

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

(1) 1,576 LBS., MORE OR LESS, OF
POULTRY CARCASSES;
(2) 274 LBS., MORE OR LESS, OF
CHICKEN FEET, HEADS, LIVERS,
GIZZARDS & CARCASS TRIMMINGS;
(3) 650 LBS., MORE OR LESS, OF A BEEF
CARCASS & 2 BEEF HEADS; and
(4) 600 LBS., MORE OR LESS, OF HOG
CARCASSES,

Defendants *in rem*.

No.

VERIFIED COMPLAINT FOR SEIZURE AND CONDEMNATION
(LIBEL OF INFORMATION)

Plaintiff United States of America brings this civil seizure and condemnation action under 21 U.S.C. §§ 467b and 673 and in accordance with Rule C (“In Rem Actions”) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (which supplement the Federal Rules of Civil Procedure), and avers as follows on information and belief:

INTRODUCTION

1. This action is brought *in rem* to enforce the provisions of 21 U.S.C. §§ 467b and 673 for the seizure and condemnation of: (a) 1,576 pounds, more or less, of poultry (chicken) carcasses; (b) 274 pounds, more or less, of chicken feet, heads, livers, gizzards, and carcass trimmings; (c) 650 pounds, more or less, of a beef carcass and two beef heads; and (d) 600 pounds, more or less, of hog carcasses. These defendant articles (a portion of which may be

adulterated) have never been federally inspected, remain capable of use as human food, and (on information and belief) were intended for sale in commerce, all in violation of the Poultry Products Inspection Act (“Poultry Act” or “PPIA”), as amended (21 U.S.C. § 451 *et seq.*), and the Federal Meat Inspection Act (“Meat Act” or “FMIA”), as amended (21 U.S.C. § 601 *et seq.*).

2. The Meat and Poultry Acts authorize the United States here to proceed against, seize, and condemn the defendant articles “on a libel of information,” with “the proceedings . . . [to] conform, as nearly as may be, to . . . proceedings in admiralty[.]” 21 U.S.C. §§ 467b(a)(1), (4); 21 U.S.C. §§ 673(a)(1), (4).

JURISDICTION, THE PARTIES, AND VENUE

3. The Court has jurisdiction over the subject matter and the *in rem* properties under 28 U.S.C. §§ 1345 and 1355 and 21 U.S.C. §§ 467c and 674.

4. The United States Department of Agriculture’s Undersecretary for Food Safety has delegated to the Administrator of USDA’s Food Safety and Inspection Service (“USDA FSIS”) the authority to administer and enforce the Meat and Poultry Acts.

5. Plaintiff is the United States of America, on behalf of USDA FSIS.

6. The defendant poultry, beef, and hog carcasses, chicken parts, and beef heads are all: (a) located at Miller’s Organic Farm, 648 Mill Creek School Road, Bird-in-Hand, Pennsylvania 17505; and (b) currently detained there by USDA FSIS as authorized under 21 U.S.C. §§ 467a and 672.

7. Amos Miller owns and operates Miller’s Organic Farm and resides at the farm address.

8. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1395, because violations of the Meat Act and the Poultry Act occurred—and the defendant articles are located—in Lancaster County, Pennsylvania, which is within this District.

9. Plaintiff United States requests that the Court—upon the filing of this Complaint, and pursuant to Supplemental Rule C(3)(a)—issue an arrest warrant *in rem*, which the United States will execute upon the defendant articles under Supplemental Rule C(3)(b).

FACTUAL ALLEGATIONS

The Permanent Injunction Action and Order

10. On April 19, 2019, the United States, on behalf of USDA FSIS, filed a complaint in the Eastern District of Pennsylvania to enjoin Miller’s Organic Farm (“Miller’s”) and Amos Miller from continuing, without federal inspection, to slaughter, process, prepare, sell, offer for sale, transport, and/or offer to transport in commerce meat, meat food products, and poultry products that are capable of use as human food. *See USA v. Miller’s Organic Farm and Amos Miller*, EDPA No. 19-cv-1435 (“the Injunction Action”), Dkt. Entry No. 1.

11. In the Injunction Action, on November 19, 2019, the Honorable Edward G. Smith granted summary judgment in favor of the United States and permanently enjoined Amos Miller and Miller’s, as well as persons “in active concert or participation with them,” from violating the Poultry Act and the Meat Act. *See* Injunction Order, Dkt. Entry No. 44 in the Injunction Action, Exhibit “A” hereto, at ¶¶ 7, 25.

12. In the Injunction Order, the Court specifically:

a. **Permanently enjoined defendants** Amos Miller and Miller’s “**from slaughtering livestock or poultry, and then preparing, processing**, selling, transporting, and/or offering for sale or transport any meat, meat food products, or poultry products that are

required to be USDA-inspected and USDA-passed **unless they have been so inspected and passed,**” *see* Injunction Order at p. 4 ¶ 7(a) (bold added) and at p. 5 ¶ 8 (“[defendants] will not slaughter livestock or poultry, and then prepare or process meat, meat food products, or poultry products, until FSIS issues a Federal Grant of Inspection”);

b. **Permanently enjoined those defendants “from failing to comply with all requirements of the FMIA, PPIA, and their implementing regulations that apply to slaughtering livestock or poultry, and/or then preparing, processing, selling,** transporting, or distributing meat, meat food products, or poultry products. These implementing regulations include, but are not limited to, those imposing requirements for: (i) inspection; (ii) labeling; (iii) sanitation (including sanitation performance standards and standard operating procedures); (iv) Hazard Analysis and Critical Control Point (HACCP) systems; and (v) *Listeria monocytogenes* and/or other pathogen sampling, testing, and other program obligations, as provided under 9 C.F.F. § 302.1 and 9 C.F.R. Parts 310, 317, 381, 412, 416, 417, 418, and 430,” *see* Injunction Order at p. 5 ¶ 7(d) (bold added);

c. Ordered that those defendants must not conduct any slaughter, processing, or preparation under a “custom” exemption without first obtaining USDA FSIS and/or judicial approval of an “Exempt Plan” for such operations, *see* Injunction Order, at pp. 6-10 & ¶ 10; and

d. Ordered that: (i) Amos Miller and Miller’s would be permitted to forgo applying for a USDA Federal Grant of Inspection **only if** they were to take to a federally inspected facility or facilities, for slaughter and processing, all of Miller’s livestock and poultry that are “amenable” (that is, subject to the Meat Act or Poultry Act), that are intended for human consumption, and that are not otherwise exempt; (ii) **but** even if such a federally inspected facility were to slaughter and process all such livestock and poultry, Miller’s further processing

of the products would have to be done “as an exempt retail store in accordance with 9 C.F.R. §§ 303.1(d) or 381.10(d),” which include the requirement, among others, that Miller’s comply with Commonwealth of Pennsylvania and local licensing requirements and applicable food codes. *See* Injunction Order at pp. 5-6, ¶ 9.

13. In the Injunction Order, the Court further ordered and recognized that “authorized representatives of USDA FSIS may—in accordance with applicable laws and regulations—detain, and seek judicial seizure of, any non-federally-inspected, adulterated, misbranded, or not-exempt-from-inspection meat, meat food product, or poultry product observed at Miller’s Organic Farm that is in violation of 21 U.S.C. §§ 458, 461, 467c, 610, 674, or 676.” *See* Injunction Order at p. 11 ¶ 13; *see also id.* at p. 14 ¶ 21 (“This Order does not limit any rights or remedies available to the United States for any violation of the [Meat Act or the Poultry Act] and their respective regulations”); 21 U.S.C. §§ 467a, 672.

14. The Court also ordered that: “Should enforcement proceedings beyond [the Injunction] Order be necessary, [Amos Miller and Miller’s] agree that the United States shall be entitled to recover from the[m] . . . all court costs and expenses incurred by FSIS in such proceedings, including investigation and preparation time and attorneys’ fees for the USDA and the United States Attorney’s Office.” *See* Injunction Order, at p. 13 ¶ 19 and p. 14 ¶ 20 (providing that USDA FSIS’ expenses “include . . . investigation and preparation time, at the rate of \$45.00 per hour per USDA employee”).

The Consent Decree/Order and the First Condemnation Action

15. As Amos Miller and Miller’s Organic Farm acknowledged in recitals in an April 2020 Consent Decree in the Injunction Action, USDA FSIS investigators visited Miller’s in

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