

1 Richard J. Chivaro, SBN 124391
2 David I Brownfield. SBN 266334
3 **OFFICE OF THE STATE CONTROLLER**
4 300 Capitol Mall, Suite 1850
5 Sacramento, CA 95814
6 Telephone: (916) 445-2636
7 Facsimile: (916) 322-1220

8 Attorneys for Plaintiff,
9 JOHN CHIANG, State Controller of California

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF SACRAMENTO**

13 JOHN CHIANG, State Controller of) Case No.
14 California,)
15 Plaintiff,) COMPLAINT TO RECOVER LATE-
16 v.) DELIVERED UNCLAIMED PROPERTY
17 ALL-AMERICAN PET COMPANY, INC. and)
18 SUCCESSORS, and DOES 1 through 25,) (California Code of Civil
19 inclusive.,) Procedure § 1500 et seq.)
20 Defendants.) Exempt from Fees
21) (Government Code § 6103)
22)
23)
24)
25)
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28)

29 Pursuant to California Code of Civil Procedure sections 1572, Plaintiff John Chiang, in
30 his official capacity as Controller of the State of California, and the Office of the State
31 Controller, on behalf of the State of California (hereinafter “State Controller” or the
32 “Controller” or “Plaintiffs”), complain and allege as follows:

33 **INTRODUCTION**

34 1. The Unclaimed Property Law (UPL) (Code of Civil Procedure section 1500 et
35 seq.) was enacted by the Legislature to serve the dual objectives of “protect[ing] unknown
36 owners by locating them and restoring their property to them and to give the state rather than
37 the holders of unclaimed property the benefit of the use of it” *Douglas Aircraft Co. v.*
38 *Cranston*, (1962) 58 Cal.2d 462, 463.

1 (together with American Pet, "Defendants"). Such fictitious Defendants are sued pursuant to
2 the provisions of California Code of Civil Procedure section 474. If the exact nature and
3 identity of such fictitious Defendants' responsibility for, participation in, and contribution to
4 the matters and things herein alleged is ascertained by the Controller, the Controller will seek to
5 amend this Complaint and all proceedings to set forth the same. The Controller is informed
6 and believes, and on that basis alleges, that each DOE Defendant was in some manner
7 responsible for, participated in, or contributed to the acts alleged herein.

8 10. At all times mentioned herein, all Defendant DOES were the agents, servants,
9 employees, representatives, affiliates, subsidiaries, partners, or principals of each of the
10 remaining Defendants and were at all times acting within the scope of such agency, service,
11 and employment and directed, consented, ratified, permitted, encouraged and approved the acts
12 of each remaining Defendant.

13 **JURISDICTION AND VENUE**

14 11. This Court has jurisdiction over all causes of action in this Complaint.

15 12. This action is brought by John Chiang, in his official capacity as Controller of
16 the State of California, on behalf of the State of California. Any unpaid wages collected by
17 reason of escheat are payable into the Treasury of the State of California.

18 13. Venue is proper in this Court pursuant to California Code of Civil Procedure
19 section 1572 which permits the State Controller to bring an action to recover unclaimed
20 property in any court of appropriate jurisdiction of the State if the holder of the unclaimed
21 property is "engaged in or transacting business in this state, although not domiciled in this
22 state." American Pet is engaged in and conducts substantial business throughout the State.

23
24 **FACTUAL ALLEGATIONS**

25 14. On or about April 10, 2008, the Clerk of the Superior Court of the State of
26 California in the County of Los Angeles entered a judgment against Defendant for unpaid
27 wages owed to Debra Bevelaqua in the total amount of \$15,600.08. A true and correct copy of
28 the judgment is attached to this complaint as Exhibit "A."

1 15. On or about May 28, 2008, Debra Bevelaqua assigned the aforementioned
2 judgment to the Labor Commissioner of the State of California. A true and correct copy of the
3 assignment is attached to this complaint as Exhibit “B.”

4 16. Plaintiff is informed and believes, and thereupon alleges, that the Defendant has
5 not paid any part of the \$15,600.08 judgment.

6 17. Under California’s Unclaimed Property Law, unpaid wages escheat by operation
7 of law one year after the wages become payable. (Code of Civil Procedure section 1513).
8 Thus, the \$15,600.08 in unpaid wages should have been reported to Plaintiff in Sacramento by
9 October 31, 2010. (Code of Civil Procedure section 1530). Therefore, pursuant to Code of
10 Civil Procedure section 1577, interest at the rate of twelve percent (12%) per annum has
11 accrued since October 31, 2010. As of September 24, 2014, the accrued interest on the
12 \$15,600.08 in unpaid wages was \$7,299.99. Interest continues to accrue at a rate of \$5.13 per
13 day.

14 18. On or about August 12, 2014, Barry Schwartz, in his capacity as the Chief
15 Executive Officer of the Defendant Corporation, sent a letter to the Plaintiff offering payment
16 of \$15,600.08 in three monthly installments, with the first installment of \$5,200 due on
17 September 15, 2014. A true and correct copy of the letter is attached to this complaint as
18 Exhibit “C.”

19 19. On or about August 15, 2014, the Defendant entered into a payment agreement
20 (“Agreement”) with the Plaintiff to pay \$15,600.08 in three installments with the first
21 installment of \$5,200 due on August 29, 2014. The Plaintiff and the Defendant agreed to waive
22 the statutory interest if the Defendant complied with the payment terms of the Agreement. The
23 Agreement further specified that the full amount of unpaid wages plus interest under Code of
24 Civil Procedure section 1577 would become immediately due and payable in the event that the
25 Defendant did not comply with the payment terms of the Agreement. A true and correct copy
26 of the letter is attached to this complaint as Exhibit “D.”

27 20. On or around September 17, 2014, the Plaintiff sent Defendant a letter by
28 certified mail regarding the aforementioned unpaid wage judgment. In the letter, the Plaintiff

1 demanded the payment of the unclaimed wages in the amount of \$15,600.08 plus interest at a
2 rate of 12% per annum as required by Code of Civil Procedure section 1577. A true and
3 correct copy of the letter is attached to this complaint as Exhibit “E.”

4 21. To date, Plaintiff has received no payment from the Defendant.

5
6 **FIRST CAUSE OF ACTION**
7 **VIOLATION OF THE UPL**
8 **(Cal. Code Civ. Proc. §§ 1530, 1532)**

9 **(By Plaintiffs Against All Defendants Including Does 1-25, Inclusive)**

10 22. Plaintiffs repeat and re-allege paragraphs 1 through 21 inclusive, and
11 incorporate the same as if set forth herein at length.

12 23. The State, and the people of the State, have a property interest in the unclaimed
13 property that Defendants have illegally retained in violation of California’s UPL. The
14 Defendants have a duty to examine its records and to report and remit unclaimed property that
15 should have been reported to the Controller pursuant to sections 1530 and 1532 of the
16 California Code of Civil Procedure. Furthermore, the Controller has a duty to identify and
17 return unclaimed wages to the rightful owners pursuant to sections 1501.5 and 1531 of the
18 California Code of Civil Procedure.

19 24. Beginning on or about September 17, 2014, and continuing to the present time,
20 Defendants have wrongfully and unlawfully refused to submit a report pursuant to the UPL and
21 have willfully refused to remit property to the State Controller.

22 25. On or about September 30, 2014, the Controller’s counsel notified Defendants
23 of its failure to remit unclaimed property. Despite numerous letters being sent to, and received
24 by the Defendants, Defendants have refused and still refuse to refrain from wrongful conduct
25 and to otherwise report and remit the property in accordance with California Code of Civil
26 Procedure sections 1530 and 1532. A true and correct copy of the letter is attached to this
27 complaint as Exhibit “F.”
28

1 **WHEREFORE, Plaintiff prays judgment against Defendants, and each of them, as**
2 **follows:**

- 3 1. For an award in the principal amount of \$15,600.08;
- 4 2. For interest thereon from the dates specified above corresponding to the
5 specified principal amount until paid, at a rate of 12 percent per annum, according to proof;
- 6 3. For a fine of \$50,000 for the willful refusal to deliver the escheated property
7 described in the Controller's letter dated September 17, 2014;
- 8 4. For costs of suit incurred herein; and
- 9 5. For any further relief as the court may deem proper.

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13 Dated: October 22, 2014

OFFICE OF THE STATE CONTROLLER

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15
16
17 By: _____

18 DAVID I BROWNFIELD
19 Attorney for Plaintiff
20 JOHN CHIANG, State Controller of California