

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

TODD SOKOLOWSKI, individually and on	:	CASE NO. 1:07-cv-01709-NLH-
behalf of all others similarly situated,	:	AMD
	:	
Plaintiffs,	:	(Judge Noel L. Hillman)
	:	
v.	:	
	:	DECLARATION OF
MENU FOODS, INC., <u>et al.</u> ,	:	<u>AMY DICKE, DVM</u>
	:	
Defendants.	:	
	:	

STATE OF OHIO)
) ss:
COUNTY OF MONTGOMERY)

I am making this Declaration based upon personal knowledge, and I am competent to testify to the matters stated below:

1. I am a licensed veterinarian. I graduated from The Ohio State University College of Veterinary Medicine in 1983. I have been engaged in the practice of veterinary medicine for twenty-four (24) years. I have been employed as a Technical Services Veterinarian for The Iams Company and its successor, P&G Pet Care, a division of The Procter & Gamble Company ("Iams") since 1998. Iams manufactures and sells Eukanuba and Iams brand premium dog and cat foods, and Eukanuba Veterinary Diets brand canine and feline therapeutic diets. I am a member of the Ohio Veterinary Medical Association, American Veterinary Medical

Association, American Association of Feline Practitioners and the Miami Valley Veterinary Medical Association. Prior to my employment at Iams, I worked for fifteen (15) years as a general practitioner.

2. As a Technical Services Veterinarian, I work directly with the Customer Service Line addressing customer's concerns about nutrition, pet health and our products. My work with our customers started long before the March 2007 pet food recall. Iams Customer Service Line employs one other part-time Technical Services Veterinarian. Iams has employed veterinarians to aid with the Customer Service Line for over 12 years.

3. I am responsible for responding to and resolving difficult questions and complaints from breeders, veterinarians, and customers about the health and nutrition of their pets. I often speak directly with customers' veterinarians, so that I am apprised of all relevant information in order to thoroughly assess the health and nutrition of the pet. Generally, I try to respond to questions or complaints immediately or at least within 24-hours. However, due to the March pet food recall, an overwhelming number of issues were raised for my response and I was unable to address all inquiries within a 24-hour time period.

4. Kerri Hamilton, an Iams customer, contacted Iams through our Customer Service Line on March 17, 2007 concerning the health of her three Yorkshire Terriers ("Yorkies"). I responded to Ms. Hamilton's inquiries on March 17, 2007, the day after the recall, in order to obtain basic information and assess her concerns. It was standard procedure for me to respond to a customer whose pet was experiencing serious medical problems. In our conversation, Ms. Hamilton indicated that on March 8, 2007, her dog was euthanized because of acute kidney failure. Ms. Hamilton also stated that she was concerned about the possibility of

her other two Yorkies being sick. I encouraged her to take the dogs to her veterinarian if she had concerns. I obtained detailed information and asked Ms. Hamilton to send me a sample of the food she had fed her dogs. She agreed that I could also speak with her veterinarians.

5. After our initial conversations, on March 22, 2007, Ms. Hamilton filed a complaint, Case No. 42008173, with the Better Business Bureau ("BBB"), 15 West Fourth Street, Suite 300, Dayton, Ohio 45402. In relevant part, her complaint alleged that her Yorkie was euthanized March 8, 2007 due to kidney failure caused by ingesting tainted Iams dog food. She also alleged that one of her remaining Yorkies had a kidney infection and an enlarged heart. Ms. Hamilton requested that Iams reimburse her veterinary bills, pay any future veterinary bills and pay to replace her deceased Yorkie. The March 22, 2007 BBB Complaint is attached as Exhibit 1.

6. On March 24, 2007, I spoke with and received a fax from Dr. Robin Roth at Oakwood Veterinary Hospital, concerning Ms. Hamilton's deceased dog. Dr. Roth faxed the blood work for my assessment.

7. I spoke with Ms. Hamilton again on March 25, 2007. She provided the contact information of the veterinary clinic that preformed the health check on her two Yorkies. I indicated I would follow-up with her veterinarian.

8. I was unable to reach Dr. Klabunde, at Northwood Animal Hospital, so I left a message for her to return my call on April 2, 2007.

9. I tried to reach Dr. Klabunde again on April 3, 2007, but she was out of the office. I did, however, speak with her colleague at Northwood Veterinary Hospital, who

shared the medical assessment of the two Yorkies based on their physical exams and diagnostic tests. Medical records, blood work and billing were faxed for my review.

10. I followed up with Ms. Hamilton on April 4, 2007, at which time she reported that her two Yorkies were doing well. I repeated the conversations I had with her veterinarians and verified the veterinary bills she had incurred up until that point. One of Ms. Hamilton's dogs was scheduled to go back to the veterinarian for a follow-up, so I suggested that we wait to determine the total amount of reimbursement. Ms. Hamilton also inquired about the replacement cost of her euthanized Yorkie. At the time of our conversation, it was not Iams' policy to reimburse customers for the cost of replacing deceased pets; therefore I declined reimbursement for replacement.

11. On April 5, 2007, I spoke with Ms. Hamilton again after her dog had been to its follow-up veterinary appointment. The blood work came back normal. I offered to reimburse her \$1,544.18, which included full payment for all of the veterinary bills she had incurred and food costs.

12. Marti Hissong, Manager of Iams' Customer Service, emailed a letter on April 6, 2007 memorializing the \$1,544.18 reimbursement offer. The communication also included a partial release. However, the letter expressly permitted future reimbursement should Ms. Hamilton's Yorkies experience further medical problems. "Should a health concern arise in the next four months we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall." April 6, 2007 reimbursement letter and partial release are attached as Exhibit 2.


13. On April 21, 2007, I received via mail one pouch of the Iams Select Bites with Chicken in Gravy product that Ms. Hamilton had been feeding her dogs. I determined that the product code on the food fell within the recall range.

14. Ms. Hamilton never responded to our letter, and due to the outstanding claim with the BBB, her information was forwarded to REM for follow-up communication.

15. I was not involved in any further communication with Ms. Hamilton. All additional communications involved REM and are described in Lynn McCahren's Declaration.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 23, 2007.



Amy Dicke , DVM

184673.1

EXHIBIT 1

Better Business Bureau

COMPLAINT ACTIVITY REPORT Case # 42008173

Consumer info: Hamilton, Karri
667 Francis Dr.
Traverse City, MI 49686
231 932-1279 231 932-1279

Business info: P&G Pet Care
7250 Poe Ave.
Dayton, OH 45414
937 264-7002

Consumer's Original Complaint:

I had an 8 year old yorkie named Molly. On March 6 she was throwing up and I took her to the vet. When I got to the vet I was told she was in kidney failure. Two days later it had spread to her Liver and Molly was put to sleep. Molly was eating lams in the pouches. I have another Yorkie named Jazzie. She is on a Detox and has a kidney infection and an enlarged heart. I talked to a Dr. Dicky from lams on Saturday March 17. Dr. Dicky promised me she would call my vet about my dogs. I have huge vet bills and one dead dog. lams sits their behind closed doors and did not follow through with what I was told they would follow through. I have one dead dog and a sick dog because I trusted their product and believed their advertisements.

Consumer's Desired Resolution:

I would like my vet bills paid for and a female yorkie. I would like future vet bills for Jazzie also covered by them: I had a female yorkie and she is gone because of their company, I would like another female yorkie.

BBB Processing

03/22/2007	web	BBB	Complaint Received by BBB
03/23/2007	daw	BBB	Member or MIP Complaint Validated by BBB Operator
03/23/2007	Otto	EMAIL	Send Acknowledgement to Consumer
03/23/2007	Otto	BBB	Inform MIP Member of Complaint

EXHIBIT 2



April 6, 2007

Ms. Kerri Hamilton
667 Francis Drive
Traverse City, MI 49686

Dear Kerri:

First and foremost, we want to repeat our profound regret for your pet's illness. We appreciate your patience in this difficult situation.

While the cause of the reported illnesses has not been definitively determined, we are reimbursing your medical bills associated with the Menu Foods recall. Attached is our standard release form indicating that you understand that this reimbursement is not to be construed as an admission of liability. Please read carefully and sign the form and return it to us in the self-addressed envelope provided. Upon receipt of this signed release we will promptly send you a check for \$ 1544.18. Should a health concern arise in the next four months we will consider providing reimbursement for medical bills that are demonstrated to be linked to the Menu Foods recall.

Again, as pet owners, we are deeply sorry for your pet's illness

Sincerely,

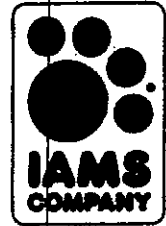
A handwritten signature in cursive script that reads "Marti Hissong".

Marti Hissong

Manager Customer Relations

Iams/Eukanuba

7250 Poe Avenue
Dayton, OH 45414-5801
(937) 898-7387



Kerri Hamilton
667 Francis Drive
Traverse City, MI 49686

April 6, 2007

PARTIAL RELEASE

FOR AND IN CONSIDERATION of the payment to the undersigned by The Iams Company, (a subsidiary of The Procter & Gamble Company), an Ohio corporation, with its principal office in Dayton, Ohio, of \$ 1544.18 _____ the receipt and sufficiency of which is hereby acknowledged, the undersigned hereby jointly and severally releases The Iams Company, its parent company and their respective agents, directors, officers, employees, successors and assigns, from any and all actions, causes of action, claims, losses, damages and demands which either of them now has, has ever had or may have.

The undersigned understands that this settlement is the compromise of a disputed claim and that the payment is not to be construed as an admission of liability on the part of the persons, firms and corporations hereby released by whom liability is expressly denied.

It is also understood that the undersigned may submit an additional claim should a health concern related to the Menu Foods recall arise in the next four months, and this Partial Release shall not bar the submission of that claim. Further, The Iams Company is not obligated to pay any additional claims.

IN WITNESS WHEREOF, the undersigned has signed this release as of the date below.

Date: _____

7250 Poe Avenue
Dayton, OH 45414-5801
(937) 898-7387