VCA CLINIPATH LABS, INC., a California Corporation doing business as Antech Diagnostics,

Plaintiff,

vs.

THE PROGRESSIVE PET ANIMAL HOSPITALS, P.C., a Michigan Corporation; AND JEFFREY ROTHSTEIN, D.V.M., an individual,

Defendants.

Plaintiff VCA Clinipath Labs, Inc., doing business as Antech Diagnostics ("Antech Diagnostics"), hereby avers as follows:

I. THE PARTIES

1. VCA Clinipath Labs, Inc., is a California corporation that does business as Antech Diagnostics. Antech Diagnostics is qualified to do business in Michigan but its principal place of business is in California. Antech Diagnostics is a citizen of California.

3. Defendant Dr. Jeffrey Rothstein ("Rothstein") is a citizen of Michigan and resides, on information and belief, in Ann Arbor, Michigan. Rothstein is the owner and president of Defendant Progressive Pet.

II.

JURISDICTION AND VENUE

4. Federal diversity jurisdiction exists pursuant to 28 U.S.C. section 1332. Plaintiff Antech Diagnostics is a corporation incorporated under the laws of California with its principle place of business in California. Defendant Progressive Pet is a professional service corporation incorporated under the laws of Michigan with its principal place of business in Michigan. Defendant Rothstein is a citizen of Michigan. The amount in controversy, without interest and costs, exceeds the sum or value of $75,000.

5. Venue in the Central District of California is proper pursuant to 28 U.S.C. section 1391 because a substantial part of the events or omissions on which the claim is based occurred in the Central District of California and the subject contract was executed there.

III.

GENERAL AVERMENTS

6. In or about June 2008, Antech Diagnostics entered into a written services agreement (the "Agreement") with Progressive Pet and its owner and president, Rothstein (collectively referred to as "Defendants").

7. The terms of the Agreement included, in part, an exclusivity provision requiring Defendants to utilize Antech Diagnostics’ lab services for five years. The parties agreed that the anticipated value of these lab services was at least $525,000
during the five year term of the Agreement. In return, Antech Diagnostics agreed to provide discounted lab rates, and loaned Defendants $40,000. With nearly three years remaining on the Agreement, Defendants knowingly breached the Agreement in favor of what they believed to be a more financially-advantageous offer made to them by one of Antech Diagnostics’ competitors.

8. The Agreement contains a choice of law provision that indicates the agreement shall be governed and construed both as to validity and performance and enforced in accordance with the laws of the State of California.

FIRST CLAIM FOR RELIEF
(Breach of Contract)

9. Antech Diagnostics hereby incorporates the averments set forth in paragraphs 1 through 8, above, as if set forth in full herein.

10. In or about June 2008, Antech Diagnostics and Defendants entered into a written, five year Agreement, whereby Defendants agreed to utilize Antech Diagnostics on an exclusive basis to provide veterinary laboratory services required by Defendants in an amount equal to at least $105,000 per year. In addition, Defendants received a loan from Antech Diagnostics equal to $40,000, at a rate of 7% interest.

11. Antech Diagnostics performed all material conditions, covenants, and promises required on its part to be performed in accordance with the terms and conditions of the parties’ Agreement.

12. Defendants knowingly breached the parties’ agreement by failing to exclusively utilize Antech Diagnostics’ veterinary laboratory services in the amount agreed upon of $105,000 per year through the completion of the five-year term of the contract. Moreover, Defendants have failed and refused to repay the portion of the loan principal remaining, and the interest due, in a timely fashion in accordance with their Agreement. Defendants have informed Antech Diagnostics that they will no longer comply with the terms of the Agreement for the remainder of the Agreement’s five-year term.
13. As a direct result of Defendants’ breaches of the parties’ agreement, as averred herein, Antech Diagnostics has been damaged well in excess of $75,000, in an amount to be proved at trial.

SECOND CLAIM FOR RELIEF
(Money Lent)

14. Antech Diagnostics hereby incorporates averments set forth in paragraphs 1 through 13, above, as if set forth in full herein.

15. Since September 2010, Defendants have become indebted to Antech Diagnostics in the sum of $22,732 for money lent by Antech Diagnostics to Defendants in accordance with the Agreement. Defendants received the money with full knowledge that the money was to be considered a loan and was to be repaid as described in the Agreement.

16. Neither the whole nor any part of the amounts owed have been paid, although demand therefore has been made, and there is now due, owing and unpaid the sum of at least $22,732, plus interest.

THIRD CLAIM FOR RELIEF
(Unjust Enrichment)

17. Antech Diagnostics hereby incorporates averments set forth in paragraphs 1 through 16, above, as if set forth in full herein.

18. In the event that no contract exists, then Defendants have been unjustly enriched because they have received $22,732 from Antech Diagnostics, which has received nothing in return.

19. As a result of the unjust enrichment of Defendants, Antech Diagnostics has been damaged in the sum of $22,732 as a result of Defendants’ failure to repay the loan amount and costs incurred in collecting this amount. Defendants, and each of them, are jointly and severally liable to Antech Diagnostics for said damages and costs.

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PRAYER

WHEREFORE, Plaintiff Antech Diagnostics prays as follows:

1. For damages in a sum according to proof, in excess of $75,000;

2. For interest at the legal rate on the loan amount owed to Antech Diagnostics under the Agreement;

3. For costs incurred herein; and

4. For such other and further relief as the Court deems just and proper.

DATED: February 7, 2011

GODES & PREIS, LLP

James N. Godes
Robert F. Muth
Attorneys for Plaintiff
Antech Diagnostics