



State of Wisconsin
Jim Doyle, Governor

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

July 20, 2009

Attorney Peter D. Kennedy
9117A Midnight Pass Road
Sarasota, FL 34242-2990
glfcstmrs@earthlink.net

Re: July 17, 2009 e-mail

Dear Mr. Kennedy:

In the above mentioned e-mail to me, you wrote the following:

I apologize for not responding earlier to your June 22 letter. With it being the stated intent of ATCP 60.235 to be consistent with the administrative law decisions of 2002 and 2004, I still maintain that the Craigs do not have to share the profits of Grassway Organics Farm Store LLC. There is nothing in those decisions requiring a Grade A milk producer to share profits with investors.

Having said that, I can tell you that the Craigs are looking at restructuring their operation and are currently talking with their accountant about the tax ramifications of doing so. They are looking into sharing the LLC's profits with any passive owner in the entity. My question again to you is that if Grassway Organics Farm Store LLC is operating within the scope of the exemption in ATCP 60.235(2)(b), will DATCP issue the LLC a food establishment permit as long as the sale and distribution of raw milk is completely separate from the farm store.

I am going to reiterate that the profits of the farm store are not the issue. Whenever anyone is engaged in a retail food establishment business, they need a license. That said, a license may be denied under s. 93.06(7) for the following reason: "In determining whether any person is fit, qualified or equipped, the department shall consider, among other things, character and conduct, including past compliance or noncompliance with law."

As I have stated on several occasions to you, profit in the milk producing business is only one aspect of deciding if there is genuine ownership in the operation. The overall determination will be based on the fact that the owners are those who are *in the business of producing milk for grade A, either in fluid milk or milk products*, and *only incidentally* are taking milk for their own use, for themselves and family members and household guests, or allowing employees to do so under the same restrictions.

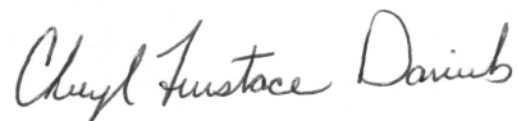
There is no legal business that includes sales or distribution of raw milk or raw milk products in Wisconsin, except for cheese aged over 60 days produced by a licensed person or entity. Nothing in the statutes, rules or administrative decisions of this agency has ever said otherwise.

Agriculture generates \$51.5 billion for Wisconsin

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It does not matter if the Craigs separate the businesses. If they are engaged in the business of producing raw milk and/or raw milk products for sales and distribution, other than the cheese exception, to anyone besides the owners and employees, who must be in the business of producing milk for the grade A market, they are engaged in an unlawful business under Wisconsin law. They will not obtain a license by the Department to engage in a different legal business without stipulating that they will discontinue the illegal business.

Very truly yours,

A handwritten signature in cursive script that reads "Cheryl Furstace Daniels".

Cheryl Furstace Daniels
Assistant Legal Counsel
608-224-5026

Cc: Steven C. Ingham, C. Thomas Leitzke, Jacqueline Owens, James Matson