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Pets Are Not Cars: The Perils of the Lease-to-Own Business Model for Pets

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Is pet leasing a real business model? The short answer is that pet leasing fails as a business enterprise model.

First, pets are not cars nor any other type of tangible collateral lacking any instinctive permanency to lessor (i.e. pet owner). Pets are not farm animals or domesticated livestock; they are family members meant for a lifetime of companionship and special moments shared together. Yet there are and have been attempts to ignore the “familial connection” brought on by pet ownership and to transform the process of pet acquisition to a neutral economic transaction. But can these types of transactions be a high-volume financed type of economic exchange familiar to most of us when we lease or buy on credit terms any other type of product?

Second, leasing a product means there are payments by the lessee over time for the enjoyment of the exclusive use of the product. However, pet owners are not looking to acquire a pet for a term of months or years and to return the pet at the end of the lease term (or exchange it for a newer model). They look forward to the years of being together with their pet until death brings the relationship to an end. Similarly, the pet shop owners/sellers are not expecting to receive old pets at the end of the term of the lease. So the intent of the parties to a pet lease is really a permanent sale transaction, wherein the seller gets the proceeds (most likely factored with a third-party company), and the buyer pet owner gets their pet for life. In essence, the pet lease is what has been described as a disguised purchase transaction by many courts.

Third, the business model of leasing pets has some significant barriers to entry and financial limitations. For volume pet leasing transactions to work, the pet lessor requires a large capital base in order to have the product — pets — available for pet lessees. In most instances, the individual pet shops or pet sellers will finance the pet lessee's acquisition through a third-party financing company who makes the lease directly or takes an assignment of the pet lease in exchange for a discounted cash flow value of the contract. This is the business side of the model. The pet lessee leaves the transaction with their new, wonderful pet with little cost down but months or years of future payments to make (exclusive of the care, feeding, and medical costs for their new pet). At the end of their payment term, the pet belongs to the lessee free and clear of creditor claims. A number of states have passed statutory prohibitions on pet leasing where they really are contracts for purchase, i.e. a “de minimis

residual financial value at the end of the term.” See Nev. Rev. Stat. 597.997 (the first state to outlaw pet leasing by statute in 2017).

On the financing side, the company holding the leases expects the cash flow from pet lessees to cover their expected rate of return on their capital investment. However, high cost of capital, high (or higher than projected) default rates by lessees, or potential undercapitalization to continue to make new leases to survive can and have occurred. Ultimately, the financing company (who may also factor its leases as well) collects the residual payment streams on the pet leases, and the remaining uncollected lease payments can be a collection nightmare involving multiple small claims cases against former pet lessees. Traditional replevin or return of the leased collateral — the pet — is not a realistic result. This leaves collection agencies the task of collecting from the pet lessee who may raise multiple defenses as to why they should not have to pay, e.g. no pet exists any longer. Given the amounts at issue, these would be claims brought in courts of limited jurisdiction and follow up execution actions if successful. So, even if the process works as anticipated (and is legal in the state), pet leasing as a business enterprise model faces significant cash flow and management issues in order to avoid failure.

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