



Farm-to-Consumer
Legal Defense Fund®

Food Freedom on Trial in Minnesota

Pete Kennedy, Esq. - May 2, 2012

Freeport, Minnesota poultry farmer Alvin Schlangen is having a busy spring, compliments of the Minnesota Department of Agriculture (MDA). On May 14, Schlangen will be tried in a Hennepin County District Court on four criminal misdemeanor counts for violations of the state food and dairy code. Then on June 11, he will have a pretrial hearing at a Stearns County District Court where he is facing six more charges for violations of the state food and dairy laws. While this is going on, there is a pending administrative hearing in which MDA is seeking an order to suspend any further food sales by Schlangen.

In addition to selling poultry and eggs produced on his farm, Schlangen manages the Freedom Farms Co-op (a private food club formed in July 2010, serving more than 50 families) and delivers raw dairy products and other nutrient dense foods to club members, most of whom live in the Twin Cities metropolitan area. The raw dairy products that Schlangen delivers to members come from cows the co-op has leased. There has never been a single accusation against the farmer that any food he has either produced or delivered to consumers has ever made anyone sick.

Schlangen contends, "It must be legal to privately support farms that grow quality food and provide for the health of our growing children and seniors. This should be a model for today's agriculture! Connecting kids with natural food production is vital to their future!"

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Schlangen's basic crime is that he is standing on principle. He believes that transactions of this private food club are not under the jurisdiction of the state. MDA's position is that there is no distinction between public and private under the state food and dairy code. This difference of opinion and challenge to the state's authority has led to the charges being brought against Schlangen. MDA has made it known to the farmer that this could all go away if Schlangen would stop "distributing" raw dairy (MDA's interpretation of the law

is that raw milk can only be legally distributed to the consumer at the farm) and obtain a food handler's license to cover the other food products he was providing to co-op members. Schlangen has held his ground and refused to compromise his beliefs. Past enforcement actions taken against him by MDA and his subsequent refusal to change his position demonstrate the strength of Schlangen's beliefs.

On June 15, 2010, MDA raided warehouse space Schlangen leased at the Traditional Foods Warehouse (TFW) as part of a larger raid on TFW. The department executed a warrantless search and wound up embargoing all the food Schlangen had stored at the facility. The following week on June 23, MDA agents and Stearns County Sheriff's deputies executed a search warrant at Schlangen's farm, seizing computer and paper records and embargoing thousands of dollars of food stored at the farm. The charges filed against Schlangen in Stearns County stem from the June 23 raid.

On March 9, 2011, MDA officials and Ramsey County Sherriff's deputies approached Schlangen's truck when the farmer was delivering his farm eggs to students at Macalester College in St. Paul. Schlangen refused to let the MDA officials search his truck; after illegal entry, they called a Ramsey County Judge to obtain a search warrant. After securing the warrant, they impounded Schlangen's truck and towed it to MDA headquarters in St. Paul. The warrant also authorized MDA to search the warehouse space held by Freedom Farms Co-op at TFW. This time, the officials seized some of the



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food found at the space and embargoed the rest. MDA offered to release some of the food to Schlangen if he would agree to obtain a food handler's permit. He refused, stating he didn't distribute food to the general public, only delivered to member owners through private contract.

The Hennepin County charges against Schlangen derive from the March 9 raid at TFW. The charges include (1) a labeling violation for the raw milk and milk products distributed, (2) selling food that is adulterated or misbranded, (3) distributing foods without a food handler's permit, and (4) distributing raw milk at a place other than the farm where the milk is produced. State statute provides that raw milk and cream can only be "occasionally secured or purchased for personal use by any consumer at the place or farm where the milk is produced."

Schlangen and members of Freedom Farms Co-op have ownership rights to any raw milk produced by the cows leased by the co-op and should not be subject to the statute. MDA uses the statute to limit the income of raw milk producers. The farms of most producers are 50 to 100 miles from the Twin Cities. Without delivery to the Minneapolis-St. Paul area, consumer access drops significantly.

Three of the charges in the Hennepin County case have also been filed in Stearns County; the milk labeling charge was not filed in the latter case. The additional charges in Stearns County are (1) selling custom-processed meat (under law, only meat processed at a federally or state inspected facility can be sold by the cut, not meat processed at a custom house); (2) violating the June 23, 2010 embargo (Schlangen remarked, "MDA ordered me not to eat my own food."); and the capper, (3) a criminal misdemeanor charge for not refrigerating eggs at the proper temperature. State law provides that packaged eggs held for sale must be kept at 45 degrees Fahrenheit. Schlangen says, "The co-op members like their eggs being refrigerated at 50 degrees just fine. After 25 years of egg production, I might have some insight."

The considerable expense of prosecuting Schlangen is more than worth it to MDA so that it can make an example out of someone who is not submitting to the department's authority to enforce corporate sanctioned food laws.

The charges against Schlangen aren't about protecting public health and safety; they are about compliance. Schlangen has committed no crimes against the people; there is no claim that he has injured anyone. He is being charged with crimes against the state for his refusal to recognize the state's jurisdiction over his operation and his refusal to comply with laws he believes are not applicable to his operation. The considerable expense of prosecuting Schlangen is more than worth it to MDA so that it can make an example out of someone who is not submitting to the department's authority to enforce corporate sanctioned food laws. For MDA, the law must be upheld regardless of how its enforcement hurts small farmers' ability to make a living and restricts consumer freedom of choice.

Mike Hartmann is the other Minnesota farmer who has challenged MDA's authority to limit the foods people have access to. The department has tried to do whatever it could to put him out of business the past couple of years; MDA's latest move is to bring charges against Hartmann, his wife Diana, and his brother Roger for violations of the state food and dairy code. In addition, MDA has also sent warning letters to several people it suspects of operating dropsites for Hartmann farm food deliveries. MDA is leaving no stone unturned in suppressing those who don't agree with the state on what foods are best for their health.



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MDA has piled on the charges against him to stop his delivery of healthy food. If there is justice, MDA's police state tactics will be on trial May 14 as well.

In going after Schlangen, MDA is taking on a farmer that has always looked on his production and delivery of healthy food as a calling, not a business. His objective since he transitioned out of commodity production in 2000 has been to promote locally produced healthy food. He has made little money since he left the commodity system. In a 2010 interview with Minnesota Public Radio, he commented, "2009 was the first year in ten that we did not lose money--that with a \$400 per month wage for me and a

90-hour work week. It was one of the best years of my life. Making moms and kids smile is priceless." The farmer has not changed his outlook since that time. MDA has piled on the charges against him to stop his delivery of healthy food. If there is justice, MDA's police state tactics will be on trial May 14 as well.

Schlangen's trial is scheduled to start at 9 a.m. on May 14 at the Fourth Judicial District Court in the City of Minneapolis. Prior to the trial, two events in support of food freedom will be taking place in Minneapolis. The events are sponsored by the Raw Milk Freedom Riders. On Sunday, May 13, a Know Your Rights Workshop will be taking place, featuring speakers such as Liz Reitzig, David Gumpert, Michael Badnarik and John Moody. Then on Monday, May 14 at 7:00 a.m., a Food Freedom Rally in support of Alvin Schlangen will be held at the Hennepin County Government Center at 300 S. 6th Street, Minneapolis. For more information on the event, go to www.rawmilkfreedomriders.com.

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Mike Hartmann - Pete Kennedy, "Food Freedom Under Attack in Minnesota", 23 June 2010 = <http://www.farmtoconsumer.org/food-freedom-under-attack-mn-kennedy.htm>

warning letters - Pete Kennedy, "Minnesota: MDA Considering Criminal Prosecution of Consumer", 28 December 2010 = <http://www.farmtoconsumer.org/swarms/mn-md-a-consumer-kennedy.htm>

Raw Milk Freedom Riders – website = <http://rawmilkfreedomriders.wordpress.com/>

Know Your Rights Workshop - flyer, Two Day Event in Support of Food Freedom = <http://www.farmtoconsumer.org/docs/FoodFreedomRally-MN-2012may.pdf>

Food Freedom Rally – Facebook event on May 14 = <https://www.facebook.com/events/344200692304757>