

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

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	NO. 19-CV-1435
v.	:	
	:	
MILLER'S ORGANIC FARM and	:	
AMOS MILLER,	:	
	:	
Defendants.	:	

ORDER TO SHOW CAUSE

AND NOW, this day of June, 2021, upon consideration of plaintiff United States' Motion for an Order to Show Cause Why Defendants Should Not Be Held in Contempt, and the supporting exhibits, it is **ORDERED** as follows:

1. Defendants Amos Miller and Miller's Organic Farm **SHALL APPEAR** before the United States District Court for the Eastern District of Pennsylvania at the U.S. Courthouse, The Holmes Building, 4th Floor, 101 Larry Holmes Drive, Easton, Pennsylvania 18042, on **Wednesday, June 16, 2021, at 10:00 a.m., AND SHOW CAUSE** why an Order should not be entered holding defendants in contempt of the Court's November 19, 2019 Permanent Injunction Order (Dkt. Entry No. 44) and April 16, 2020 Consent Decree (Dkt. Entry No. 67) in this action.

2. Defendants' counsel, Steven Lafuente, Esquire, shall promptly serve a copy of this Order upon defendants.

BY THE COURT:

EDWARD G. SMITH, J.
United States District Judge

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MILLER’S ORGANIC FARM and	:	
AMOS MILLER,	:	
	:	
Defendants.	:	

**UNITED STATES’ MOTION FOR AN ORDER TO SHOW CAUSE
WHY DEFENDANTS SHOULD NOT BE HELD IN CONTEMPT**

At the center of this action is defendant Amos Miller, a farm business owner who, by virtue of his singular, historic willingness to flout democratically enacted federal food safety laws of general applicability, was—until enjoined in this action, and according to some of his customers—the only known United States-based source of the sorts of illegal meat and poultry products that those customers have sought to purchase. Unfortunately, Mr. Miller has continued to attempt to supply his customers with such illegal products.

Plaintiff United States of America now therefore moves the Court for an order directing Mr. Miller (who is the alter ego of co-defendant Miller’s Organic Farm) to appear before this Court on June 16, 2021, at 10:00 a.m. (which is the date that the parties agreed to during a status call with the Court on June 2, 2021) and then and there to show cause, if there be any, why his farm and he should not be held in contempt and sanctioned for failing and refusing to comply with the Court’s Permanent Injunction Order (Docket Entry No. 44) and April 16, 2020 Consent Decree (Docket Entry No. 67). The United States further moves the Court for a judgment for all of its reasonable costs, expenses, and attorneys’ fees incurred in bringing this motion.

GROUND FOR RELIEF

In support of this motion, the United States avers as follows:

1. Exactly five years ago, in June 2016 in EDPA Civil Action No. 16-cv-2732 (“the subpoena enforcement action”), this Court enforced a subpoena of the U.S. Department of Agriculture’s Food Safety and Inspection Service (“FSIS”) and ordered defendants Amos Miller and Miller’s Organic Farm (“Miller’s”) to cease denying FSIS inspection access to Miller’s meat-and-poultry-related facilities and records.

2. In two 2017 letters, FSIS warned these defendants that they were violating federal inspection, labeling, and FSIS right-of-access requirements in the Federal Meat Inspection Act, 21 U.S.C. § 601, *et seq.* (“FMIA” or “the Meat Act”), and the Poultry Products Inspection Act, 21 U.S.C. § 451, *et seq.* (“PIA” or “the Poultry Act”) (collectively, “the Acts”).

3. In April 2019, the United States, on behalf of FSIS, filed a Complaint against these defendants in this action (EDPA No. 19-cv-1435) (“the permanent injunction action”) seeking permanent injunctive relief under the Acts (Dkt. Entry No. 1).

The Permanent Injunction Order (Nov. 19, 2019)

4. On November 19, 2019 in this action, the Court granted summary judgment in favor of the United States and entered the requested permanent injunctive relief, enjoining defendants from committing continuing violations of the Acts (Dkt. Entry No. 44) (“Injunction Order”).

5. In the Injunction Order, and at summary judgment, Mr. Miller and his farm conceded facts that are now established in this action, and the Court made several findings, all of which now bind the parties. *See generally, e.g., United States v. Amabile*, No. 11-cv-6591, 2012

WL 2421481, at *5 (E.D. Pa. June 26, 2012) (“A contempt proceeding does not open to reconsideration the legal or factual basis of the order alleged to have been disobeyed[.]”). These established facts include that:

- Mr. Miller and his wife solely own Miller’s Organic Farm, which is Mr. Miller’s alter ego and files its tax returns under Mr. Miller’s name. *Compare* USA’s Statement of Undisputed Material Facts in Support of Summary Judgment (SUMF), Dkt. Entry No. 35-1, at ¶¶ 3 and 4, *with* Defendants[’] Response to [SUMF], Dkt. Entry No. 36-1, at ¶¶ 3 and 4 (conceding these facts). *See also* Injunction Order at p. 1 ¶ 3.
- Miller’s “private membership association” is a buyer’s club: (1) whose members do not share in the farm’s profits or have voting rights in decisions about the farm’s business; (2) that has a decision-making “board” comprising only Mr. Miller and his wife; (3) that conditions membership solely on an individual’s signing a membership contract and paying a small one-time fee; and (4) that does not screen members based on their views or beliefs. *Compare* SUMF ¶ 5 *with* Defendants’ Response to SUMF, at ¶ 5.
- As of late 2019 before entry of the Injunction Order, Miller’s owned the livestock and poultry that it slaughtered and processed at its farm location, with the only exception being limited poultry that five or fewer neighbors took to Miller’s each year for slaughtering and processing using Miller’s equipment. *Compare* SUMF ¶ 8 *with* Defendants’ Response to SUMF, at ¶ 8. Moreover, at its farm site as of late 2019, before the Injunction Order, Miller’s prepared, stored, and distributed such Miller’s-slaughtered/processed livestock and poultry. Injunction Order at p. 2 ¶ 5.
- At least until the Injunction Order, Miller’s sold its meat and poultry products only to Miller’s private membership association members, including to food Co-operatives that participated or were otherwise members in Miller’s private membership association. Miller’s fulfilled telephone, email, and internet orders by itself transporting, or by arranging delivery services to transport, purchased products. *Compare* SUMF ¶ 13 *with* Defendants’ Response to SUMF, at ¶ 13.
- At least until the Injunction Order, Miller’s sold its meat and poultry products that are subject to the Acts (known as “amenable products”) for commercial purposes and for human consumption to consumers in Pennsylvania and throughout the United States. Injunction Order at p. 2 ¶ 5.
- Federal inspection is required at an establishment that slaughters livestock or poultry, and then prepares or processes amenable meat, meat food products, or

poultry products that are capable of use as human food for interstate or foreign commerce, unless the establishment qualifies for an exemption from federal inspection. *Id.* at p. 2 ¶ 6.

- By as early as June 2019 Amos Miller had written to Miller’s members and presented them with his views on why providing federally inspected products was not in Miller’s or its members’ interests. *Compare* SUMF ¶ 11 *with* Defendants’ Response to SUMF, at ¶ 11 (conceding these facts).
- As of the date of the injunction order, Miller’s was operating its meat and poultry business without a USDA-FSIS Federal Grant of Inspection and (with rare exception) without taking its livestock and poultry for slaughter and processing to any federally inspected facility. Injunction Order at p. 2 ¶ 7.
- As of the date of the injunction order, the defendants had not changed Miller’s business model to attempt to qualify for an exemption from federal inspection under the [Meat and Poultry] Acts for any part of their operations. *Id.* at p. 2 ¶ 8.
- For meat, meat food products, and poultry products that it had sold to consumers until the date of the Injunction Order, Miller’s had included only the following labeling language, apart from the product name, “packed on” date, weight, and price: (i) “Miller’s Organic Farm/Private Membership Association”; (ii) “NOT FOR PUBLIC SALE”; and/or (iii) “NOT FOR PUBLIC SALE/Private Membership Association.” *Id.* at pp. 2 ¶ 9.
- As of the Injunction Order date, Amos Miller and Miller’s Organic Farm “ha[d] been engaging in conduct . . . that violates both the [Meat Act] and the [Poultry Act],” including: (a) “through slaughtering, preparing, processing, offering for sale, selling, offering for transport, and/or transporting, in commerce, meat, meat food products, and poultry products that the Acts require be federally inspected but that have not been federally inspected”; (b) “through selling, transporting, offering for sale or transportation, or receiving for transportation, in commerce, meat, meat food products, and poultry products that are capable of use as human food but that are misbranded”; and (c) “through refusing to provide FSIS’ authorized representatives with necessary access to Miller’s meat-and-poultry-related facilities, inventory, and records[.]” *Id.* at p. 3 ¶ 4.
- “The United States’ and the public’s interests in food safety (as expressed in congressional findings and the Acts) will be irreparably injured absent permanent injunctive relief, and the defendants’ interests do not countervail those interests.” *Id.* at p. 4 ¶ 5.

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