

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

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

ORDER

AND NOW, this 19th day of November, 2019, after considering the United States’ motion for summary judgment, statement of undisputed material facts, and supporting memorandum of law (Doc. No. 35), the defendants’ memorandum of law filed in opposition to the motion and its response to the government’s statement of undisputed material facts (Doc. No. 36), the government’s reply brief (Doc. No. 37), and the entire record in this case; and, after a telephone conference with the parties on November 12, 2019, the court hereby **FINDS** that:

1. The United States of America, on behalf of the Food Safety and Inspection Service (“FSIS”) of the U.S. Department of Agriculture (“USDA”), filed a complaint for permanent injunction in this action on April 4, 2019 (Doc. No. 1);

2. The United States requested permanent injunctive relief to enjoin the defendants, Amos Miller and Miller’s Organic Farm, from committing violations of the Federal Meat Inspection Act, 21 U.S.C. § 601, et seq. (“FMIA”), and the Poultry Products Inspection Act, 21 U.S.C. § 451, et seq. (“PPIA”) (collectively, “the Acts”);

3. Amos Miller and his wife own and operate Miller’s Organic Farm (“Miller’s”), which is an unincorporated business located at 648 Millcreek Road, Bird-in-Hand, Pennsylvania;

4. At its farm site, Miller's slaughters livestock or poultry, and then prepares, processes, stores, and/or distributes meat, meat food products, and poultry products;

5. Miller's sells its meat, meat food products, 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;

6. 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 (*see* 9 C.F.R. §§ 302.1, 381.6);

7. To date, Miller's has been 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;

8. The defendants have not yet changed Miller's business model to attempt to qualify for an exemption from federal inspection under the Acts for any part of their operations (*see* 21 U.S.C. §§ 454, 464, 623, and 661; 9 C.F.R. §§ 303.1, 381.10); and

9. For meat, meat food products, and poultry products that it has sold to consumers to date, Miller's has included only the following labeling language, apart from the product name, "packed on" date, weight, and price: (a) "Miller's Organic Farm/Private Membership Association"; (b) "NOT FOR PUBLIC SALE"; and/or (c) "NOT FOR PUBLIC SALE/Private Membership Association.

Accordingly, it is hereby **ORDERED** as follows:

1. The motion for summary judgment filed by the plaintiff, United States of America (Doc. No. 35), is **GRANTED** under Federal Rule of Civil Procedure 56(a);

2. The court has jurisdiction over the subject matter in the complaint and personal jurisdiction over all the parties;

3. The complaint for permanent injunction states a cause of action against the defendants, Miller's Organic Farm and Amos Miller, under both the FMIA and the PPIA;

4. The defendants, Amos Miller and Miller's Organic Farm, have been engaging in conduct, as set forth in the complaint, and, as the court finds above, that violates both the FMIA and the PPIA. Specifically, they have continued to violate:

a. 21 U.S.C. §§ 458(a)(1), 458(a)(2)(B), 610(a), and 610(c)(2), 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. 21 U.S.C. §§ 458(a)(2)(A) and 610(c)(1), 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 at the time of such sale, transportation, offer for sale or transportation, or receipt for transportation, because, for example, the products, though intended for commercial sales, have not been federally inspected and lack accurate "federally inspected" label language that is required for commercially sold products; and

c. 21 U.S.C. §§ 460(b) and 642, through refusing to provide FSIS' authorized representatives with necessary access to Miller's meat-and-poultry-related facilities, inventory, and records;

5. 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;

6. There is a cognizable danger that, based on the defendants' past and continuing conduct, they will, unless restrained by order of this court, continue to violate the Acts.

7. The defendants are **PERMANENTLY ENJOINED**:

a. 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;

b. affirmatively to keep such records as will fully and correctly disclose all of defendants' meat-and-poultry-related business transactions as may be necessary for USDA FSIS to enforce the Acts effectively and as required under 21 U.S.C. §§ 460(b) and 642 and 9 C.F.R. §§ 320.1 and 381.175;

c. from failing: (i) upon request of any authorized representative of the Secretary of Agriculture, and at all reasonable times, to afford to representatives of USDA FSIS full and immediate access to Miller's meat and/or poultry-related facilities, inventory, and records, including to allow such representatives to copy such records and to take reasonable samples of defendants' inventory upon payment of fair market value; (ii) to cooperate and not interfere with that access; and (iii) to refrain from harassing or intimidating FSIS representatives conducting reviews as required by 21 U.S.C. §§ 460(b), 461(c), 642, and 675; and

d. from failing to comply with all requirements in 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.R. § 302.1 and 9 C.F.R. Parts 310, 317, 381, 412, 416, 417, 418, and 430;

8. If Amos Miller or Miller's Organic Farm intends to slaughter, prepare, or process, for commerce, livestock or poultry products that require federal inspection: (a) Amos Miller will first contact FSIS' Philadelphia District Office (i) by phone at (215) 430-6231, (ii) by email to the FSIS OFO Philadelphia Grant Curator at Philadelphia.GrantCurator@fsis.usda.gov, or (iii) in person at the Lits Building, 701 Market Street, Suite 4100-A, Philadelphia, PA 19106, and apply for a Federal Grant of Inspection; (b) Amos Miller and Miller's Organic Farm 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; and (c) Amos Miller and Miller's Organic Farm will thereafter conduct such slaughtering, preparing, or processing activities under the conditions that FSIS and applicable law impose;

9. Amos Miller and Miller's Organic Farm need not apply for a USDA Federal Grant of Inspection only if, beginning today, they will be taking *all* of Miller's Organic Farm's amenable livestock and poultry that are intended for human consumption and not otherwise exempt (in full compliance with Paragraph 10 below) to a federally inspected facility or facilities for slaughter

and processing. Any further processing of such federally inspected products by Amos Miller or Miller's Organic Farm without federal inspection will be done as an exempt retail store in accordance with 9 C.F.R. §§ 303.1(d) or 381.10(d). As an exempt retail store (if it becomes one), Miller's Organic Farm will be:

- a. able to use only federally inspected source materials in the preparation of meat, meat food products, and poultry products (*see* 9 C.F.R. §§ 303.1(d), 381.10(d));
- b. able to make sales directly to consumers of meat, meat food products, and poultry products only in normal retail quantities (*see* 9 C.F.R. §§ 303.1(d) and 381.10(d));
- c. bound by the Acts' adulteration and misbranding provisions, which apply to articles that are exempted from federal inspection (*see* 21 U.S.C. §§ 453 and 601);
- d. required to maintain records (such as bills of sale to consumers, and of any raw ground beef production), as required by 9 C.F.R. §§ 320.1 and 381.175;
- e. subject to Commonwealth of Pennsylvania and local (*i.e.*, county or city) licensing requirements and applicable food codes; and
- f. subject to, for Miller's Organic Farm's retail exempt operations, periodic verification by FSIS, including verification that such operations are conducted in accordance with the regulatory requirements for the retail store exemptions found in 9 C.F.R. §§ 303.1(d) and 381.10(d).

10. For any of Miller's Organic Farm's amenable livestock and poultry that are intended for human consumption, that are not taken to a federally inspected facility for slaughter and processing, and that are not further processed and sold in accordance with the retail store exemption discussed in Paragraph 9, above, Amos Miller and Miller's Organic Farm need not apply for a USDA Federal Grant of Inspection only if they cease their current business model and

conduct any slaughter of such livestock or poultry, and any processing or preparation of such amenable livestock and poultry, in accordance with this Order and under: (a) the Acts' "custom exemption" provisions, as specified in 21 U.S.C. § 623(a) (FMIA), 21 U.S.C. § 464(c)(1)(B) (PPIA), and implementing regulations at 9 C.F.R. §§ 303.1(a)(2)(b)(1-4), 381.10(a)(4), and 416; or (b) the PPIA's other exemption provisions for poultry operations, as specified in implementing regulations at 9 C.F.R. §§ 381.10(a)(5), (a)(6), and (a)(7).

No such slaughter, processing, or preparation of amenable livestock and poultry under an exemption stated in this Paragraph 10 shall begin unless and until Amos Miller and Miller's Organic Farm first develop and submit to the Director of FSIS' Enforcement and Litigation Division ("ELD"), Office of Investigation, Enforcement, and Audit, a detailed, written description of their proposed plan for exempt operations ("Exempt Plan"). After Amos Miller and Miller's Organic Farm submit an Exempt Plan to the ELD Director, no slaughter, processing, or preparation shall begin unless and until Amos Miller and Miller's Organic Farm obtain: (a) the ELD Director's approval of the Exempt Plan; or (b) on administrative appeal from any Exempt Plan non-approval by the ELD Director, a final USDA FSIS agency decision approving the plan; or (c) upon judicial review under the Administrative Procedure Act of any final agency decision disapproving the Exempt Plan, a judicial order approving the planned exempt operations.

FSIS' ELD Director shall issue a decision by no later than 90 days from the date that Amos Miller and Miller's Organic Farm submit to the ELD Director a proposed Exempt Plan. If the ELD Director does not approve the proposed plan, and if Amos Miller and Miller's Organic Farm administratively appeal that non-approval, USDA FSIS shall have no longer than 60 days from receipt of the appeal to decide that initial appeal. If that appeal also results in a non-approval, and if Amos Miller and Miller's Organic Farm further administratively appeal, USDA/FSIS shall have

no longer than 60 days from receipt of that second-level appeal to issue a final agency decision on the Exempt Plan.

If Amos Miller and Miller's Organic Farm obtain approval of an Exempt Plan, this Court, as provided in Paragraph 32 below, will retain jurisdiction to review defendants' compliance with the Acts.

Any Exempt Plan seeking approval of a custom exemption must demonstrate, and the defendants must ensure, that Miller's custom-exempt slaughter and processing operations will comply with the Acts' and their implementing regulations' custom-exempt provisions, including but not limited to requirements that:

a. For livestock or poultry that an owner delivers to Miller's Organic Farm or Amos Miller for slaughter and preparation by Miller's Organic Farm, and for the transportation of the carcasses, parts thereof, meat and meat food products of such livestock, or poultry products, Amos Miller and Miller's Organic Farm must ensure that all slaughter and processing is for the exclusive use of the animal owner(s), the household of the owner, the household's members, the owner's non-paying guests, and/or owner's employees (see 9 C.F.R. §§ 303.1(a)(2), 381.10(a)(4));

b. All sales transactions of such livestock or poultry must be completed while the animal is alive and before slaughter for any new owner;

c. Amos Miller and Miller's Organic Farm must maintain their livestock custom-exempt establishment under sanitary conditions in accordance with 9 CFR §§ 416.1-416.6, except for 416.2(g)(2)-(6);

d. Amos Miller and Miller's Organic Farm must prepare poultry products under such sanitary standards, practices and procedures as will result in the preparation of

products that are sound, clean, and fit for human food, in accordance with 9 CFR § 381.10(a)(4);

e. For all custom-slaughtered and custom-processed livestock carcasses, and for all further-processed meat products, Amos Miller and Miller's Organic Farm must properly mark, label, and package the carcasses and products as "Not for Sale" and continue to so identify them until delivery to the owner(s), in accordance with 9 C.F.R. § 303.1(a)(2)(iii);

f. Amos Miller and Miller's Organic Farm must not engage in the business of buying or selling any poultry products capable of use as human food;

g. For all custom-slaughtered and custom-processed poultry carcasses, and for all further-processed poultry products, Amos Miller and Miller's Organic Farm must properly mark, label, and package shipping containers so that they state: (i) each poultry owner's name; (ii) each poultry owner's address; and (iii) "Exempted – P.L. 90-492";

h. Amos Miller and Miller's Organic Farm must maintain records that: (i) fully disclose any pre-custom-slaughter or pre-custom-processing transfer of ownership of livestock or poultry (see 9 C.F.R. 320.1(a) and 381.175); (ii) show the numbers and kinds of livestock that Miller's custom-slaughters; (iii) show the quantities and types of products that Miller's custom-prepares; (iv) show the names and addresses of owners of custom-prepared products from livestock; and (v) are necessary, with regard to poultry products, to the effective enforcement of the PPIA (see 9 C. F.R. §§ 303.1 (b)(3) and 381.175-178);

i. Amos Miller and Miller's Organic Farm must not allow custom-slaughtered or custom-processed products to become adulterated or misbranded during processing, handling, storage, loading, unloading, or transportation (*see* 21 U.S.C. §§ 601, 453);

j. Amos Miller and Miller's Organic Farm must comply with Commonwealth of Pennsylvania and local (*i.e.*, county or city) licensing requirements and applicable food codes; and

k. Amos Miller and Miller's Organic Farm must submit to periodic FSIS verification reviews, which will include on-site review of whether Miller's operations are being conducted in accordance with the statutory and regulatory requirements for the custom exemptions found in 21 U.S.C. §§ 623, 464 and 9 C.F.R. §§ 303.1, 381.10, and 416;

11. Consistent with Paragraph 7.b above, Amos Miller and Miller's Organic Farm must maintain records of the sale and distribution of meat, meat food products, and poultry products intended for human consumption, including but not limited to records showing: (a) the names and addresses of persons and entities to whom products are sold or distributed; (b) the dates of sale or distribution; (c) the product types; and (d) the amounts or quantities. Defendants shall also maintain at least one copy of the following documentation with respect to their meat, meat food products, and poultry products: (a) all label(s) affixed to the products; (b) all labeling affixed to shipping containers; and (c) all labeling, brochures, website pages, and other materials used to promote, describe, or refer to the products. *See* 21 U.S.C. §§ 454, 661; 9 C.F.R. §§ 303.1(d), 320.1, 381.10(d), 381.175;

12. Consistent with Paragraph 7.c above, and as necessary to conduct their regulatory responsibilities, USDA FSIS representatives shall have full and unimpeded access: (a) to examine Miller's Organic Farm's facilities, inventory, and records (including records described in Paragraphs 7.b, 9.d, 10, and 11, above); and (b) to copy records and take reasonable samples of inventory. "All reasonable times," as used in Paragraph 7.c, above, shall include any hours when

Miller's does business, including hours before dawn where applicable. USDA FSIS representatives shall present credentials to the most-responsible person on the premises. *See* 21 U.S.C. §§ 460, 642;

13. In addition to the right of entry provided to USDA FSIS representatives in Paragraph 7.c, above, 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* 21 U.S.C. §§ 467a, 672;

14. This Order does not preclude defendants from promptly liquidating (solely to existing members of Miller's Organic Farm's buyer's club) any of Miller's Organic Farm's existing inventory that consists of meat food products and poultry products that were slaughtered, processed, and packaged before the entry of this Order. By no later than 60 days after entry of this Order, however, the defendants shall destroy any non-federally-inspected meat food product inventory and poultry product inventory that will not be kept solely for the defendants' personal use. Such personal use amounts shall not exceed: (a) 300 pounds for cattle and 100 pounds for swine (*see* 9 C.F.R. § 303.1); and (b) 75 pounds for poultry (*see* 9 C.F.R. § 381.10). Consistent with other provisions of this Order recognizing FSIS' access and examination rights, FSIS may inspect Miller's Organic Farm's meat and poultry facilities at any time after entry of this Order as necessary: (a) to determine the extent of such inventory and of defendants' compliance with this Paragraph 14 and other provisions of this Order; and (b) to detain, seize, and/or otherwise ensure appropriate disposition or destruction of such inventory;

15. The parties have stated to the court their intention to cooperate with each other in fulfilling the requirements of this Order and of the law. If at any time the parties jointly agree that this Order should be modified to conform to changed circumstances or better to effect compliance, the parties may jointly submit a revised proposed Order to the court. Further, if at any time a party believes that another party is not complying with this Order, the complaining party, before formally seeking to enforce this Order by motion or petition, must: (1) first send a letter to the judge assigned to this civil action (by direct mail or email) that is no longer than 2 single-spaced pages and that outlines the dispute and requests a conference call with the court; and (2) refrain from filing an enforcement motion or petition until after the court either holds such a conference call or directs or allows the party to file its motion or petition;

16. Except as provided in Paragraph 14, above (regarding sales of current inventory over the next 60 days), if the defendants sell, transport, or offer for sale or transport any non-federally-inspected meat, meat food product, or poultry product in violation of this Order, at any time after the entry of the Order by the court, the defendants shall, upon the first occasion of such violation, pay to the United States the sum of five hundred dollars for each pound, or portion thereof, of non-federally-inspected, misbranded meat, meat food product, or poultry product. For any subsequent violations, the defendants shall pay to the United States the sum of one thousand dollars for each pound, or portion thereof, of non-federally-inspected, misbranded meat, meat food product, or poultry product;

17. If the defendants, in violation of this Order, fail to keep such records as will fully and correctly disclose the purchase, receipt, offer for sale, sale, transport, and/or any other transaction regarding non-federally-inspected, adulterated, or misbranded meat, meat food product, or poultry product involved in their business, the defendants shall upon the first occasion

of such violation pay to the United States of America the sum of five hundred dollars for each pound, or portion thereof, of adulterated or misbranded meat, meat food product, or poultry product for which no record or an inadequate record was maintained. For any subsequent violations, the defendants shall pay to the United States the sum of one thousand dollars for each pound, or portion thereof, of non-federally-inspected meat, meat food product, or poultry product for which no record or an inadequate record was maintained;

18. If the defendants, in violation of this Order, fail to provide USDA FSIS with access to their meat or poultry facilities, inventory, or records that USDA FSIS requires to assess compliance, the defendants shall, upon the first occasion of such violation, pay to the United States of America the sum of two thousand, five hundred dollars for such violation. For each subsequent violation, the defendants shall pay to the United States the sum of five thousand dollars;

19. The amounts set forth in Paragraphs 16, 17, and 18 shall be separate and apart from any other remedy that the United States may pursue for violations of this Order. Should enforcement proceedings beyond this Order be necessary, the defendants agree that the United States shall be entitled to recover from the defendants 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 for the Eastern District of Pennsylvania;

20. If the defendants disagree with a determination made by the USDA under Paragraphs 16, 17, or 18 of this Order, they may petition the court for an independent review of USDA's determination(s). Any such petition must be filed within 30 days of the USDA determination(s) for which review is sought. In reviewing USDA's determination(s), the court will apply the same standard of review applicable to review of final agency action under the Administrative Procedure Act, 5 U.S.C. § 701, et seq. In the absence of a timely petition for review,

USDA's determination(s) will become final and unreviewable. If the court denies the defendants' request, or otherwise affirms the USDA's determination(s) made under Paragraphs 16, 17 or 18 of this Order, the defendants will pay the costs and expenses incurred by the United States of America in any such court proceeding, within 30 days of service of a demand by the United States of America. Such expenses shall include, but not be limited to, expenses incurred by the FSIS in such proceeding, including investigation and preparation time, at the rate of \$45.00 per hour per USDA employee. The defendants shall further be liable for such relief as the court deems appropriate in a proceeding brought either sua sponte or by the United States, for any failure to comply with any terms of this Order;

21. This Order does not limit any rights or remedies available to the United States of America for any violation of the FMIA and/or the PPIA and their respective regulations, or any rights or remedies available to the United States of America for any criminal violations;

22. The parties agree that nothing in this Order shall preclude any future regulatory or administrative action authorized by law, regulation or otherwise, including, but not limited to the referral of any matter to any agency for possible criminal, civil, or administrative proceedings;

23. In the event of a subsequent violation of this Order by any defendant, this Order shall not be deemed a waiver of the right of the United States of America to seek relief for the violations alleged in the complaint;

24. After the defendants have maintained substantial compliance with all requirements of this Order, as well as with applicable provisions of the FMIA and the PPIA, for a period of five (5) years following the entry of the Order, the defendants may serve upon the United States of America a request for termination of the Order ("Request for Termination"), explaining how they satisfactorily complied with all such requirements, together with all necessary supporting

documents. The parties shall thereafter confer informally concerning the Request for Termination and any disagreement that the parties may have as to whether the defendants have satisfactorily complied with the requirements for termination of the Order. If the United States agrees that the Order may be terminated, the parties shall submit, for the court's approval, a joint stipulation terminating the Order. If the United States does not agree that the Order may be terminated, the defendants may file a motion with this court seeking relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, provided, however, that the defendants will not file any such motion until sixty (60) days after service of the Request for Termination on the United States of America. The defendants must bear the burden of demonstrating to the court that they have satisfactorily complied with all requirements of the Order and applicable provisions of the FMIA and PPIA, and that there is good cause to terminate the Order under Rule 60(b);

25. In accordance with Federal Rule of Civil Procedure 65(d)(2), this Order binds the parties and Amos Miller's and Miller's Organic Farm's officers, agents, servants, and employees, as well as other persons who are in active concert or participation with them. Defendants must post this Order at Miller's Organic Farm and distribute it to all of Miller's employees, to food cooperatives with which Miller's does business, and to FarmMatch (which sells Miller's products);

26. If, at any time while this Order remains in operation, Amos Miller transfers or assigns his interests in Miller's Organic Farm to another person or entity, Miller's Organic Farm's successor or assignee must comply with the obligations imposed by this Order;

27. The obligations imposed by this Order run separately as to Miller's Organic Farm and Mr. Miller. If Miller's Organic Farm and Mr. Miller cease to be affiliated with one another at any time while this Order remains in operation, each must separately request termination of the Order from the other if it wishes to be relieved from the obligations imposed by the Order;

28. The defendants shall be jointly and severally liable for any violations of the terms of the Order committed while Miller's Organic Farm and Amos Miller are affiliated with one another. Miller's Organic Farm and Amos Miller shall be severally liable for any violations of the terms of the Order committed during any period in which the defendants are not affiliated;

29. Each party shall bear its own costs and attorney's fees for this proceeding to date;

30. For the purposes of this Order, service upon the USDA and the United States of America must be accomplished by either hand delivery or by overnight delivery and shall be made to the following three addresses: (a) for the USDA: (i) Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Whitten Building, Room 331-E, Washington, DC 20250; and (ii) Office of the General Counsel, U.S. Department of Agriculture, Room 107W, Whitten Building, 1400 Independence Avenue SW, Washington, D.C. 20250; and (b) for the United States of America: Attn: Gerald B. Sullivan, Assistant United States Attorney, Office of the U.S. Attorney, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106-4476;

31. If the defendants are required to make any payment pursuant to this Order, the defendants will make such payment pursuant to written instructions that the United States of America will provide;

32. The court retains jurisdiction to issue further decrees and orders as may be necessary to construe, carry out, modify, or enforce compliance with this Order. Should the defendants fail to abide by and perform all the terms and conditions set forth herein or in such further orders as may be entered in this action, the United States of America shall apply only to this court for relief, and any alleged violation of this Order shall be adjudicated by the court; and

33. The clerk of the court is **DIRECTED** to mark this action as **CLOSED**.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.