



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

October 1, 2009

Sent via e-mail and regular mail

Anne E. Fellows
Attorney for Zinniker Farm, Inc.
PO Box 37
Whitewater, WI 53190

RE: September 30, 2009 Letter sent by Attorney David G. Cox

Dear Ms. Fellows:

I am responding to you as the Wisconsin counsel of record concerning the Zinniker Farm, Inc., and the September 30, 2009 letter sent by Attorney David Cox (Attorney Cox is not currently authorized to practice law in Wisconsin). In that letter, Mr. Cox asked whether certain arrangements between the Zinnikers and consumers would legalize the distribution of unpasteurized "raw milk" produced on the Zinniker farm.

Mr. Cox asked whether the Zinnikers could comply with state law by giving up their milk producer license, but continue to produce milk for consumers under the guise of a cow "boarding" business (in which the consumers hold ownership shares in cows that are merely "boarded" for them at the Zinniker farm).

The answer is no. This sham arrangement, which is merely another version of a so-called "cow share" arrangement, would not change the underlying reality. The Zinnikers are not merely "boarding" cows for others. They are operating a "dairy farm" within the meaning of s. 97.22(1)(a), Wis. Stats. ("any place where one or more cows, sheep or goats are kept for the production of milk"), and must be licensed to do so under s. 97.22, Stats. and ch. ATCP 60, Wis. Adm. Code. Operating a dairy farm without a license may result in civil and criminal penalties.

Section 97.24(2), Wis. Stats., prohibits any person (including a dairy farm operator) from selling *or distributing* unpasteurized ("raw") milk to consumers. Violations are subject to civil and criminal penalties. Section ATCP 60.235, Wis. Adm. Code, provides some limited exemptions, but those exemptions do not apply to the Zinniker operation. Nothing in the proposed arrangement would bring the dairy farm operation under any of those limited exemptions.

Very truly yours,

Cheryl Furstace Daniels
Assistant Legal Counsel
(608) 224-5026

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Anne Fellows
October 1, 2009
Page 2

Cc: Steven C. Ingham, Tom Leitzke, Jacqueline Owens, Cathy Anderson
Keeley Moll, Donna Gilson
Mark and Petra Zinniker, David G. Cox, Peter Kennedy