

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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THE PEOPLE OF THE STATE OF NEW YORK,	:
by LETITIA JAMES,	:
Attorney General of the State of New York,	: <u>SUMMONS</u>
	:
Plaintiff,	: Index No.
	:
-against-	:
	:
JBS USA FOOD COMPANY and JBS USA FOOD	:
COMPANY HOLDINGS,	:
	:
Defendants.	:
	:
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TO JBS USA FOOD COMPANY:

YOU ARE HEREBY SUMMONED to answer the attached complaint in this action and to serve a copy of your answer on the plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York). In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff designates New York County as the venue for this action pursuant to C.P.L.R. 503(a).

Dated: New York, New York
February 28, 2024

LETITIA JAMES
Attorney General
State of New York

By:



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The People of the State of New York*

Of Counsel:
Lemuel Srolovic
Bureau Chief
Environmental Protection Bureau
Division of Social Justice

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TO JBS USA FOOD COMPANY HOLDINGS:

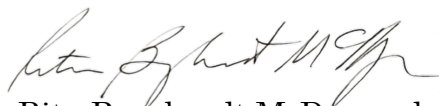
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COMPLAINT

Index No.

1. Plaintiff, the People of the State of New York, by Letitia James, Attorney General of the State of New York (“the State”), upon information and belief, alleges the following against defendants JBS USA Food Company and JBS USA Food Company Holdings (together “JBS USA”).

NATURE OF THE ACTION

2. For years, JBS USA, and its direct and indirect parents, subsidiaries, and affiliates (collectively, “the JBS Group”), the largest producer of beef products in the world, have repeatedly assured the public and their consumers that they are taking substantial and definitive actions to reduce their greenhouse gas emissions and mitigate the impacts of their industrial agricultural practices on the environment.

3. As public concern about climate change and environmental sustainability continues to grow, consumers increasingly are seeking products with

greater environmental benefits and fewer environmental harms. One study found that consumers are willing to pay more—up to 30 percent more—for products with net-zero greenhouse gas emissions. Consumers also report that sustainability is an important consideration when purchasing food and beverages in a grocery store or restaurant.

4. Industrial animal agriculture, however, has a substantial environmental footprint. Beef has the highest total greenhouse gas emissions of any major food commodity, and beef production is linked to large-scale deforestation, especially in the Amazon rainforest, which further drives climate change by releasing greenhouse gases and eliminating trees and plants that absorb and store carbon dioxide (referred to as “carbon sinks”).

5. As the global leader in beef production, the JBS Group knows that if consumers perceive its products as unsustainable, it could reduce consumer demand for beef and harm the JBS Group’s share of the U.S. beef market. In public statements, the JBS Group has recognized that sustainability claims can, in effect, provide environmentally conscious consumers with a “license” to eat beef.

6. Across its marketing materials, the JBS Group has made sweeping representations to consumers about its commitment to reducing its greenhouse gas emissions, claiming that it will be “Net Zero by 2040.”

7. The JBS Group, however, has had no viable plan to meet its commitment to be “Net Zero by 2040.”

8. Indeed, the JBS Group has admitted that it made its “Net Zero by 2040” commitment without having calculated the vast majority of greenhouse gas emissions from its supply chain. Those supply chain emissions include emissions from deforestation in the Amazon and the resulting inability of that biomass to absorb and store greenhouse gases from the atmosphere.

9. Even if it had developed a plan to be “Net Zero by 2040,” the JBS Group could not feasibly meet its pledge because there are no proven agricultural practices to reduce its greenhouse gas emissions to net zero at the JBS Group’s current scale, and offsetting those emissions would be a costly undertaking of an unprecedented degree. As of 2021, the JBS Group’s estimated annual greenhouse gases were more than those of the entire country of Ireland, and the JBS Group plans to substantially increase its meat production over the coming years.

10. In a recent proceeding defended by the JBS Group, the National Advertising Division (“NAD”) of the Better Business Bureau determined that the JBS Group’s “Net Zero by 2040” marketing claim is unsubstantiated and misleading to consumers and recommended that the JBS Group stop making that claim. The National Advertising Review Board (“the Review Board”), NAD’s appellate body, upheld that decision.

11. Despite these industry admonishments, the JBS Group has continued to make the same or similar claims to consumers, all the while emitting massive amounts of greenhouse gases to the atmosphere and continuing supply chain

practices with outsized climate impacts, further contributing to climate change harms.

12. The JBS Group has repeatedly and persistently made unsubstantiated and misleading environmental marketing claims to New York consumers, even after NAD and the Review Board found such claims to be unsubstantiated and recommended that the JBS Group stop making them.

13. The JBS Group has profited from its fraudulent and illegal business activities across New York State.

14. The State therefore brings this action pursuant to Executive Law § 63(12) to stop these fraudulent and illegal environmental marketing practices and to enjoin JBS USA from violating New York's consumer protection statutes, General Business Law §§ 349 and 350.

15. The State also seeks an order awarding civil penalties for JBS USA's statutory violations; disgorgement of all profits and ill-gotten gains realized from JBS USA's violations of New York's consumer protection statutes; a third-party audit of JBS USA's compliance with New York's consumer protection statutes; and such other relief as the Court deems just and proper.

PARTIES

16. The State brings this action by Attorney General Letitia James, the chief law enforcement officer of the State who is charged by law with protecting consumers who reside or transact business in the State. The Attorney General is

authorized to bring this action and to assert the causes of action set forth below pursuant to General Business Law §§ 349 and 350 and Executive Law § 63(12).

17. Defendants JBS USA Food Company and JBS USA Food Company Holdings are wholly owned indirect subsidiaries of their ultimate parent, JBS S.A. Both JBS USA defendants are Delaware corporations with their principal places of business in Greeley, Colorado.

The JBS Group's Company Background

18. The JBS Group is a multinational food company that conducts business in over 20 countries across five continents.

19. JBS S.A. is the ultimate parent of the global corporate structure referred to in this complaint as “the JBS Group,” and it has its principal place of business in São Paulo, Brazil. The JBS Group, for purposes of this complaint, consists of JBS S.A. and its consolidated subsidiaries, including JBS USA. JBS S.A. is the controlling parent company for all consolidated subsidiaries within the JBS Group.

20. The JBS Group's operations span a variety of industries and products, most of which are related to the processing, distribution, and sale of animal-based products worldwide. Other business activities include prepared foods, transportation, fertilizers, and the sale of leather, collagen, and biodiesel.

21. The JBS Group claims to be “the largest protein company and the largest food company in the world in terms of net revenue for the year ended December 31, 2022.” The JBS Group states that its net revenue in 2022 was USD

\$72.6 billion. It also claims to be the global leader in beef and poultry production capacity and the second largest global pork producer.

22. The JBS Group primarily relies on direct and indirect suppliers to breed and raise the cattle it slaughters in its processing facilities worldwide.

23. Cattle raised in Brazil and purchased by the JBS Group are exported to the United States and are part of JBS USA's supply chain. In January 2022 alone, Brazil exported almost 100 million pounds of beef to the United States.

24. As of the first quarter of 2023, the JBS Group's U.S. market accounted for 49 percent of its total revenue.

25. Defendant JBS USA Food Company conducts the JBS Group's operations in the United States.

26. Defendant JBS USA Food Company Holdings, along with its subsidiaries and affiliates, has maintained a website for those collective business units at "www.jbsfoodsgroup.com."

27. The JBS Group has used the trademark "JBS" in its marketing for its operations in the United States, Canada, Mexico, Australia, Europe, and the United Kingdom.

28. Within the JBS Group's global organizational structure, the Chief Executive Officer ("CEO") of JBS USA reports to the CEO of JBS S.A.

29. JBS S.A.'s Board of Directors, the CEO, and global management team define the global business policies and guidelines for the companies within the JBS Group.

30. JBS S.A. sets a global environmental policy that applies to all businesses within the JBS Group, including JBS USA.

31. Speaking to market analysts in 2020, the then-CEO of JBS USA explained that the environmental policies set by JBS S.A. applied equally to the U.S. businesses: “[I]t’s absolutely the same, the company has a global policy related to ESG [environmental, social, and governance issues] and the companies publish this in [sic] a global basis. The companies have a sustainability program, so it’s absolutely the same and we all follow the same guidance, and we all publish the same information.”

32. The businesses within JBS USA also share a common Chief Sustainability Officer and Chief Ethics and Compliance Officer with JBS S.A.

33. JBS S.A. publishes Sustainability Reports regarding the environmental performance of the JBS Group businesses worldwide. Those Sustainability Reports and other related materials are accessible to consumers and are published in English. The global Sustainability Reports contain data regarding the environmental performance and efforts of the combined JBS Group businesses worldwide, including JBS USA.

34. JBS USA also publishes its own Sustainability Reports that adopt and repeat representations made by JBS S.A. about the JBS Group’s environmental commitments.

35. JBS USA’s “Sustainability” webpage has directed consumers to a JBS Foods webpage, which has informed consumers of the JBS Group’s global “pledge to

achieve net-zero greenhouse gas (GHG) emissions by 2040” and to eliminate deforestation across its global supply chain by 2035.

36. JBS USA’s website also has directed consumers to JBS S.A.’s compliance department for questions pertaining to their websites: “All other feedback, comments, requests for technical support and other communications relating to the Website should be directed to: jbs.compliance@jbssa.com.”

The JBS Group’s Connections to New York

37. JBS USA regularly conducts business within New York State and with New York consumers. JBS USA markets and sells its products in New York State under different brand names including “Swift,” “Certified Angus Beef,” and “Grass Run Farms.”

38. Each of those brands maintains websites through which they directly market their products to New York consumers. Consumers who access the brand’s website can purchase the brand’s products online through retailers such as Instacart or Amazon, or they are directed to New York retailers who stock the brand’s products in their stores. Consumers can also purchase those products directly from retail outlets in New York, including Costco, Hannaford, Weis, Wegmans, ShopRite, and Stop & Shop.

39. The JBS Group’s “Net Zero by 2040” and other representations relating to its sustainability claims have been directed to New York consumers through its websites, Sustainability Reports, and marketing, including but not limited to, an April 25, 2021 full-page advertisement in *The New York Times*.

40. On September 21, 2023, the JBS Group's CEO attended a public Climate Week event in New York City entitled *Climate Forward* that was sponsored by *The New York Times*. At that event, the CEO reiterated the JBS Group's "Net Zero by 2040" pledge and made additional representations about how the JBS Group would achieve that commitment.

41. The JBS Group has also availed itself of the U.S. capital markets, including those in New York. JBS S.A.'s American Depositary Shares currently trade in the U.S. over-the-counter securities market. In 2021, JBS USA, along with other wholly owned JBS subsidiaries, offered bonds to U.S. investors, including investors in New York. Investors in the JBS Group's securities include at least one New York public pension plan.

42. In July 2023, the JBS Group announced a corporate restructuring and filed a Form F-4 and Prospectus with the Securities and Exchange Commission through which the JBS Group seeks to list its securities on the New York Stock Exchange for sale to U.S. investors, including investors in New York.

43. The JBS Group has additional business contacts in New York, including but not limited to the following:

- a. JBS Carriers, a subsidiary of JBS USA, has provided transportation throughout the United States for refrigerated and non-refrigerated freight, both to JBS Group companies and other customers. JBS Carriers has recruited truck drivers from New York State.

- b. Principe America LLC, a JBS Group subsidiary, is a Delaware corporation that is registered to do business in New York and maintains or had maintained a place of business in Brooklyn, New York.
- c. Wild Fork Foods, a subsidiary of JBS USA, is registered under the name “Food Ventures North America, Inc.” as a foreign business corporation pursuant to New York Business Corporation Law § 1304. In 2023, it leased three places of business in New York. Wild Fork Foods also maintains a processing center in Long Island City, New York, and has recruited employees to work in that center and other Long Island locations.

JURISDICTION AND VENUE

44. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over JBS USA, and authority to grant the relief requested pursuant to General Business Law §§ 349 and 350 and Executive Law § 63(12).

45. Pursuant to C.P.L.R. 503, venue is proper in New York County because the State maintains an office at 28 Liberty Street in New York County, and JBS USA transacts business in New York County.

LEGAL BACKGROUND

46. Section 349 of the General Business Law prohibits deceptive acts and practices in the conduct of any business, trade, or commerce in the State of New York.

47. Section 350 of the General Business Law prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service in the State of New York.

48. Claims and advertising may constitute deceptive acts and practices if they are untrue, omit information relevant to the consumer, create a false impression, or are subject to more than one meaning.

49. The General Business Law prohibits marketers from making unfair, deceptive, or unsubstantiated claims or advertisements about their products, which include the environmental benefits of their products.

50. Pursuant to the General Business Law, environmental marketing claims must be truthful and supported by a reasonable basis. Marketers must also consider how a reasonable consumer would interpret an environmental marketing claim and ensure that the claim does not create a false impression to consumers.

51. Section 63(12) of the Executive Law empowers the New York Attorney General to bring a civil action against persons who “engage in repeated fraudulent or illegal acts or otherwise demonstrate persistent fraud or illegality in the carrying on, conducting or transaction of business.”

52. “Fraud” under section 63(12) of the Executive Law expressly includes “any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contract provisions.”

53. Representations and claims are fraudulent if they create a false impression or atmosphere of fraud, or are likely to deceive.

54. Advertisements and claims that are technically true are nevertheless deceptive if they create a false impression or are subject to more than one interpretation, one of which is false.

55. Violations of sections 349 and 350 of the General Business Law constitute “illegality” within the meaning of Executive Law § 63(12).

FACTUAL BACKGROUND

I. Climate Change Impacts and Environmental Sustainability Are Important Considerations for Consumers.

56. There is significant consumer demand for products with environmental benefits and with less environmental harms.

57. According to a recent study, two-thirds of American adults are willing to pay more for environmentally sustainable products. Increasingly, consumers report feeling a responsibility to change their purchasing habits to reduce their impact on the environment.

58. In a 2019 survey of 750 American consumers, 80 percent of respondents reported that sustainability is an important consideration when deciding what food or beverage to purchase in a grocery store or at a restaurant. In that survey, consumers cited climate change as a top concern.

59. Because of concerns about climate change, consumers are prepared to pay up to 30 percent more for net-zero products. Likewise, studies have shown that

consumers prefer and may be willing to pay more for food products that have a lower carbon footprint.

60. In addition to considering a product's environmental impact, consumers often consider the overall environmental sustainability of a corporation's operations when making purchases.

61. A recent study found that 63 percent of Americans are influenced by a corporation's environmental reputation when making purchasing decisions. That same study found that 48 percent of Americans "have either chosen one product over another or stopped purchasing a product based on the environmental record" of the product's manufacturer.

62. In response to consumer demand, corporations regularly make environmental marketing claims touting the environmental benefits of their products and their corporate sustainability goals. Corporations also advertise their climate-related actions and initiatives, such as developing "carbon neutral" products and setting emission reduction or net-zero targets.

63. Corporations make such claims on product packaging, in advertising campaigns, and on their websites, among other places.

64. For the average consumer, it is extremely difficult to verify the truth and accuracy of environmental marketing claims when making purchases. Thus, consumers who want to buy carbon neutral, sustainable, or net-zero products generally must trust the marketing claims made by corporations.

65. When environmental marketing claims are not supported by actual environmental benefits, it harms consumers who want to make informed decisions about what products to buy and what corporations to support.

II. Beef Production Is a Major Driver of Global Climate Change.

66. Beef production contributes significantly to climate change both through the emission of massive amounts of greenhouse gases and through land-use changes, such as deforestation, that dramatically reduce or eliminate carbon sinks that store carbon absorbed from the atmosphere.

67. Carbon dioxide, methane, and nitrous oxide, among other well-mixed greenhouse gases, endanger the public health and welfare by contributing to climate change.

68. Global agriculture, along with forestry and other land uses, account for nearly half of anthropogenic methane emissions, 81 percent of nitrous oxide emissions, and around 13 percent of carbon dioxide emissions. Animal agriculture, in particular, is responsible for at least 14.5 percent of global anthropogenic greenhouse gas emissions annually.

69. Agriculture's contribution to climate change is expected to grow over the coming decades. The production of meat, milk, and major grains is expected to increase by up to 80 percent by 2050 compared to today's levels, and meat consumption is expected to grow by 70 percent. Such growth would result in an increase in agriculture-related emissions of 38 percent from 2020 levels.

70. Similarly, because existing pastures and grasslands are already heavily used for livestock production, greater demand for meat will likely result in increased deforestation and the associated loss of carbon sinks.

71. Already, nearly 40 percent of all habitable land across the globe is used for meat and dairy production.

72. Animal agriculture is the largest source of anthropogenic methane emissions globally, contributing around 32 percent of total emissions each year. Methane is a potent greenhouse gas that traps more than 100 times more heat than carbon dioxide.

73. Cattle produce most of these methane emissions. Ninety percent of methane emissions from animal agriculture result from enteric fermentation, a digestive process in cattle and other ruminants that breaks down coarse plant material so that it can be absorbed and metabolized by the animal. Enteric fermentation produces methane, which the animal then releases into the atmosphere through belching and exhalation.

74. A single cow produces between 154 to 264 pounds of methane per year through enteric fermentation.

75. Largely due to these methane emissions, beef has the highest total greenhouse gas emissions of any major food commodity.

76. Beef is also one of the world's most emissions-intensive foods. Beef requires over 20 times more land and produces over 20 times more greenhouse gas emissions than beans and lentils per gram of protein.

77. In addition, animal agriculture, including beef production, is responsible for significant nitrous oxide emissions, largely from manure management and nitrogen fertilizers used on feed crops. Nitrous oxide can trap over 250 times more heat than carbon dioxide.

78. Because of animal agriculture's substantial methane and nitrous oxide emissions, it will be exceedingly difficult for the sector to achieve net-zero greenhouse gas emissions. According to the Intergovernmental Panel on Climate Change, "[s]ome non-CO₂ [carbon dioxide] emissions, such as CH₄ [methane] and N₂O [nitrous oxide] from agriculture cannot be fully eliminated using existing or anticipated technical measures."

79. Beef production is also responsible for vast amounts of carbon dioxide emissions, primarily through land-use changes such as the conversion of forests and grasslands to pasture and cropland.

80. Deforestation and other land use changes not only have the immediate effects of releasing carbon previously stored in biomass, but they also have enduring effects because the destroyed biomass can no longer pull and sequester carbon from the atmosphere.

81. Because of these effects, beef produced on newly deforested land has a substantially larger carbon footprint than beef produced on established pastures.

82. Beef production is the top driver of deforestation in the world's tropical forests, more than double that of soy, palm oil, and wood products combined. Cattle

ranching in Brazil is responsible for almost one-quarter of global tropical deforestation each year.

83. Seventeen percent of the Amazon rainforest—one of the Earth’s most important carbon sinks, pulling billions of tons of carbon dioxide from the air and storing it in biomass—has been converted to cropland or pasture for animal agriculture.

84. Deforestation in the Amazon rainforest is driven by both cattle grazing and industrial soybean plantations that produce legumes for animal feed.

85. The JBS Group is the largest purchaser of cattle raised in the Amazon rainforest.

86. Cattle from deforested areas of the Amazon are part of the JBS Group’s supply chain.

87. In December 2023, Brazilian authorities sued JBS S.A., alleging that the company purchased cattle illegally raised in protected areas of the Amazon rainforest.

88. In total, the world’s top five meat and dairy corporations combined are responsible for more annual greenhouse gas emissions than ExxonMobil, Shell, or BP, individually. Of these five meat and dairy corporations, the JBS Group is the top contributor.

89. In 2021, the JBS Group reported total global greenhouse gas emissions of over 71 million tons, more than the total emissions from the country of Ireland during the same year.

90. Moreover, its actual total emissions are significantly higher because the JBS Group did not account for all of its greenhouse gas emissions attributable to livestock production in its supply chain, which reportedly constitute approximately 90 percent of its overall emissions.

91. These supply chain emissions, also known as Scope 3 emissions, include emissions from livestock (e.g., enteric fermentation); manure; farm machinery fuel; animal feed production; nitrogen fertilizers and other animal feed inputs; deforestation from the expansion of livestock grazing and feed production; and other land use changes.

ALLEGATIONS AGAINST JBS USA

I. JBS USA Knows that Its Consumers Are Concerned About Sustainability.

92. JBS USA knows that demand for its meat products will likely decrease if consumers believe the products are unsustainable or harm the environment.

93. As the JBS Group stated in its July 2023 U.S. Securities and Exchange Commission filing:

Consumer interest in plant-based proteins, particularly among millennial and younger generations, has been driven in part by a growing perception of the adverse health and environmental impacts of animal-based meat consumption. Consumers have access to unprecedented levels of information disseminated via the internet and social media channels, and global awareness of these issues may grow and could potentially have a negative impact on consumer demand for our animal-based meat products.

94. The JBS Group acknowledged in its July 2023 filing that “growing attention on the environmental and climate change impact of beef production, in

particular, could lead ... to changes in customer preferences and overall demand for beef that would materially affect consumption of our products.”

95. JBS USA has recognized that consumers pay attention to how the products they purchase are produced. According to JBS USA’s Head of Corporate Affairs, speaking at an industry presentation in 2015: “If consumers continue on this trend of wanting products that are not produced the way we produce them today, that are anti-conventional agriculture, they will win. Right? They have the purchasing power.”

96. JBS USA has also understood that younger consumers—the “millennial market,” in particular—look to align their purchases with their values and beliefs. At a 2015 industry conference, JBS USA’s Head of Corporate Affairs stated about these consumers:

They are powerful. They are armed with information. Eighty percent of the time, they don’t know what the hell they’re talking about, alright. But this is our new consumer. They have beliefs and causes that they are passionate about, right. More than 50 percent of them make an effort to buy a product from a company that they like, that supports a cause they care about. Okay. What does that mean? That means we have to make sure our business is emoting the right types of beliefs and values that align with this need.

97. JBS USA has publicly acknowledged that claims of sustainability can yield greater market share in the beef industry. According to JBS USA’s Head of Corporate Affairs in 2015: “Increasingly, you see [organic or grass-fed ‘niche markets’] making claims that their systems are sustainable and the rest of ours are not, alright. That their systems are better for the environment, better for the planet, better for your health, but conventional agriculture or big agriculture is not.

And consumers listen to that. They believe that. And you see the market share of certain companies like a Whole Foods or a Chipotle increase tremendously.”

98. JBS USA also has recognized that marketing its products as “sustainable” may give consumers a “license” to eat beef. As its Corporate Head of Affairs stated in 2015: “They really just want a license for products they already love, right? And so we need to give it to them. And sustainability is a way to give it to them.”

99. JBS USA’s definition of “sustainable,” however, has focused heavily on economic viability as opposed to environmental benefits. According to JBS USA’s Head of Corporate Affairs in 2015: “So when you deal with sustainability, always remember it’s about cash. If it doesn’t make cents, if it doesn’t make dollars, it ain’t sustainable.”

II. JBS USA Has Repeatedly Represented to Consumers that It Will Be “Net Zero by 2040.”

100. On March 21, 2021, the JBS Group made a sweeping commitment to consumers and the public that the global company would be “Net Zero by 2040.” It announced: “JBS, one of the world’s leading food companies, today announced a commitment to achieve net-zero greenhouse gas (GHG) emissions by 2040. The commitment spans the company’s global operations, ... as well as its diverse value chain of agricultural producer partners, suppliers and customers in their efforts to reduce emissions across the value chain.”

101. The JBS Group's "Net Zero by 2040" commitment has appeared on the websites and advertisements of JBS USA and its various brands including Swift and Grass Run Farms, which market their products to consumers in New York.

102. The JBS Group's "Net Zero by 2040" pledge has extended to all of its enterprise greenhouse gas emissions: "JBS will achieve net zero greenhouse gas emissions, reducing its direct and indirect (scopes 1, 2 and 3) emissions and offsetting all residual emissions."

103. Scope 1 emissions are direct emissions from company-owned facilities, including emissions from company-owned farms, processing plants, and machinery. Scope 2 emissions are emissions associated with the purchase of electricity, heat, or cooling. Scope 3 emissions consist of upstream and downstream supply chain emissions and constitute up to 90 percent of the greenhouse gas emissions in the meat and dairy sector.

104. On April 25, 2021, JBS USA ran a full-page advertisement in *The New York Times*, claiming: "Agriculture can be part of the climate solution. Bacon, chicken wings and steak with net-zero emissions. It's possible."

105. That advertisement also represented:

- a. "We are the first major global company in our industry to commit to net zero by 2040. Can it actually be done? We think so and we're taking real actions to achieve our goal."
- b. "We're setting time-bound, science-based targets and backing them up with \$1 billion in capital over the next decade."
- c. "We will cut our own emissions by 30% by 2030 and eliminate Amazon deforestation from our supply chain within five years."

106. In its global 2021 Sustainability Report, the JBS Group reiterated that it “undertook a global commitment to be Net Zero by 2040.” The JBS Group asserted that it had committed to “reducing [its] direct and indirect emissions to the extent possible, and offsetting any residual emissions.”

107. Since 2021, the JBS Group, JBS USA, and their subsidiaries and brands have repeated these promises on their consumer-facing websites. For instance, until recently, JBS USA had represented on its “Sustainability” webpage: “JBS was also the first major global protein company to set a net-zero GHG emissions by 2040 target, covering our scope 1, scope 2 and scope 3 emissions.”

108. As of February 2024, JBS USA’s website continues to promote itself as “the first global meat and poultry company to pledge to achieve net-zero greenhouse gas emissions by 2040.”

109. Swift, a JBS USA brand, has also touted its commitment to reaching net zero greenhouse gas emissions by 2040 on its website. Swift recently softened its language, stating that the company has an “ambition to achieve net zero greenhouse gas emissions across our global supply chain.” But Swift’s website has continued to prompt consumers to view its “Round the Table” video, which represents that Swift is committed to “the reduction of their greenhouse gases to net zero by 2040,” that it is “moving forward towards that goal,” and that it is “seeing success already.”

110. Pilgrim’s Pride, a JBS Group subsidiary, ran a banner on its sustainability website claiming that it would be “Reaching Net Zero by 2040,”

followed by the representation that “Pilgrim’s is the first major global protein company to pledge a net-zero GHG emissions by 2040 target, covering scope 1, scope 2 and scope 3 emissions.” Pilgrim’s Pride’s customers were then directed to “learn more” by clicking on a link to a JBS USA website, which likewise promoted the JBS Group’s “Net-Zero Commitment.”

111. As of February 2024, Pilgrim’s Pride’s website continues to tout its “pledge to achieve net-zero greenhouse gas emissions by 2040 throughout our global operations and in partnership with our producers, suppliers and customers.”

112. Grass Run Farms, a JBS USA brand which offers consumers “100% grass fed beef,” has repeated JBS USA’s “Net Zero by 2040” commitment on its “Sustainability” webpage: “JBS Foods, which includes Grass Run Farms, was the first global meat and poultry company to pledge to achieve net-zero GHG (greenhouse gas) emissions by 2040.” Grass Run Farms has directed its consumers to “learn more” by accessing a link to JBS USA’s Sustainability webpage which, in turn, has repeated the JBS USA’s net-zero pledge.

113. Most recently, in its 2022 Sustainability Report, released on August 31, 2023, the JBS Group reiterated its “pledge to achieve net-zero greenhouse gas (GHG) emissions by 2040” and that it intended to “achieve these reductions in our absolute scope 1, 2, and 3 emissions.”

114. Likewise, the JBS Group’s CEO, speaking at a September 21, 2023 public Climate Week forum in New York City, told the audience that the JBS Group

“pledged to be net zero in 2040 and not 2050” and that it planned to do so by lowering its emissions, not by purchasing carbon credits to offset its emissions.

A. Self-Regulating Advertising Industry Groups Have Found the JBS Group’s “Net Zero By 2040” Claims to Be Misleading to Consumers.

115. The JBS Group’s representations that its global enterprise will be “Net Zero by 2040” reasonably create an impression to consumers that the JBS Group has a systematic and comprehensive plan to achieve its pledge, and that the company has determined that the pledge is achievable.

116. But, as the JBS Group’s CEO admitted at the September 2023 Climate Week event, the JBS Group would not begin to develop an “action plan” for achieving its “Net Zero by 2040” goal until the company identified all of its Scope 3 emissions, which it had not yet done as of that date.

117. Likewise, the JBS Group’s 2022 Sustainability Report, published in August 2023, indicates that the JBS Group did not yet have a concrete plan to achieve its net zero commitment: “In 2023, we are working to develop a robust Net Zero Roadmap that outlines our priorities and guides our actions over the next 17 years.”

118. Without a defined plan to meet its net zero commitment, the JBS Group did not have a reasonable basis for its claim that its global greenhouse gas emissions will be net zero by 2040, as an advertising industry panel recently determined.

119. In June 2022, the non-profit group Institute for Agriculture & Trade Policy (“IATP”) filed a complaint with NAD of the Better Business Bureau claiming

that the JBS Group's "Net Zero by 2040" advertising claims misled consumers into believing that the company had a concrete plan for implementing that goal, which it did not.

120. NAD and the Review Board, which hears appeals from NAD decisions, are entities established by the advertising industry "as an independent system of self-regulation designed to build consumer trust in advertising." NAD and the Review Board are comprised of advertising and marketing professionals, among others in the advertising industry.

121. In response to the NAD complaint, JBS USA, through its then-parent, JBS USA Holdings, Inc., presented evidence to NAD purporting to refute IATP's claims. JBS USA argued, among other things, that its claims were merely aspirational.

122. In its investigation, NAD analyzed the following representations made by JBS USA:

- a. "JBS is committing to be net zero by 2040."
- b. "Global Commitment to Achieve Net-Zero Greenhouse Gas Emissions by 2040."
- c. "the SBTi [Science Based Targets initiative] recognized the Net Zero Commitment of JBS."
- d. "Bacon, chicken wings and steak with net zero emissions. It's possible."
- e. "Leading change across the food industry and achieving our goal of net zero by 2040 will be a challenge. Anything less is not an option."
- f. "JBS will achieve Net Zero greenhouse gas emissions, reducing its direct and indirect (scopes 1, 2 and 3) emissions."

123. In analyzing the claims, NAD evaluated whether JBS USA had a reasonable basis for making them. NAD stated that environmental marketing should not use “broad or unspecified claims about environmental product benefits” and should permit qualified environmental claims only where the qualifications are clear to consumers.

124. In February 2023, after completing its investigation, NAD issued a report finding that JBS USA’s claims that it will achieve net zero greenhouse gas emissions by 2040 were unsubstantiated and confusing to consumers.

125. Specifically, NAD determined that “JBS’s ‘net zero’ claims reasonably create[] consumer expectations that [JBS]’s efforts are providing environmental benefits, specifically ‘net zero’ carbon emissions by a specified date, a measurable outcome.” NAD further determined that JBS USA’s “evidence did not support the broad message conveyed by the challenged advertising that JBS is on a path towards net zero, which would include a plan with specific objectives and measurable outcomes likely to be achieved.”

126. NAD made similar findings on all of the challenged claims and ruled that JBS USA should discontinue the disputed representations in its advertising.

127. JBS USA subsequently appealed NAD’s findings to the Review Board. The Review Board panel upheld NAD’s findings, concluding that “JBS has failed to support the feasibility of reaching the announced goal with credible evidence of the steps that would be considered necessary to achieve the goal.” The Review Board determined that JBS USA’s representations create consumer expectations that JBS

USA has developed and validated a plan for achieving “net zero” by 2040, which it had not.

128. JBS USA later announced that it would take down the disputed representations, and has begun editing its website. For example, on its website, it has changed the term “commitment to achieve” net zero emissions by 2040, to “ambition to achieve” net zero emissions by 2040.

129. To date, however, on the JBS Foods website, consumers can still access the JBS Group’s March 2021 announcement of its net zero pledge as well as the April 2021 *New York Times* advertisement that was the subject of the NAD investigation. Likewise, the JBS Group’s website and its 2022 Sustainability Report, published in August 2023, repeatedly advertise the company’s “pledge to be Net Zero by 2040.”

130. In fact, on September 21, 2023, the JBS Group’s CEO repeated the company’s “Net Zero by 2040” pledge at a public Climate Week forum sponsored by *The New York Times*. At that event, the JBS Group’s CEO was asked why the company was still making its “Net Zero by 2040” claims despite having agreed to remove those claims from its advertising following the decisions by NAD and the Review Board. The CEO responded that the company had not discontinued making the claims because the JBS Group “was not exactly stop[ped]” from making them.

131. Thus, even after the NAD and Review Board decisions, the JBS Group has continued to make unsubstantiated and misleading “Net Zero by 2040” claims to New York consumers.

B. The JBS Group's Greenhouse Gas Emissions Calculations Have Been Incomplete and Have Not Accounted for Emissions Resulting from Deforestation in the Amazon.

132. The JBS Group has not had a reasonable basis for claiming that its global greenhouse gas emissions will be “Net Zero by 2040” because its Scope 3 emissions calculations have been incomplete and have not accounted for emissions resulting from Amazon deforestation and other land use changes in its supply chain.

133. In its response to the Carbon Disclosure Project's 2020 Climate Change Questionnaire, the JBS Group acknowledged that its Scope 3 emissions were relevant to informing consumers of the environmental impact of its operations, but admitted that it had not calculated its Scope 3 emissions because the company deemed its business supply chain too complex: “Due to the complexity and many stages of the business supply chain, JBS did not yet found [sic] a consensus about [sic] efficient and feasible methodology to calculate it.”

134. The JBS Group admitted in its 2022 Sustainability Report that “the majority of [its] footprint is made up of indirect scope 3 emissions,” but the 2022 Sustainability Report does not even attempt to report Scope 3 emissions.

135. More recently, in September 2023, the JBS Group's CEO admitted that the company's Scope 3 emissions had been “something we d[id] not know how to calculate,” and that the company would not develop its “action plan” until those Scope 3 emissions were identified and calculated.

136. If the JBS Group had not known how to calculate or identify its Scope 3 emissions, it could not possibly have known its total enterprise emissions or have made a viable plan to be “Net Zero by 2040.”

137. Even when the JBS Group has reported its total enterprise emissions, the company has failed to account for the massive contribution of Amazonian deforestation and other land use changes to its Scope 3 emissions.

138. Deforestation for cattle operations contributes to the JBS Group’s Scope 3 emissions not only through the immediate release of greenhouse gases from destroyed biomass, but also through the resulting inability of that biomass to subsequently absorb and store greenhouse gases from the atmosphere.

139. In its 2021 Sustainability Report, the JBS Group attempted to calculate its Scope 3 emissions, but expressly excluded “changes in land use for cattle” which would include emissions from deforestation.

140. The JBS Group further asserted that it would include emissions from land use changes in its 2022 Sustainability Report, but it failed to do so.

141. Given the JBS Group’s failure to calculate its total Scope 3 emissions, including those from deforestation and other land use changes, the JBS Group lacked a reasonable basis to know whether it could achieve its “Net Zero by 2040” commitment.

142. The JBS Group’s “Net Zero by 2040” commitment is therefore unsubstantiated and misleading to consumers.

C. The JBS Group's Net Zero by 2040 Commitment Is Not Feasible with Its Current Business Plan or Its Plan to Increase Beef Production.

143. The JBS Group's "Net Zero by 2040" commitment is also misleading because it is not feasible given the JBS Group's current levels of livestock production and the company's plans to grow global demand for its products.

144. The 2023 Assessment Report from the United Nation's Intergovernmental Panel on Climate Change found that methane and nitrous oxide emitted by agricultural practices, which include beef production, cannot be eliminated through existing or anticipated technology. Instead, scientists point to the need to reduce production of and demand for ruminant meat, including beef, to reduce these emissions.

145. The JBS Group plans to do the opposite. The JBS Group forecasts increased demand for its products over the coming decades, and it intends to meet that demand.

146. At an August 2023 investor meeting, the JBS Group's global CEO stated: "[W]e need to focus on the demand for protein. We need to produce [by] 2050 70% more protein." These growth predictions were echoed by the JBS Group's Chief Financial Officer: "Let me just put some color. When I joined JBS almost five years ago, the per capita consumption per year of beef in China was 4 kilos per person. Today [it] is 7.8."

147. Despite the JBS Group's plans to substantially grow its meat production, the JBS Group's CEO has represented that the JBS Group will be able

to reach net zero by 2040 solely by cutting its emissions, and not by purchasing carbon offset credits.

148. During his September 2023 Climate Week interview, the JBS Group's CEO was specifically asked how the JBS Group would achieve net zero emissions by 2040. In his response, the JBS Group's CEO first emphasized that the JBS Group would achieve net zero emissions by 2040 without the need to purchase carbon credits. Carbon credits are instruments that represent the avoidance, reduction, or removal of one metric ton of greenhouse gas emissions from the atmosphere.

Companies often buy carbon credits to offset their own greenhouse gas emissions.

149. The JBS Group's CEO also responded in the Climate Week interview that the JBS Group would use regenerative agricultural techniques to meet its "Net Zero by 2040" goal. The term "regenerative agriculture," while largely undefined, has been used to describe "practices aimed at promoting soil health by restoring soil's organic carbon" and sequestering that carbon within the soil.

150. Although regenerative agricultural techniques can improve soil health and provide other environmental benefits, a recent scientific review of regenerative agricultural practices found that "[c]arbon sequestration in agricultural soils, even with best management practices, is only likely to offer a small net storage of carbon." Scientists have further determined that any "claim that ruminant systems can have a negative annual [greenhouse gas] balance via soil [carbon] sequestration is overly optimistic and could be misleading."

151. Moreover, there is no known way to replace the lost carbon sequestration capacity of all the land cleared for cattle grazing and feed crops.

152. In its 2022 Sustainability Report, the JBS Group has also claimed to be exploring alternative production techniques and technologies to reduce methane emissions from its cattle, including alternative animal feeds.

153. However, the effectiveness, safety, and economic feasibility of those methods have not been scientifically established. In fact, existing methane reduction methods for grazed cattle have not been found to reduce enteric methane by more than 24 percent.

154. Moreover, even if those mitigation strategies were safe and cost-effective, methane mitigation strategies alone would not be sufficient to achieve net zero greenhouse gas emissions from livestock production.

155. The JBS Group cannot feasibly reach its “Net Zero by 2040” goal through regenerative agricultural techniques or methane mitigation strategies without the purchase of carbon credits.

156. Even if, contrary to its CEO’s representations, the JBS Group resorted to the use of carbon credits, it is unclear whether sufficient credits would be available or could feasibly be afforded by the JBS Group given the volume of the JBS Group’s reported emissions and forecasted growth plans.

157. The JBS Group’s “Net-Zero by 2040” commitment is misleading because it is not compatible with either its current business practices or its plan to substantially increase beef production.

CAUSES OF ACTION

First Claim

Violation of General Business Law § 349 **(Deceptive Acts or Practices)**

158. The State realleges and incorporates by reference paragraphs 1 through 157.

159. General Business Law Article 22-A, § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce in the State of New York. As set forth in paragraphs 1 through 157, JBS USA has repeatedly violated General Business Law § 349 by engaging in deceptive acts or practices including but not limited to making misrepresentations either expressly or by implication, including that it would achieve net zero greenhouse gas emissions by 2040.

160. JBS USA has engaged in repeated and persistent illegal conduct in violation of General Business Law Article 22-A, § 349.

Second Claim

Violation of General Business Law § 350 **(False Advertising)**

161. The State realleges and incorporates by reference paragraphs 1 through 157.

162. General Business Law Article 22-A, § 350 prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service in the State of New York.

163. As set forth in paragraphs 1 through 157, JBS USA has repeatedly violated General Business Law § 350 by engaging in deceptive acts or practices

including but not limited to making misrepresentations in its advertisements, websites and online publications, either expressly or by implication, including that it would achieve net zero greenhouse gas emissions by 2040.

164. JBS USA has engaged in repeated and persistent illegal conduct in violation of General Business Law Article 22-A, § 350.

Third Claim
Violation of Executive Law § 63(12)
(General Business Law § 349 Violation)

165. The State realleges and incorporates by reference paragraphs 1 through 157.

166. Executive Law § 63(12) authorizes the State to seek injunctive and other relief when any person engages in repeated or persistent fraudulent or illegal conduct.

167. General Business Law Article 22-A, § 349 prohibits deceptive acts and practices in the conduct of any business, trade, or commerce in the State of New York.

168. As set forth in paragraphs 1 through 157, JBS USA has repeatedly violated General Business Law § 349 by engaging in deceptive acts or practices including but not limited to making misrepresentations either expressly or by implication, including that it would achieve net zero greenhouse gas emissions by 2040.

169. JBS USA has engaged in repeated and persistent fraudulent and illegal conduct in violation of Executive Law § 63(12).

Fourth Claim
Violation of Executive Law § 63(12)
(General Business Law § 350 Violation)

170. The State realleges and incorporates by reference paragraphs 1 through 157.

171. Executive Law § 63(12) authorizes the State to seek injunctive and other relief when any person engages in repeated or persistent fraudulent or illegal conduct.

172. General Business Law Article 22-A, § 350 prohibits false advertising in the conduct of any business, trade or commerce or in the furnishing of any service in the State of New York.

173. As set forth in paragraphs 1 through 157, JBS USA has repeatedly violated General Business Law § 350 by engaging in deceptive acts or practices including but not limited to making misrepresentations in its advertisements, websites and online publications, either expressly or by implication, including that it would achieve net zero greenhouse gas emissions by 2040.

174. JBS USA has engaged in repeated and persistent fraudulent and illegal conduct in violation of Executive Law § 63(12).

Fifth Claim
Violation of Executive Law § 63(12)

175. The State realleges and incorporates by reference paragraphs 1 through 157.

176. Executive Law § 63(12) authorizes the State to seek injunctive and other relief when any person engages in repeated or persistent fraudulent or illegal conduct.

177. Executive Law § 63(12) defines “fraud” or “fraudulent” to “include any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions.”

178. As set forth in paragraphs 1 through 157, JBS USA has repeatedly engaged in fraudulent conduct including but not limited to making misrepresentations either expressly or by implication, including that it would achieve net zero greenhouse gas emissions by 2040.

179. JBS USA has engaged in repeated and persistent fraudulent and illegal conduct in violation of Executive Law § 63(12).

180. Pursuant to Executive Law § 63(12), the State is entitled to injunctive relief preventing further violation of New York law.

181. Pursuant to Executive Law § 63(12), the State is entitled to disgorgement of all ill-gotten profits, funds, and assets traceable to JBS USA’s fraudulent, deceptive, or illegal acts or practices and such other equitable relief as may be necessary to redress defendants’ violations of New York law.

DEMAND FOR RELIEF

Wherefore, the State respectfully requests an order and judgment:

182. Enjoining JBS USA from violating Executive Law § 63(12) and General Business Law Article 22-A, §§ 349 and 350, and from engaging in the fraudulent, deceptive, and illegal acts or practices alleged in the Complaint;

183. Ordering JBS USA to disgorge all ill-gotten profits, funds, and assets traceable to its fraudulent, deceptive, or illegal acts or practices;

184. Directing such other equitable relief as may be necessary to redress JBS USA's violations of New York law;

185. Granting the State civil penalties of \$5,000 per violation of General Business Law Article 22-A pursuant to General Business Law § 350-d;

186. Granting the State civil penalties of \$1,000 per violation of General Business Law § 349-d pursuant to General Business Law § 349-d(9);

187. Ordering JBS USA to perform and provide to the State six-month and twelve-month independent audits of all consumer-facing publications to ensure compliance with General Business Law Article 22-A, §§ 349–350;

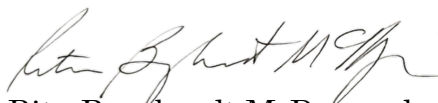
188. Ordering JBS USA to pay the State's costs and reasonable attorney's fees; and

189. Granting such additional relief as the Court may deem just and proper.

Dated: New York, New York
February 28, 2024

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