# APPLICATION FOR SEARCH WARRANT AND SUPPORTING AFFIDAVIT

| STATE OF MINNESOTA ) | COPY | DISTRICT COURT           |
|----------------------|------|--------------------------|
| COUNTY OF RAMSEY )   |      | SECOND JUDICIAL DISTRICT |

I, James R. Roettger apply under oath to this Court for a warrant to search the vehicle and persons identified in this application for the property and things described in this application.

I know the contents of this application and believe they are true. I believe that all persons named or identified in this application who provided information to me are reliable, and I believe the information they provided is true.

I have good reason to believe that the property and things described here:

- 1. White Dodge van MN license # UUE 773;
- 2. Records that show the ownership, control, affiliation, management and/or operation of the food production, storage and/or delivery operation of Alvin Schlangen or other entity under his direction or control;
- 3. Records related to the unlawful sale and/or delivery of food products by Alvin Schlangen or other entity under his direction or control;
- 4. Food (and any containers) the sale or use of which is prohibited by law, or manufactured, sold, used, transported, offered for sale or transportation or had in possession with intent to use, sell, or transport in violation of law; and
- 5. Objects or other items which could be used to identify the perpetrator(s) and/or establish actual or constructive possession of the aforementioned items

Are in or within close proximity to the motor vehicle described as

Vehicle: White Dodge van MN license # UUE 773,

**Person(s):** Alvin Schlangen and any other persons in or in close proximity to and associated with the above vehicle.

In public areas or in parking or drive areas serving 179 Snelling Ave. in St. Paul in the county of Ramsey, State of Minnesota.

I apply for issuance of a search warrant on these grounds:

- 1. The property described above was used to commit a crime.
- 2. The property described above constitutes evidence that tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

The facts tending to establish the foregoing grounds for issuance of a search warrant are described in my attached affidavit and give me reason to believe that Alvin Schlangen is selling food not produced on his farm without a license and is selling unpasteurized milk to the public at locations other than the farm on which the milk was produced. Each act is a violation of Minnesota law, particularly Minnesota Statutes §§ 28A.04 and 32.393, and is a misdemeanor.

Wherefore, I request that a search warrant be issued to Sergeant Tim McCarty, the officer assigned by the St. Paul Police Department to execute the warrant applied for, and any other law enforcement officers or Minnesota Department of Agriculture employees he deems necessary, between the hours of 7:00 AM and 8:00 PM, to search the hereinbefore described vehicle and persons(s) for the above described property and things; to seize the above-described vehicle, property and things; to take photographs and/or videotapes of places searched and items seized; to turn-over seized property to the Minnesota Department of Agriculture ("MDA") for sampling and investigation; to permit the MDA to summarily destroy readily perishable food products as authorized by Minn. Stat. § 31.05, subd. (d); and to permit the MDA to keep said property and things, exclusive of readily perishable product subject to summary destruction, in its custody until the same be dealt with according to law.

| •                                      | Affiant                 |  |
|--|-------------------------|--|
| Subscribed and sworn to before me this | Judge of District Court |  |

#### **COUNTY OF RAMSEY**

#### SECOND JUDICIAL DISTRICT

### SEARCH WARRANT

TO: Officer Adam Harmon, Minneapolis Police Department and any accompanying law enforcement officers or Minnesota Department of Agriculture employees.

WHEREAS: James R. Roettger of the Minnesota Department of Agriculture has this day on oath, made application to the said Court applying for issuance of search warrant to conduct a search of

Vehicle: White Dodge van MN license # UUE 773,

Person: Alvin Schlangen and other persons in or in close proximity to and associated with the above vehicle,

Located in public areas or in parking or drive areas serving 179 Snelling Ave. in St. Paul in the county of Ramsey, State of Minnesota.

for the following described property and things:

- 1. White Dodge van MN license # UUE 773;
- 2. Records that show the ownership, control, affiliation, management and/or operation of the food production, storage and/or delivery operation of Alvin Schlangen or other entity under his direction or control;
- 3. Records related to the unlawful sale and/or delivery of food products by Alvin Schlangen or other entity under his direction or control;
- 4. Food (and any containers) the sale or use of which is prohibited by law, or manufactured, sold, used, transported, offered for sale or transportation or had in possession with intent to use, sell, or transport in violation of law; and
- 5. Objects or other items which could be used to identify the perpetrator(s) and/or establish actual or constructive possession of the aforementioned items

WHEREAS: The application and the supporting affidavit of James R. Roettger compliance officer of the Minnesota Department of Agriculture were duly presented and read by the Court, and being fully advised in the premises, NOW, THEREFORE, the Court finds that probable cause exists for the issuance of a search warrant upon the following grounds:

1. The property described above was used to commit a crime.

2. The property described above constitutes evidence that tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

The Court further finds that probable cause exists to believe that the above-described property and things are or will be in or in close proximity to the above-described premises and on the above described persons.

NOW, THEREFORE, you, Sergeant Tim McCarty, assisted by any other law enforcement officers or Minnesota Department of Agriculture employees you deems necessary and between the hours of 7:00 AM and 8:00 PM are hereby commanded to search the hereinbefore described vehicle and persons(s) for the above described property and things; to seize the above-described vehicle, property and things; to take photographs and/or videotapes of places searched and items seized; to turn-over seized property to the Minnesota Department of Agriculture ("MDA") for sampling and investigation; to permit the MDA to summarily destroy readily perishable food products as authorized by Minn. Stat. § 31.05, subd. (d); and to permit the MDA to keep said property and things, exclusive of readily perishable product subject to summary destruction, in its custody until the same be dealt with according to law.

BY THE COURT:

JUDGE OF DISTRICT COURT

AG: #2783927-v1

#### MINNESOTA DEPARTMENT OF AGRICULTURE

Affidavit of Probable Cause in the matter of illegal food sales by:

Alvin Schlangen,:

STATE OF MINNESOTA ) ss.

James R. Roettger states the following under oath:

I am a compliance officer with the Minnesota Department of Agriculture ("MDA"). I have been employed with MDA for 26 years with the Dairy and Food Inspection Division.

MDA is statutorily charged with the duty to enforce Minnesota's food laws, including licensing, labeling, sanitation, of the production, processing, delivery and sale for food. The law charges MDA with the duty to investigate and enforce compliance with Minnesota food laws to ensure a safe and healthy food supply in Minnesota.

I have been assigned as the lead investigator in a case involving Alvin Schlangen. I have gathered information that leads me to believe that Mr. Schlangen is selling food not produced on his farm without a license and is selling unpasteurized milk to the public at locations other than the farm on which the milk was produced. Each act is a violation of Minnesota law, particularly Minnesota Statutes §§ 28A.04 and 32.393, and is a misdemeanor.

Mr. Schlangen has in the past purchased and sold unpasteurized milk in violation of Minnesota law. In 2010 Mr. Schlangen purchased, sold, and bottled unpasteurized milk from two Minnesota dairy farms: Waldorf Dairy, 26464 County Rd. 30, Albany MN, and Molitor Organic Farms, 8554 County Rd. 47, St. Cloud MN. Investigators from MDA found that Mr. Schlangen would purchase the milk form dairy farm under the premise that it was animal food. He would bottle it and then sell it for human food.

In June 2010, inspectors with the Dairy and Food Inspection Division Department found Mr. Schlangen selling food of various types from space in the Traditional Foods Warehouse building located at 302-61st. St West, Minneapolis MN, without having a license to sell food. Mr. Schlangen also was selling unpasteurized milk and butter and uninspected custom slaughtered meat at this location which could not legally be sold even with a license. The space had several coolers and freezer that contained food. At that time Mr. Schlangen admitted to me that he was leasing the eastern-most 30% of the building and loading docks. His space was separated from the rest of the building by an internal wall with a doorway. Mr. Schlangen's space also had three external doors, one an overhead loading dock door and two regular doors, all on the south side of the building. The department gave Mr. Schlangen notice that selling food that he had not produced without a license, selling unpasteurized milk other than on the farm where it was

produced, selling unpasteurized dairy products, and selling custom uninspected meat all violated Minnesota law and gave him a written order to stop.

A search warrant was executed at Mr. Schlangen's farm in Stearns County on June 23, 2010. Mr. Schlangen produces and sells chicken eggs and chickens on his small (approximately 5 acre) farm. The search found evidence of illegal unlicensed food sales, including finding quantities of the following products unpasteurized milk that was not produced on his farm (he has no diary), unpasteurized milk and butter, and uninspected custom slaughter meat.

On July 27, 2010 MDA had an administrative meeting with Mr. Schlangen and again informed him not to sell any food that he did not produce without a license, and not to sell unpasteurized milk and butter and not to sell uninspected custom slaughter meat.

In December 2010, MDA inspectors inspected (not a sanitary inspection) Mr. Schlangen's farm (approximately 5 acres) at 33236 Oakland Rd, Freeport, MN and found evidence that he had been selling food that he had not produced on his farm without a license. Inspection of the farm also did not disclose dairy production facilities, dairy cows, beef cattle, citrus trees or plants, or almond tress on the farm and therefore no production of these types of foods. Inspectors found dairy products, frozen foods, and food products that had been purchased from others and that Mr. Schlangen was reselling. MDA again warned Mr. Schlangen not to sell, without a license, food that he had not raised on his farm and not to sell unpasteurized milk and butter.

Mr. Alvin Schlangen sells food at farmers markets from a, white dodge delivery van delivery van license # MN UUE-773.

On February 14, 2011, I received a telephone call from a person who identified himself and stated that he is a tenant of the building located at 302 61st St. West, Minneapolis, MN. The person was concerned that another tenant, Alvin Schlangen, was conducting illegal activity in the building and that authorities might mistakenly think other building tenants like himself were involved. The tenant informed me of the following:

- That Mr. Schlangen leases space from Traditional Foods Warehouse at 302 61st St. West, Minneapolis, MN. This space is the east most room and loading dock area of this building. It is accessible through an interior and exterior door and loading dock. It is the eastern 30% of the building.
- That Mr. Schlangen is storing and selling foods at that location, including apples, oranges, lemons, almonds, unpasteurized butter, and unpasteurized milk.
- That Mr. Schlangen is also delivering these foods to other locations via a white van that departs from the warehouse.
- That Mr. Schlangen makes food sales from this warehouse location on Saturdays and operates a delivery route using a white van other days.
- That Mr. Schlangen buys unpasteurized milk in the Rochester MN area, often on Tuesdays, brings it to the warehouse Tuesday night via the van. He either transfers the milk to the warehouse or leaves it in his van overnight. He delivers milk and other food via his white van next day (generally Wednesday) often starting at about 7:00 a.m.

## END OF AFFIDAVIT.

James Roettger, Compliance Officer Dairy and Food Inspection Division Minnesota Department of Agriculture

Judge of District Court

AG: #2775453-v2