A.C. 13:45A-12.2(a)(1).
- b. Directly or indirectly referring, promoting, suggesting, recommending or advising that a consumer consult with, use, seek or obtain the services of a licensed veterinarian without providing the names of not less than three licensed veterinarians pursuant to N.J.A.C. 13:45A-12.2(a)(4).
- c. Failing to have each animal examined by a veterinarian licensed to practice in the State of New Jersey prior to the sale of such animal pursuant to N.J.A.C. 13:45A-12.3(a)(1).
- d. Inoculating or vaccinating animals prior to purchase without an order of a veterinarian licensed to practice in the State of New Jersey pursuant to N.J.A.C. 13:45A-12.3(a)(4).
- e. Failing to have each animal examined by a licensed New Jersey veterinarian 72 hours prior to purchase of such animal for the purpose of disclosing its condition pursuant to N.J.A.C. 13:45A-12.3(a)(5).
- f. Failing to comply with a consumer's election under N.J.A.C. 13:45A-12.3(a)(6) in writing when presented with a veterinary certification of unfitness pursuant to N.J.A.C. 13:45A-12.3(a)(8).
- g. Failing to comply with a consumer's election under N.J.A.C. 13:45A-12.3(a)(6) within ten (10) days following receipt of the veterinary certification pursuant to N.J.A.C. 13:45A-12.3(a)(9).
- h. Failing to provide consumers with a Know your Rights "Statement of New Jersey Law Governing the Sale of Dogs and Cats" prior to the delivery of an animal pursuant to N.J.A.C. 13:45A-12.3(a)(10).
- i. Failing to maintain copies of all Know your Rights notices for at least one year from the date of such notice pursuant to N.J.A.C. 13:45A-12.3(a)(11).
- j. Requiring consumers to sign contracts contrary to the rights and provisions under the Pet Regulations pursuant to N.J.A.C. 13:45A-12.3(a)(12).

98. Each violation of the Pet Regulations alleged above also constitutes a per se violation of the CFA, N.J.S.A. 56:8-1 et seq.

COUNT V

VIOLATIONS OF THE CHARITIES ACT
(UNLAWFUL ACTS AND PRACTICES)

99. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 98 above as if more fully set forth herein.

100. The Charities Act governs the registration and disclosure requirements for charitable organizations.

101. N.J.S.A. 45:17A-32 of the Charities Act provides that:

(a) Any statement, whether oral or written, made by a charitable organization, or on behalf of a charitable organization by persons including, but not limited to commercial co-venturers, fund raising counsels, independent paid fund raisers or solicitors shall be truthful.

....

(c) The following acts and practices are declared unlawful as applied to the planning, conduct, or execution of any solicitation or charitable sales promotion:

1. To misrepresent the purpose or nature of the charitable institution or the purpose or beneficiary of a solicitation; to solicit contributions for a purpose other than the charitable purpose expressed in the statement of the charitable organization or expend contributions in a manner inconsistent with that purpose, or to fail to disclose any material fact. A misrepresentation may be accomplished by words or conduct;
2. To violate or fail to comply with any of the applicable provisions of this act or the rules adopted under authority of this act;
3. To violate or fail to comply with any of the applicable provisions of the consumer fraud law, P.L.1960, c.39 (C.56:8-1 et seq.) or the regulations adopted pursuant to that act;

....

7. To engage in other unlawful acts and practices as may be determined by rules adopted by the Attorney General.

102. Defendants violated the Charities Act by engaging in certain acts including, but not limited to, the following:

- a. Misrepresenting to consumers the charitable purpose and nature of Defendant Allan Levine, Inc.;
- b. Misrepresenting to consumers the beneficiaries of Defendant Allan Levine, Inc.;
- c. Soliciting and expending contributions in a manner inconsistent with the charitable purpose of Defendant Allan Levine, Inc.;
- d. Violating or failing to comply with the CFA and Pet Regulations; and
- e. Violating or failing to comply with the Pet Regulations, promulgated under the CFA.

PRAYER FOR RELIEF

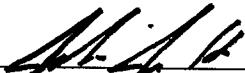
WHEREFORE, based upon the foregoing allegations, Plaintiffs respectfully request that the Court enter judgment against Defendants:

- (a) Finding that the acts and omissions of the Defendants constitute multiple instances of unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and the regulations promulgated thereunder, specifically the Pet Regulations, N.J.A.C. 13:45A-12.1 et seq., and the Charities Act, N.J.S.A. 45:17A-18 et seq.;
- (b) Permanently enjoining the Defendants and their owners, officers, directors, shareholders, founders, managers, agents, employees, representatives, independent contractors and all other persons or entities directly under its control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, the Pet Regulations, and the Charities Act, including, but not limited to, the acts and practices alleged in this Verified Complaint;

- (c) Permanently enjoining the Defendants and their owners, officers, directors, shareholders, founders, managers, agents, employees, representatives, independent contractors and all other persons or entities directly under their control, from advertising, offering for sell, selling, any Animals (as defined by N.J.A.C. 13:45A-12.1);
- (d) Permanently enjoining the Defendants and their owners, officers, directors, shareholders, founders, managers, agents, employees, representatives, independent contractors and all other persons or entities directly under their control, from inoculating or vaccinating any Animals without an order of a veterinarian licensed to practice in the State of New Jersey, in accordance with N.J.A.C. 13:45A-12.3(a)(4);
- (e) Permanently enjoining the Defendants and their owners, officers, directors, shareholders, founders, managers, agents, employees, representatives, independent contractors and all other persons or entities directly under their control, from destroying, concealing, altering, transferring, disposing or removing in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the Advertisement (as defined in N.J.S.A. 56:8-1) and/or Sale (as defined in N.J.S.A. 56:8-1) of Animals;
- (f) Permanently enjoining the Defendants and their owners, officers, directors, shareholders, founders, managers, agents, employees, representatives, independent contractors and all other persons or entities directly under their control, from failing to make and/or keep any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a) that directly or indirectly relate to the Advertisement and/or Sale of Merchandise to out-of-state and/or New Jersey consumers.
- (g) Freezing all assets of Defendants and preventing Defendants from engaging in any act of disposition of those assets, in accordance with N.J.S.A. 56:8-8;
- (h) Directing the assessment of restitution amounts against Defendants to restore to any affected person, whether or not named in this Verified Complaint, any money or real or personal property acquired by means of any alleged practice herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-8;

- (i) Assessing the maximum statutory civil penalties against Defendants for each and every violation of the CFA, in accordance with N.J.S.A. 56:8-13 and Charities Act, in accordance with N.J.S.A. 45:17A-33(8)(d);
- (j) Directing the assessment of costs and fees, including attorneys' fees, against the Defendants for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56: 8-11 and N.J.S.A. 56:8-19; and
- (k) Granting such other relief as the interests of justice may require.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Jah-Juin Ho
Deputy Attorney General


Dated: 7/28/11
Newark, New Jersey

RULE 4:5-1 CERTIFICATION

I certify, to the best of my information and belief, that the matter in controversy in this action involving the aforementioned violations of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., the Regulations Governing the Sale of Animals, N.J.A.C. 13:45A-23.1, et seq., and the Charitable Registration and Investigations Act, N.J.S.A. 45:17A-18 et seq., is not the subject of any other action pending in any other court of this State. I further certify that the matter in controversy in this action is not the subject of a pending arbitration proceeding in this State, nor is any other action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action at this time.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By



Jah-Juin Ho
Deputy Attorney General

Dated: 7/28/11
Newark, New Jersey

RULE 1:38-7(c) CERTIFICATION OF COMPLIANCE

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 


Jah-Juin Ho
Deputy Attorney General

Dated: 7/28/11
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to R. 4:25-4, Deputy Attorney General Jah-Juin Ho is hereby designated as trial counsel on behalf of Plaintiffs in this matter.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 

Jah-Juin Ho
Deputy Attorney General

Dated: 7/28/11
Newark, New Jersey

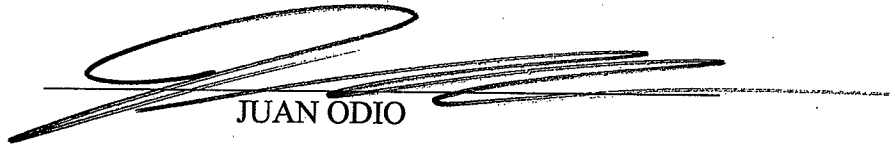
VERIFICATION

I, Juan Odia, of full age, hereby certify as follows:

1. I am an investigator with the New Jersey Division of Consumer Affairs (“Division”), Office of Consumer Protection.

2. I have read the foregoing verified complaint and on my own personal knowledge and review of documents in possession of the Division, I know that the facts set forth herein are true and they are incorporated in this certification by reference, except for those alleged upon information and belief.

3. I certify that the above statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


JUAN ODIO

Dated:

July 28, 2011
Newark, New Jersey