

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

J CANCEL IMPORTS CORP.,

Plaintiff,

v.

JBM FOODS, INC.; JAVIER DOVAL,  
d.b.a. CANCEL IMPORTS, LLC; DOES I-  
X,

Defendants.

Civil No.: 19-1327

BREACH OF CONTRACT;  
COLLECTION OF MONIES FOR  
COMMISSIONS; VIOLATION OF PR  
LAW 21; UNJUST ENRICHMENT  
INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

**COMPLAINT**

**TO THE HONORABLE COURT:**

**APPEARS NOW** the Plaintiffs, through the undersigned counsel, and hereby **STATES, ALLEGES,** and **REQUESTS** as follows:

**JURISDICTIONAL BASIS**

1. This case is based upon diversity jurisdiction under 28 U.S.C. §1332.
2. Plaintiff is incorporated and registered under the laws of Puerto Rico, with principal place of business in Puerto Rico, since 2007.
3. All Defendants are individuals, corporations, business entities, or partnerships who are citizens of Georgia or of a state or country other than Puerto Rico.
4. The matter in controversy exceeds the sum of SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.

5. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391, since the events, breaches of contract, non payment of commissions and acts or omissions giving rise to this claim occurred in this district.

**THE PARTIES**

6. Plaintiff **J CANCEL IMPORTS CORP.** (hereinafter “plaintiff” or “J CANCEL IMPORTS CORP.”) is a for profit corporation, in good standing, organized and registered under the laws of Puerto Rico, with registry number 173047, since June 2007.
7. Defendant **JBM FOODS INC.** (hereinafter “JBM”) is a corporation duly organized and registered under the laws of the State of Georgia, where it has its principal place of business.
8. Defendant **JAVIER DOVAL** (hereinafter “Doval”) is of legal age and resident of the state of Georgia who has been doing business in Puerto Rico under the name of Cancel Imports LLC, despite the fact that that corporation had been cancelled for years as reflected by the records in the Puerto Rico Department of State Corporate registry.
9. Defendants **Does I-X** are individuals or entities to whom generic names have been assigned because their identity remains unknown and who could be responsible to Plaintiff for the damages suffered by it and are domiciled in or incorporated in states and countries other than Puerto Rico.

**GENERAL ALLEGATIONS**

10. Since 2012, Plaintiff entered into a verbal contract with defendants as the exclusive sales representative for the product lines of JBM Foods, Inc. and Mr. Javier Doval in Puerto Rico.
11. Since 2012, **J CANCEL IMPORTS CORP.**, through its officers and owners Japhet Cancel and Damar Otero Cancel, promoted and sold JBM Foods/Doval's products in Puerto Rico in return for sales commissions.
12. Plaintiff **J CANCEL IMPORTS CORP.**, through its officers Japhet Cancel and Damar Cancel operated a sales effort, promoted, supported and collected on sales of defendants' product lines in Puerto Rico.
13. Plaintiff J Cancel Imports Corp., through the efforts of Japhet Cancel and Damar Otero de Cancel, created and expanded the Puerto Rico market for JBM Foods and Doval in Puerto Rico.
14. Plaintiff secured and purchased insurance coverage (for JBM Foods/Cancel), as well as transportation and storage of chicken and other products sold to Econo, Mr. Special and others.
15. Plaintiff **J CANCEL IMPORTS CORP.** contracted and paid for advertising to promote defendants products.
16. Plaintiff, **J CANCEL IMPORTS CORP.**, through its officers' sales efforts, Japhet and Damar, achieved impressive annual sales (principally to Econo and Mr. Special) in 2012 of \$1,002,000.

17. In 2013, due to plaintiff's efforts, sales of defendants' products to Econo increased to \$6,708,000.
18. In 2014 due to plaintiff's efforts sales to Econo continued increasing to \$18,443,476.
19. In 2015 due to plaintiff's efforts sales to Econo continued strong at \$14,749,000.
20. In 2016 due to plaintiff's efforts sales to Econo were solid at \$11,295,000.
21. In 2017 due to plaintiff's efforts sales to Econo increased again to \$18,066,000.
22. In 2018 due to plaintiff's efforts sales through October were very strong at \$15,822,000.
23. The commissions paid to plaintiff varied upon the product sold, but averaged out to 1% of gross sales.
24. **J. CANCEL IMPORT, CORP.** was the company that earned and was paid (by JBM Foods, Inc. and Doval) the sales commissions, through efforts of Mr. Japhet Cancel and his wife Diamar Otero as officers of this corporation.
25. Diamar Otero Cancel, as an officer and owner, actively participated in **J. CANCEL IMPORT, CORP.**'s business: by servicing client accounts, following up and collecting on invoices, remitting checks to Defendants in Georgia, by signing checks to pay for services in the sale, storage, and distribution of defendant product in Puerto Rico.
26. Unexpectedly, Japhet Cancel died in March 2017.
27. **J. CANCEL IMPORT, CORP.** continued operating and the sales representative relationship continued under the same terms and conditions as

before Japhet's death, but now servicing the accounts with only Ms. Diamar Otero Cancel, widow of Cancel.

28. Javier Doval made it a point to come to Puerto Rico and meet with Cancel Imports Corp.'s principal client, Econo Supermarkets and reassure its President, Mr. Marxuach, and top officer, Mr. Victor Salls, that the business relationship with Cancel Imports Corp. through Diamar Otero de Cancel continued the same as before Japhet Cancel's death.
29. As such, sales continued and even increased of JBM/Doval's product lines to Econo Supermarkets and other buyers in Puerto Rico, for which some commissions were paid to **J. CANCEL IMPORT, CORP.**
30. Plaintiff would follow up on the invoices for product to Econo and collect the checks and send them to defendants in Georgia.
31. At one point, JBM Foods and Mr. Doval, in conjunction with Augusto Roca, Econo's buyer, began bypassing Cancel Imports Corp. and impeding plaintiff's sales efforts.
32. Defendants, in conjunction with Augusto Roca, Econo's buyer would deliberately keep sales information from plaintiff, in order to undermine its sales functions.
33. Defendants, in conjunction with Augusto Roca, Econo's buyer caused Econo to issue payments directly to defendants in Georgia, thereby bypassing the delivery of checks to plaintiff, as had always been done.
34. Without notice whatsoever, Defendants ceased paying plaintiff any commissions for the sales of JBM Foods Doval's products in Puerto Rico.

35. Defendants have continued selling their products in Puerto Rico to Econo Supermarkets which was Plaintiff's principal client.
36. On October 16, 2015, Cancel Imports LLC was cancelled by the State Department Registry. (See Exhibit 1)
37. Javier Doval continued operating under the guise of a defunct corporation Cancel Imports LLC, billing Econo as if that corporation still existed.
38. Javier Doval continued operating under the Cancel name, and Cancel's good reputation in the industry, deliberately enriching himself in contravention of the law.
39. Defendants, JBM Foods Inc. has begun to sell directly to Mr. Special, another of Cancel Imports Corp.'s client.
40. Plaintiff is owed commissions on the sales of the same products to the same clients and purchasers it had developed over the years.
41. Plaintiff's is owed past and present sales commissions continue to accrue at no less than \$10,000 per month.

**FIRST CAUSE OF ACTION**  
**FOR BREACH OF CONTRACT FOR OUTSTANDING**  
**SALES COMMISSIONS**

42. All the allegations set forth in the prior sections are incorporated as if fully set forth herein.
43. Under the general contracts and obligations theory, and in compliance with Article 1207 of the Puerto Rico Civil Code, the contracting parties can establish the pacts, clauses and conditions they deem convenient, as long as they are not contrary to law, moral, or public order.

44. Once the parties agree on those pacts, clauses and conditions through a contract, they are obligated to meet them, since the obligations that are born from contracts are the law between the contracting parties, and must be duly complied with.
45. In the instant case, the sales commissions earned by plaintiff but unpaid for sales of defendants products by plaintiff's clients in Puerto Rico through October 2019 total Two Hundred Sixty Nine Thousand, Six Hundred Sixty One Dollars (\$269,661).
46. In the instant case, the sales commissions earned for sales of defendants products by plaintiff's clients in Puerto Rico continue to accrue at an average rate of 1% of gross sales, which roughly amounts to \$10,000 per month in sales commissions.
47. In the past five (5) months (November 2018 through March 2019), defendants have continued to sell to plaintiff's clients and have failed to pay commissions on those sales of no less than FIFTY THOUSAND DOLLARS (\$50,000) and sum continues to accrue.
48. It is for this reason that the Plaintiffs respectfully requests this Honorable Court order DEFENDANTS to pay the amount of no less than THREE HUNDRED AND NINETEEN THOUSAND SIX HUNDRED AND SIXTY ONE DOLLARS, (\$319,661), plus interest where applicable.
49. In addition to the actual repair costs, Plaintiffs have a right to recover attorneys' fees incurred in as a result of Defendants' bad faith.

**SECOND CAUSE OF ACTION FOR BREACH OF LAW 21 SALES  
REPRESENTATIVE CONTRACT**

50. All the allegations set forth in the prior sections are incorporated as if fully set forth herein.
51. Since 2012, Plaintiff was an exclusive sales representative of JBM Foods and Doval's product lines in Puerto Rico.
52. Plaintiff created and developed the market in Puerto Rico where it began to promote, advertise, sell, received, warehouse and distribute defendants' product line to its customers.
53. Through plaintiff's efforts, sales continued increasing into the tens of millions of dollars, principally in sales to Econo Supermarkets and Mr. Special.
54. Plaintiff's sales efforts were so successful that defendants could not supply the demand for chicken parts created by plaintiff's efforts.
55. Despite sales continuing very strong, without warning, notice or cause, Defendants ceased paying commissions to **J CANCEL IMPORTS CORP.**
56. Defendants began selling directly to J. Cancel Imports Corp.'s clients, Econo and Mr. Special, in direct contravention to law 21.
57. The aforementioned damages for the value of the business, including the market it created and grew into a multimillion dollar in sales, are estimated pursuant to Law 21 at the earned sales commissions of the last five years that totals no less than ONE MILLION ONE HUNDRED AND SIXTEEN THOUSAND, NINE HUNDRED FOUR DOLLARS (**\$1,116,904**), plus interest where applicable.



**THIRD CAUSE OF ACTION FOR UNJUST ENRICHMENT BY THE  
IMPROPER USE OF CANCEL NAME AND GOOD REPUTATION**

58. All the allegations in the previous sections are hereby incorporated as if fully set forth herein.
59. Back when Doval was working with plaintiff, on September 4, 2012, Javier Doval incorporated Cancel Imports LLC, with president and resident agent being Japhet Cancel and the corporate address was Japhet Cancel's office on Luchetti street in Bayamon. (See, Incorporation Document, Attached as Exhibit 2)
60. Javier Doval failed to keep up the required corporate filings and let the corporation lapse and be cancelled on October 16, 2015. (See Cancellation Document, Attached as Exhibit 1)
61. Javier Doval and JBM Foods Inc. have continued billing Econo and collecting millions of dollars in checks from Econo for a corporate entity (LLC) that no longer existed.
62. Defendants have continued using the name of Cancel to do business in Puerto Rico and capitalized on the good name and reputation of Japhet and Damar Cancel, despite the fact that there is no longer any relationship with the Cancel family.
63. As of March 28, 2019, Cancel Imports LLC remained cancelled. (See Recent Document Cancelled LLC, Attached as Exhibit 3)
64. That cancelled status remained until last Wednesday, April 3, 2019 when for its own self serving litigation strategies, defendant Doval decided to reinstate it.

(See Attached Exhibit 4).

65. Despite the belated and a back pedaling attempt to reinstate Cancel Imports LLC, it has kept the resident agent as Japhet Cancel, who died in March 2017.
66. Cancel Imports LLC, also has inaccurately designated its office location as Japhet Cancel's former office in Luchetti Industrial Park, in Bayamon. (See Attached Exhibit 5)
67. Plaintiff request the Court provide injunctive relief so that Defendants cease and desist from using the Cancel name in order to deliberately mislead persons in the food distribution industry, such as Econo Supermarket chain.

**TRIAL BY JURY DEMANDED**

68. Plaintiffs hereby demand trial by jury.

**WHEREFORE**, Plaintiffs demand judgment against DEFENDANTS in no less than **ONE MILLION FOUR HUNDRED THIRTY SIX THOUSAND FIVE HUNDRED AND SIXTY FIVE DOLLARS (\$1,436,565)** for the outstanding sales commissions owed (Two Hundred Sixty Nine Thousand, Six Hundred Sixty One Dollars) (\$269,661) and the value of the multimillion dollar business (**ONE MILLION ONE HUNDRED AND SIXTEEN THOUSAND, NINE HUNDRED FOUR DOLLARS (\$1,116,904)**) that plaintiff developed over years of effort and dedication, plus expenses, costs, and attorneys' fees and interest.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 8<sup>th</sup> day of April 2019.

*Plaintiff's Counsel:*

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