

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

MICHIGAN DEPARTMENT OF
AGRICULTURE AND RURAL
DEVELOPMENT,

Plaintiff,

File No. 15-574-CZ

vs.

HON. JAMES S. JAMO

HILL HIGH DAIRY, LLC, BJ'S COW
BOARDING, LLC, JOSEPH GOLIMBIESKI
And BRENDA GOLIMBIESKI,

Defendants.

OPINION AND ORDER

At a session of said Court held in the City of Lansing,
Ingham County, Michigan on this 8 day of December, 2016.

PRESENT: HON. JAMES S. JAMO, Circuit Judge

This matter is before the Court on Plaintiff Michigan Department of Agriculture and Rural Development's Motion to Hold Defendants in Civil Contempt. MDARD asserts Defendants violated this Court's Injunctive Order dated January 22, 2016. Plaintiff supports its motion with Affidavits by MDARD Dairy Industry Field Scientist Amber Matulis and MDARD's Deputy Director of Food and Dairy Division Terrance Philibeck.


Joseph Golimbieski submitted an opposing Affidavit which asserts BJ's Cow Boarding leases property from Mr. Golimbieski, Hill High Dairy owns none of the dairy related products seized by MDARD and only produces milk as permitted by its Grade A Dairy Permit, and that neither he, Brenda Golimbieski nor Hill High Dairy own a herd share or have any involvement with maintaining the ledgers found or in making cream or butter for herd share members.

Hill High Dairy responded to MDARD's motion similarly to the response by BJ's and Joseph Golimbieski, who states he is the sole member of Hill High Dairy, LLC. Hill High's response attaches a lease between Joe Golimbieski and

BJ's Cow Boarding, LLC for "the building known as: milk house and cow barns." Hill High asserts the dairy "tends to cows, and that is all it does regarding products seized by MDARD." Hill High further asserts there are factual gaps between the finding of ledgers and MDARD's conclusion that the ledgers represent purchase of goods, as well as a lack of evidence connecting the dairy with actions occurring within the herd share's space.

Intervening party Lobsinger argued, in part, that the ledgers are simply a method of recording apportionment of costs among herd share members, not evidence of sales.

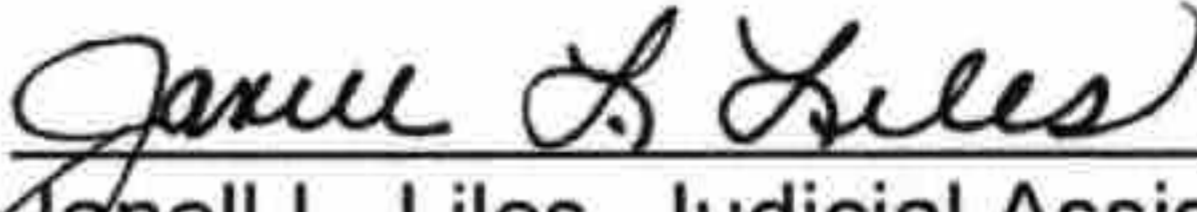
While the appearance of the products and ledgers discovered upon inspection by MDARD certainly are suggestive that at least some of the parties are in violation of the Grade A Milk Law, (MCL 288.471 et seq.), the Manufacturing Milk Law (MCL 288.561 et seq.), and the Food Law (MCL 289.1101 et seq.), and thereby are in contempt of this Court's Order that they not violate those statutes, the Court finds that Plaintiff did not meet its burden sufficient for this Court to make a finding of contempt. While the Court is skeptical of parts of the explanation as to how the raw products became processed and the reason for the presence of product sale ledgers, responses to the Court's dialogue with the parties at the show cause hearing highlight that several factual issues remain unexplored. Therefore, the Court is not satisfied that sufficient proof of contempt of Court has been presented. MDARD's request to hold Defendants in civil contempt of Court is denied without prejudice.



HON. JAMES S. JAMO (P-36650)
Circuit Judge

Certificate of Mailing

This certifies that a copy of the above Opinion and Order was served upon all attorneys/parties of record by regular first class U.S. Mail on this 8th day of December, 2016.



Janell L. Liles, Judicial Assistant