

THOMAS E. MOSS
United States Attorney
United States Attorney's Office
800 Park Boulevard, Suite 600
Bosie, ID 83712-9903
Telephone: (208) 334-1211

U.S. COURTS
65 MAR -4 PM 12:56
REC'D _____ FILED _____
CAMERON S. BURKE
CLERK IDAHO

KARI M. LARSON
Washington State Bar #29362
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-0564
Facsimile: (202) 514-6770
E-mail: Kari.M.Larson@usdoj.gov

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF IDAHO

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
)
) v.)
)
) MICHAEL LEE YOHE; AG-MART)
) SERVICES, INC.; MICHAEL A.)
) THOMPSON; and MANCAT, INC.)
)
) Defendants.)
)
)
)
)
)

Civil No. **CIV 05-081-E-MW**
**UNITED STATES' COMPLAINT FOR
PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF**

1. This is a civil action brought by the United States of America pursuant to §§ 7402 and 7408 of the Internal Revenue Code (26 U.S.C.) (I.R.C.) to enjoin the defendants, Michael Lee Yohe, Ag-Mart Services, Inc.; Michael A. Thompson; Mancat, Inc., and all those in active concert or participation with them from:

- a. Organizing, selling, or participating in abusive tax shelters, plans, or other arrangements that advise or encourage taxpayers to attempt to evade the assessment of their correct federal tax obligations;
- b. Making false statements about the allowance of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of participating in such tax shelters, plans, or arrangements
- c. Instructing or advising taxpayers to understate their federal tax liabilities;
- d. Promoting the false and frivolous position that federal taxes can be legally reduced or eliminated by falsely claiming cash equivalent wage payments to be in-kind payments in order to evade income and employment tax;
- e. Engaging in any conduct that interferes with the proper administration and enforcement of the internal revenue laws through promotion of false tax schemes;
- f. Engaging in any activity subject to penalty under I.R.C. §§ 6700 or 6701.

Jurisdiction

2. This action has been requested by a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General of the United States, pursuant to the provisions of I.R.C. §§ 7402 and 7408.

3. Jurisdiction exists under 28 U.S.C. §§ 1340 and 1345 and I.R.C. §§ 7402(a) and 7408.

4. Venue is proper in the United States District Court for the District of Idaho under 28 U.S.C. § 1391.

Defendants

5. Yohe has engaged in conduct in this district and elsewhere subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes with the enforcement of the internal revenue laws. Yohe's last known address is 35075 Ft. Cady, Newberry Springs, California.

6. Thompson has engaged in conduct in this district and elsewhere subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes with the enforcement of the internal revenue laws. Thompson resides at 2436 E. 3885N, Filer, Idaho.

7. Ag-Mart Services, Inc. ("Ag-Mart") is a corporation registered with the Idaho Secretary of State. Yohe is its registered agent. Ag-Mart has engaged in conduct in this district and elsewhere subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes with the enforcement of the internal revenue laws.

8. Mancat, Inc. ("Mancat") is a corporation registered with the Idaho Secretary of State. Thompson is its registered agent. Mancat has engaged in conduct in this district subject to penalty under I.R.C. §§ 6700 and 6701, and has engaged in conduct that interferes with the enforcement of the internal revenue laws.

Defendants' Fraudulent Scheme

9. Defendants organize, promote, and market a brazen tax-evasion scheme in which they help customers—dairy farms and their employees—to falsely claim that the cash wages paid by the dairy farms to the employees are in-kind payments not subject to federal wage

withholding, in a fraudulent attempt to evade reporting and paying federal income and employment taxes.

10. Defendants describe their services as an employee-leasing program, a payroll-services program, and as a labor-management program specializing in in-kind remuneration.

11. Defendants falsely advise dairy farms that if they allow defendants to assume their payroll responsibilities and “calculate” their employees’ wages according to the amount of milk harvested each day, federal taxes need not be withheld on those wages. Defendants advise the dairy farms that defendants can perform the necessary payroll “calculations” and services to enable the customers to take advantage of these “tax savings.”

12. Defendants advise the dairy farms’ employees that if their wages are “calculated” according to the amount of milk harvested each day, rather than the number of hours they work, and they are no longer directly paid directly by the dairy, the employees will receive more after-tax take-home pay. Defendants advise the dairy farm employees that this increase in their wages is available if they participate in the scheme. Defendants advise the employees that federal taxes need not be withheld from their wages.

13. Defendants claim that “Tax savings of both the worker and dairy can be up to 21% of payroll.”

14. In fact, through participation in defendants’ fraudulent scheme, the dairy farms stop paying the employers’ share of employment tax on their employees’ wages and stop withholding income and employment taxes on employee wages.

What The Tax Law Requires

15. Under the Internal Revenue Code, income and social security and medicare tax is generally required to be withheld by employers from employees' wages, and paid to the IRS.

Employers must also pay the employers' share of social security and medicare taxes.

16. In the case of agricultural workers, under certain circumstances, if employers pay wages in any medium other than cash (*i.e.*, in-kind), no taxes need be withheld by employers from wages. *See* I.R.C. §§ 3121(a)(8)(A), 3306(b)(11), and 3401(a)(2).

17. Although these provisions were originally drafted to allow for the exclusion from wages of meals and lodging provided to agricultural workers, they apply equally where the employee receives In-kind remuneration in the form of an agricultural commodity instead of cash.

18. For these exceptions to apply, the employee must actually be compensated in-kind, and not as a mere pretext in order to obtain favorable tax treatment. Where there is no bona fide transfer of in-kind compensation from the employer to the employee, the exception does not apply.

19. Whether a bona fide transfer occurred depends on whether the employee exercises dominion and control over the commodity, or whether the payment is equivalent to cash.

20. Whether the employee exercises dominion and control over the commodity is measured by a number of factors: the existence and extent of documentation, marketing and negotiation of the subsequent sale of the commodity by the employee, shifting of the risk of ownership of the commodity to the employee, the time duration between the employee's receipt

of the commodity and its sale, whether the employee bears costs incident to ownership, and the ready identifiability of the transferred commodity.

21. Whether a purported commodity payment is in reality a cash equivalent is also determined by a number of factors such as advance quantification of the amount or value of the commodity, the presence of cash advances; payment in negotiable instruments; and minimal time elapsed between in-kind payment and cash conversion.

Using a Tax-Scam—Nothing Actually Changes

22. Defendants' fraudulent scheme does not involve bona fide commodity transfers from the dairy farms to their employees, because the employees never exercise any direct or indirect dominion or control over the commodity, and because their earnings are cash equivalents.

Pre-Scheme Milk Harvests and Processing

23. Before signing on with defendants' scheme, the dairy farms sold their daily milk harvest to local processing plants under annual processing contracts ("Processing Contracts") negotiated between the dairy farm and the processing plant. The dairy farms' milk was delivered to the processing plants, and the processing plants credited each dairy farm for the amount of milk delivered.

24. Under the Processing Contracts, the processing plant paid each dairy farm, every two weeks, either the current milk market price or a prearranged contract price, according to the amount of milk delivered to the processor by that dairy.

25. Before the dairy farms implemented the defendants' scheme, the dairy farms' paid their employees an hourly wage according to the number of hours worked, or paid a set amount based on the number of milk shifts worked. Employees' hours were tracked using time cards. They were paid every two weeks. Employees received wage and hour statements explaining how many hours they worked, how much they were paid for those hours, and whether any deductions were taken from those wages.

26. Dairy farms withheld income, social security and medicare tax on their employees' wages and remitted those monies, along with the employers' share of social security and medicare taxes, to the government.

Milk Operations Under Defendants' Scheme

27. After implementing defendants' scheme, the dairy farms continue to sell their daily milk harvest to local processing plants under the same annual Processing Contracts previously negotiated between the dairy farms and the processing plant. The dairy farms' milk continues to be delivered to the processing plants, and the processing plants continue to credit each dairy for the amount of milk delivered.

28. The processing plants do not negotiate with or enter into any individual agreements with the dairy farms' employees for the sale of "their" milk. The processing plants do not negotiate with or enter into any agreements with defendants for the sale of the employees' milk. Nor do the processing plants maintain any separate accounting for the employees' purported individual share of milk deliveries under defendants' scheme. The processing plants are unaware

that the dairy farms' employees purportedly claim any ownership interest in any portion of the milk deliveries the plants receive. The processing plants are unaware of the scheme altogether.

29. Under defendants' scheme, the processing plants continue to pay the dairy farms according to their annual Processing Contracts. Thus, the dairy farms continue to be paid for the daily milk harvests every two weeks, and receive either the current milk market price or a prearranged price according to the amount of milk delivered.

30. But under defendants' scheme, the dairy farms sign "assignment letters," written by defendants. These assignment letters direct the processing plants to pay defendants a pre-determined, fixed amount under the Processing Contracts. This amount is calculated to cover the employees' wages, and also defendants' operating fees for running the scheme. The assignment amount is fixed at the start of the dairy farms' participation in the scheme, and does not fluctuate during the course of their participation in the scheme.

31. After the dairy farms implement the scheme, their employees continue to be paid according to the number of hours they work or the number of milk shifts they work. The employees continue to track their hours on time cards. The employees continue to receive their paychecks every two weeks.

32. Under the scheme, the employees, instead of receiving wage and hour statements from the dairy farms, receive "Commodity Statements" from defendants. The Commodity Statements defendants provide to employees are merely wage and hour statements manipulated so as to make it falsely appear that the employees' compensation is actually based on sales of milk they were purportedly paid in-kind.

33. In fact, an analysis of these Commodity Statements reveals that the dairy farms' employees were compensated in the exact same manner (based on the number of hours or milk shifts worked) as before participation in the scheme. The IRS discovered this after requesting copies of the statements during the investigation of this case. In an effort to conceal their fraud, defendants claimed that all Commodity Statements had either been destroyed or stolen. The IRS was able to obtain Commodity Statements directly from several dairy farms and thereby uncover the fraud.

34. The Commodity Statements have a number of meaningless headings, designed to create the false appearance of legitimate in-kind payments. Sample Commodity Statements are attached as Exhibits 1, 2 and 3. Examples of these fraudulent headings include:

- a. **Crop Value:** This is the employees' wage amount. The figure is based either on the number of hours or milk shifts worked. "Crop Value" has nothing to do with the quality or quantity of milk processed.
- b. **Quality:** This column lists any bonus paid to the employee by the dairy. The bonuses are typically year-end bonuses based on longevity or unused sick leave. If the dairy does not pay a bonus, the column is left blank. "Quality" and the amounts listed have nothing to do with the quality of milk actually produced.
- c. **Milk Bonus:** This is the amount purportedly owed by the employee to the dairy for hauling and storage. "Milk Bonus" has nothing to do with any kind of milk bonus. During the course of numerous IRS examinations, the IRS never found any evidence of monies going from the workers to the dairies for this expenditure.
- d. **Lbs. Milk:** This represents the total pounds of milk that the employee was "deemed" to have sold to arrive at the "Crop Value" figure.
- e. **100#:** This represents the price per 100 pounds of milk that the employee was "deemed" to have attained to arrive at the "Crop Value" figure. This figure in fact has nothing to do with the market value of milk, nor any other negotiated milk price. In all instances the dairy was paid a different amount for their milk.

f. **Hauling:** This is what the employee “owed” the dairy for hauling the employee’s purported share of milk to the processor. During the course of numerous IRS examinations, the IRS never found any evidence of monies going from the workers to the dairies for this purported expenditure.

g. **Handling:** This is the fee owed by the employee to defendants for representing them as their “agent” in this fraudulent scheme.

h. **Operations:** This is what the employee “owed” the dairy for “storing” the employee’s purported share of milk. During the course of numerous IRS examinations, the IRS never found any evidence of monies going from the workers to the dairies for any such expenditure.

i. **Marketing:** This figure is the sum total of the purported handling, hauling, and operations expense.

35. The purported Commodity Statements prepared by defendants for employees of defendants’ dairy customers in Rupert, Idaho and in Jerome, Idaho indicate that defendants based employee wages on either the number of milk shifts worked and amounts paid for each shift, or their hourly wage and the number of hours worked per pay period.

36. One such Commodity Statement, for a dairy employee, is attached as Exhibit 1. That employee worked 13 shifts during the pay period, and was paid \$64 for each milk shift worked. Therefore, his gross pay was \$832 (13 x \$64). This \$832 figure appears on the commodity statement under the column “Crop Value.” He also received annual bonuses totaling \$1,050. This figure appears on the commodity statement under the column, “Quality.” “Milk Bonus” is a grossed-up figure equal to employees’ ostensible expenses associated with transporting and marketing their milk.

37. This statement also shows the purported number of pounds of milk (7,564 lbs.) and a price of \$11.00 per 100 pounds. The rate of \$11.00 per 100 pounds for 7,564 pounds results in

\$832. But in no case did the dairy farms, their employees, or the processing plants ever communicate to defendants any information concerning any daily amount of milk attributable to each employee or any price per pound for selling the milk. Rather, these numbers on the Commodity Statement are fictitious, added solely to conceal the fraud.

38. Defendants' Commodity Statements show that employees were purportedly paid a constant \$11.00 per 100 pounds of milk produced throughout 2000, 2001, and 2002. The checks that dairy farms receive from the processing plants tell a different story. During these same periods, dairy farms were in fact paid between \$10.50 and \$12.02 per 100 pounds of milk.

39. Defendants' Commodity Statements showed similar discrepancies between what dairy farms actually paid for hauling and what employees ostensibly paid for hauling. Dairy farms paid \$.18 per 100 pounds hauled, while according to defendants' Commodity Statements, employees purportedly paid between \$.09 and \$.29 per 100 pounds of milk hauled.

40. Participation in defendants' scheme results in the dairy farms illegally not withholding income and employment tax on their employees' wages, and illegally not paying the employer's share of employment tax due on those wages.

41. This failure to withhold any income tax on employees' wages removes a significant incentive for employees to file income tax returns—a potential tax refund. It also imposes a significant disincentive to filing tax returns—a large tax bill at the end of the year. For many farm workers, these two results combined could lead them to stop filing returns altogether.

42. Defendants' fraudulent scheme also results in potentially significant harm to the dairy farm employees who no longer pay (and whose employers no longer pay) Social Security

taxes. By failing to participate in the Social Security system, these individuals and their families may not qualify for benefit payments in the event of disability or death. See <http://www.ssa.gov/dibplan/dqualify2.htm>. These employees and their families are especially vulnerable because their wages are historically low, and because agriculture ranks among the most hazardous industries in the United States. See <http://www.cdc.gov/niosh/injury/traumaagric.html>.

Promoting the Scheme: False Statements about the Internal Revenue Laws.

43. Defendants market these schemes through promotional meetings and materials. Defendants first market their scheme to the dairy farms, and falsely claim that through participating in the scheme, dairy farms no longer need to pay employment taxes on their employees' wages. Once the dairy farm agrees to participate, then defendants market the scheme to the dairy farms' employees.

44. Defendants have made the following false and fraudulent claims to the dairy farms about their scheme:

- a. "Tax savings of both the worker and dairy can be up to 21% of payroll. Actual savings of dairies using this system shows a 17% savings."
- b. "American farms have been using this system for over 100 years."
- c. Under defendants' scheme, the "Dairy is not required to pay FICA, FUTA, MEDICARE, Unemployment Insurance."
- d. Under defendants' scheme, the "Worker is not required to pay FICA, MED, Withholding of Federal tax, Withholding of State tax."
- e. "The IRS guidelines are very specific that there must be a clearly defined transfer of the commodity to the employee and from that point on the employer must be "hands off." Ag-Mart is your worker's marketing agent for their commodity. We sell their crop and make the crop payments to them. The workers pay Ag-Mart for this."

f. "To find out if using the In-Kind would cause an audit, Ag-Mart sent its contracts, manuals, and sales materials to the IRS. The answer back from the IRS was that there was no way that this system would cause an IRS audit."

g. Ag-Mart is an "Idaho base corporation. Headquarter in Twin Falls, Idaho. Ag-Mart was form using a law firm with strong accounting background. This law firm consulted with the utmost authority on agriculture In-Kind payments. This authority wrote the IRS In-Kind guidelines for the IRS and is considered the top expert in this field."

45. Defendants have made the following false and fraudulent claims to the dairy farms'

employees about their scheme:

a. Because employees are agricultural workers, they are not obligated to pay employment taxes on their wages;

b. "There are no income taxes withheld from your checks, but you are being charged for hauling. The company inflates your check to cover the expenses, so it's not actually coming out of your check. ...the hauling and operations expense, you can declare on your income taxes as a loss."

c. "The majority of boys which I represent are persons that have no documentation (no legal status in the country), they have no SSN numbers and they will never have the opportunity to do their income tax declarations."

d. "The fact that you will stop paying social security and medicare will not affect you... you will be paid based on your age and the amount of money ...but regardless, when we retire, we probably won't get anything anyway because the social security money is gone. The government has used the money for other things such as the war against terrorism and to get drunk."

e. "If you are currently having taxes taken out... say about \$150.00... who wouldn't want to receive \$150.00 more per paycheck. It's like getting a raise."

f. "The program is legal, the program is legal. ...If this program was not legal, I assure you that Luis would not be in the program ...because you all know Luis and he is not a person who is into stupid things. Luis does not allow anyone to fool with him. He is who he is because he knows how to make money. He knows how good the program is and we haven't had any problems."

46. The defendants' false and fraudulent statements have induced over 50 dairy farms and over 1150 dairy employees to participate in this brazenly fraudulent scheme.

47. Defendants charge the dairy farms between 1 and 1.5% of their gross payroll each payroll period. Defendants also charge the employees 2.65% of their own gross payroll each payroll period.

Defendants' Knowledge of the Illegality of Their Scheme

48. Yohe has spent years studying the tax laws. He has a business background in employee-leasing and payroll companies. He solicited advice and input regarding this scheme from a local lawyer, who told him about the IRS's specific requirements for running a valid in-kind program. The lawyer neither evaluated nor endorsed defendants' scheme. Yohe attended a presentation by the IRS and the State of Idaho regarding in-kind payment programs for agricultural workers, at which the qualifying factors for in-kind programs were discussed. Yohe was familiar with the IRS's positions on valid in-kind payment programs, and he had copies of sophisticated tax planning guides for farms, which specifically addressed proper use of in-kind programs.

49. Thompson has run a small tax preparation and bookkeeping business called The Balance Sheet for years. This was his sole means of support until he went to work with Yohe. Thompson is responsible for preparing tax forms for the dairy farms participating in defendants' scheme.

50. The IRS held a town hall meeting on in-kind compensation programs at the College of Southern Idaho in 2001. Invitations were sent to all of the dairy farms in that area of Idaho. Yohe was present at that meeting. In-kind payment programs were discussed in great detail.

Harm to the Government

51. Defendants have induced over 50 dairy farms with over 1150 employees to participate in their scheme. Defendants have dairy farm customers in Idaho, California, Arizona and Oregon.

52. As of January 1, 2005, IRS audits of eleven dairy farms that used the defendants' scheme resulted in over \$2.2 million of employment tax assessments against the dairy farms alone. This amount does not include the tax loss resulting from dairy farms' employees' tax deficiencies.

53. The defendants' scheme may have caused more than \$12 million in employment and income tax losses to the federal Treasury.

54. Many of the losses may never be recovered. Therefore, the harm to the government is material, and if defendants' promotional activity is not stopped, it will result in additional harm with each new dairy farm payroll.

55. Despite numerous IRS audits of defendants' customers revealing tax understatements, notice of the investigation leading up to this suit, and defendants' actual knowledge of the fraudulent nature of their scheme, defendants continue to promote and operate the fraudulent scheme.

56. The defendants will not cease this illegal activity unless they are permanently enjoined.

Count I: Injunction under I.R.C. § 7408 for violations of §§ 6700 and 6701

57. The United States incorporates by reference the allegations contained in paragraphs 1 through 56 above.

58. I.R.C. § 7408 authorizes this Court to enjoin persons who have engaged in conduct subject to penalty under I.R.C. §§ 6700 or 6701 from engaging in further such conduct if the Court finds that injunctive relief is appropriate to prevent recurrence of the conduct.

59. Section 6700 imposes a penalty on any person who organizes or participates in the sale of a plan or arrangement and in so doing makes a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any tax benefit by participating in the plan or arrangement which that person knows or has reason to know is false or fraudulent as to any material matter.

60. Section 6701 penalizes a person who aids, assists, or advises with respect to the preparation or presentation of any portion of a return or other document, knowing or having reason to believe that such document will be used in connection with any material matter, and who knows that such document, if used, would result in a tax understatement.

61. In promoting their scheme, the defendants have made false and fraudulent statements regarding the tax benefits available to purchasers of their program. The defendants know or have reason to know that their statements are false or fraudulent.

62. In operating their scheme, defendants prepare Commodity Statements and other documents they know will be used by their customers in connection with a material matter, and that the documents, if used, will result in a tax understatement.

Count II: Injunction Under I.R.C. § 7402

63. The United States incorporates by reference the allegations contained in paragraphs 1 through 56 above.

64. The defendants have engaged in conduct that interferes substantially with the administration and enforcement of the internal revenue laws.

65. Defendants falsely advised customers that the payments received by the dairy farms' employees qualified as in-kind commodity payments not subject to income tax withholding or employment taxes, rather than cash equivalents and wages. Defendants' advice led their customers to not withhold or pay employment tax on wages, and not withhold income tax on wages. Defendants took affirmative steps to conceal their fraud.

66. Unless enjoined by this Court, the defendants are likely to continue to engage in such conduct. Their conduct results in irreparable harm to the United States for which the United States has no adequate remedy at law. The United States is entitled to injunctive relief under I.R.C. § 7402(a).

WHEREFORE, the plaintiff United States prays for the following relief:

A. That the Court find that defendants, Michael Lee Yohe; Ag-Mart Services, Inc.; Michael A. Thompson; Mancat, Inc., and all those in active concert or participation with them have engaged in conduct subject to penalty under I.R.C. §§ 6700 and 6701, and that injunctive

relief is appropriate under I.R.C. § 7408 to prevent the defendants from engaging in further such conduct;

B. That the Court find that the defendants engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate pursuant to the Court's inherent equity powers and I.R.C. § 7402(a) to prevent recurrence of that conduct;

C. That the Court, pursuant to I.R.C. §§ 7402 and 7408, enter a permanent injunction prohibiting the defendants and prohibiting their representatives, agents, servants, employees, attorneys, and those persons in active concert with them, from directly or indirectly by means of false, deceptive, or misleading commercial speech from:

1. Organizing, promoting, marketing, or selling any tax shelter, plan or other arrangement that helps customers attempt to violate the internal revenue laws or unlawfully evade the assessment of their federal tax liabilities;
2. Organizing, promoting, marketing, or selling any program using or advocating in-kind payments in lieu of cash or cash equivalent wages;
3. Causing or advising other persons and entities to understate their federal tax liabilities and avoid paying federal taxes;
4. Further engaging in any conduct subject to penalty under I.R.C. § 6700, *i.e.*, making or furnishing, in connection with the organization or sale of a tax shelter, plan, or arrangement, a statement defendants know or have reason to know is false or fraudulent as to any material matter;
5. Further engaging in any conduct subject to penalty under I.R.C. § 6701, *i.e.*, aiding, assisting, or advising with respect to the preparation or presentation of any portion of a return or other document knowing that such assistance or advice will result in the understatement of another person's tax liability; and
6. Further engaging in any conduct that interferes with the administration and enforcement of the internal revenue laws.

D. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the defendants, at their own expense and as a corrective measure, to dissolve, close, and otherwise stop operating all professional employer organizations, labor management companies, employee leasing companies and payroll service companies that they own, manage, and/or control.

E. That this Court, pursuant to I.R.C. §§ 7402 and 7408, restrain and enjoin defendants from organizing or establishing any new corporation or other entity which is, in substance, a professional employer organization, labor management company, employee leasing company or payroll service company. This prohibition includes, but is not limited to serving as an organizer, owner, incorporator, officer, or director.

F. That this Court, pursuant to I.R.C. §§ 7402 and 7408, restrain and enjoin defendants from volunteering for, working for, consulting for, or being in anyway affiliated or associated, directly or indirectly, with any and all professional employer organizations, employee leasing companies, labor management companies and payroll service companies. Defendants shall not, now or anytime hereafter, volunteer for, work for, consult for, or be in anyway affiliated or associated, directly or indirectly, with any and all professional employer organizations, employee leasing companies, labor management companies and payroll service companies.

G. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the defendants, at their own expense and as a corrective measure, to provide a copy of the complaint and injunction, in English and in Spanish, to each of their customers, current and former, including dairy farms and their employees, within eleven days of entry of the injunction;

H. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the defendants to file with the court and serve on the government, within eleven days of entry of this order, a complete list of customers (including names, mailing addresses, e-mail addresses, phone numbers, and social security numbers or employer identification numbers), including both current and former customers, including dairy farms and their employees, who have participated in their scheme, or other type of tax planning arrangement marketed or organized by defendants, or sought or received any tax advice from defendants.

I. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the defendants to file with the court and serve on the Government, within eleven days of entry of this order, a complete list of defendants' former and current employees and associates.

J. That this Court, pursuant to I.R.C. §§ 7402 and 7408, enter an injunction requiring the defendants, at their own expense and as a corrective measure, to assist all of their current and former dairy farm customers with filing corrected IRS Forms 941, within 60 days of entry of this injunction;

K. The United States shall be permitted to engage in post-injunction discovery to monitor defendants' compliance with this and any other order entered by this Court.

L. That the Court grant the United States such other and further relief as the Court deems appropriate.

DATED this ³~~2~~rd day of March, 2005.

Respectfully submitted,

THOMAS E. MOSS
United States Attorney



KARI M. LARSON
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Washington, D.C. 20044
Telephone: (202) 514-0564
Facsimile: (202) 514-6770
WA Bar # 29362

Commodity Statement

December 1-15

96

Ag-Mart Services, Inc.
834 Falls Ave, S-2160
Twin Falls, ID 83301
(208) 734-6417

700 N 719 E
Rupert, ID 83350

630 E 474 N
Rupert ID 83350

2000 Crop Numbers			
73	8,145	85	6,982
74	8,145	86	7,564
75	8,145	87	8,145
76	7,564	88	7,564
77	6,400	89	8,145
78	7,564	90	7,564
79	8,145	91	7,564
80	7,564	92	7,564
81	7,564	93	8,145
82	8,145	94	8,145
83	7,564	95	7,564
84	7,564	96	7,564

Day	Crop#	Lbs Milk	100#	Crop Value	Milk Bonus	Quality	ButterFat
1	37591	504	11.00	55.47	0.95	70.00	0.00
2	37592	504	11.00	55.47	0.95	70.00	0.00
3	37593	504	11.00	55.47	0.95	70.00	0.00
4	37594	504	11.00	55.47	0.95	70.00	0.00
5	37595	504	11.00	55.47	0.95	70.00	0.00
6	37596	504	11.00	55.47	0.95	70.00	0.00
7	37597	504	11.00	55.47	0.95	70.00	0.00
8	37598	504	11.00	55.47	0.95	70.00	0.00
9	37599	504	11.00	55.47	0.95	70.00	0.00
10	37600	504	11.00	55.47	0.95	70.00	0.00
11	37601	504	11.00	55.47	0.95	70.00	0.00
12	37602	504	11.00	55.47	0.95	70.00	0.00
13	37603	504	11.00	55.47	0.95	70.00	0.00
14	37604	504	11.00	55.47	0.95	70.00	0.00
15	37605	504	11.00	55.47	0.95	70.00	0.00
	0	0	-	0.00	0.00	0.00	0.00
Total		7,564		832.00	14.25	1,050.00	0.00
Year to Date		185,018		20,352.00	272.39	2,374.84	0.00

Current Commodity		Y-T-D	Bonus	December-02	Lab Results
Crop No	1,896.25	22,999.23	Total Pounds Milk Sold	-	LEUCOCYTE CT.
December-02	7.92	151.33	Butterfat Test	-	0
% of Crop	49.87	602.26	Price	0	BACTERIA CT.
0.47%	0.00	0.00	0.00	0	0
Route	6.33	121.06	Differential	-	BACTERIA GRADE:
0	0.00	0.00	Pounds of Butterfat	-	0
Hauler	64.12	874.65	Price Per Lbs. of Butterfat	\$	Protein Test
0	0.00	0.00	Gross Value of Butterfat	-	-
Occupation	Co-P.No	Agent	Price Per Pound of Protein	\$	Pounds of Protein
0.0265	1	Gioconda Myers	Gross Value of Protein	-	-

Pay Deductions		Y-T-D	Commodity Value	Y-T-D	Savings	
Emp Support	\$ -	\$ -	Net Income	\$ 1,832.13	\$ 22,124.58	Beginning Bal
Voluntary	\$ -	\$ -	Net Income	\$ -	\$ -	\$ -
Garnishments	\$ -	\$ -	Net Income	\$ 1,832.13	\$ 22,124.58	Added
Rent	\$ -	\$ -	Net Income	\$ -	\$ -	\$ -
Utilities	\$ -	\$ -	Net Income	\$ -	\$ -	YTD Interest
Insurance	\$ -	\$ -	Net Income	\$ -	\$ -	\$ -
Other	\$ -	\$ -	Net Income	\$ 1,832.13	\$ 22,124.58	Total Bal
Adm. Fees	\$ -	\$ -	Net Income	\$ -	\$ -	\$ -
Other	\$ -	\$ -	Net Income	\$ 1,832.13	\$ 22,124.58	\$ -



Commodity Statement

November 1-15

94

Ag-Mart Services, Inc.

834 Falls Ave, S-2160

Twin Falls, ID 83301

(208) 734-6417

181 South 600 East

Rupert, ID 83350

599 E. 200 S.

Rupert ID 83350

2000 Crop Numbers			
73	16,295	85	16,295
74	16,295	86	16,295
75	16,295	87	16,295
76	16,295	88	16,295
77	16,295	89	16,295
78	16,295	90	16,295
79	16,295	91	16,295
80	16,295	92	16,295
81	16,295	93	16,295
82	16,295	94	16,295
83	16,295	95	-
84	16,295	96	-

Day	Crop#	Lbs Milk	100#	Crop Value	Milk Bonus	Quality	Butterfat
1	37561	1086	11.00	119.50	3.98	0.00	0.00
2	37562	1086	11.00	119.50	3.98	0.00	0.00
3	37563	1086	11.00	119.50	3.98	0.00	0.00
4	37564	1086	11.00	119.50	3.98	0.00	0.00
5	37565	1086	11.00	119.50	3.98	0.00	0.00
6	37566	1086	11.00	119.50	3.98	0.00	0.00
7	37567	1086	11.00	119.50	3.98	0.00	0.00
8	37568	1086	11.00	119.50	3.98	0.00	0.00
9	37569	1086	11.00	119.50	3.98	0.00	0.00
10	37570	1086	11.00	119.50	3.98	0.00	0.00
11	37571	1086	11.00	119.50	3.98	0.00	0.00
12	37572	1086	11.00	119.50	3.98	0.00	0.00
13	37573	1086	11.00	119.50	3.98	0.00	0.00
14	37574	1086	11.00	119.50	3.98	0.00	0.00
15	37575	1086	11.00	119.50	3.98	0.00	0.00
	0	0	-	0.00	0.00	0.00	0.00
Total		16,295		1,792.50	59.76	0.00	0.00
Year to Date		358,500		39,435.00	872.18	0.00	0.00

Current Commodity		Y-T-D		Bonus		November-02		Lab Results	
Crop No.	17	1,852.26	40,307.18	Total Pounds Milk Sold		-		LEUCOCYTE CT.	
November-02		34.86	508.77	Butterfat Test		-		0	
% of Crop	0.71%	47.50	1,045.03	Price	0	1792.50	-	BACTERIA CT.	
Route	0	0.00	0.00	0.00	0	\$	x 2.65%	0	
Hauler	0	24.90	363.41	Differential		47.50	-	BACTERIA GRADE:	
Occupation	0	0.00	0.00	Pounds of Butterfat			-	0	
		107.26	1,917.20	Price Per Lbs. of Butterfat	\$		-	Protein Test	
		0.00	0.00	Gross Value of Butterfat			-		
				Price Per Pound of Protein	\$		-	Pounds of Protein	
				Gross Value of Protein			-		

Pay Deductions		Y-T-D		Commodity Value		Y-T-D		Savings	
Gross Income	\$ -	\$ -		Gross Income	\$ 1,745.00	\$ 38,389.97		Beginning Bal	
Voluntary	\$ -	\$ -		Pay Deductions	\$ -	\$ -		Added	\$ 2,475.00
Contributions	\$ -	\$ -		Net Value	\$ 1,745.00	\$ 38,389.97			
Rent	\$ -	\$ -		Savings	\$ -	\$ 3,225.00		YTD Interest	\$ -
Assoc. Dues	\$ -	\$ -		TAX	\$ -	\$ -			\$ 21.91
Advance	\$ -	\$ -		Net Income	\$ 1,745.00	\$ 35,164.97		Total Bal	\$ 2,496.91
Utilities	\$ -	\$ -		INS Payment	\$ -	\$ -			
Misc	\$ -	\$ -		Net Income	\$ 1,745.00	\$ 35,164.97			
Payments	\$ -	\$ -							
Total	\$ -	\$ -							

PERIOD-Report, N. 1. **GOVERNMENT EXHIBIT**
2

Commodity Statement

December 1-15

73

Ag-Mart Services, Inc.

834 Falls Ave, S-2160

Twin Falls, ID 83301

(208) 734-6417

P. O. Box 587

Jerome, ID

232 W 200 N

Jerome

ID

83338

2001 Crop Numbers		
49	9,091	61
50	-	62
51	-	63
52	-	64
53	-	65
54	-	66
55	-	67
56	-	68
57	-	69
58	-	70
59	-	71
60	-	72

Day	Crop#	Lbs. Milk	100#	Crop Value	Milk Bonus	Quality	ButterFat
1	37241	519	11.00	57.11	1.13	0.00	0.00
2	37242	700	11.00	77.04	1.53	0.00	0.00
3	37243	390	11.00	42.90	0.85	0.00	0.00
4	37244	598	11.00	65.77	1.30	0.00	0.00
5	37245	715	11.00	78.67	1.56	0.00	0.00
6	37246	445	11.00	48.92	0.97	0.00	0.00
7	37247	588	11.00	64.73	1.28	0.00	0.00
8	37248	693	11.00	76.19	1.51	0.00	0.00
9	37249	432	11.00	47.55	0.94	0.00	0.00
10	37250	578	11.00	63.58	1.26	0.00	0.00
11	37251	568	11.00	62.45	1.24	0.00	0.00
12	37252	564	11.00	62.06	1.23	0.00	0.00
13	37253	568	11.00	62.52	1.24	0.00	0.00
14	37254	577	11.00	63.42	1.26	0.00	0.00
15	37255	584	11.00	64.26	1.27	0.00	0.00
16	37256	571	11.00	62.86	1.24	0.00	0.00
Total		9,091		1,000.00	19.80	0.00	0.00
Year to Date		9,091		1,000.00	19.80	0.00	0.00

Current Commodity		Y-T-D		BONUS		December-01		Lab Results	
Crop No.	Crop Value	1,019.80	1,019.80	Total Pounds Milk Sold		-	-	LEUCOCYTE CT.	
December-01	Hauling	11.88	11.88	Butterfat Ben		-	-	0	
% of Crop	Handling	26.50	26.50	Price	0	0	0	BACTERIA CT.	
0.18%	Agent	0.00	0.00	0.00	0	\$	-	0	
Route	Operations	7.92	7.92	Differential	-	-	-	BACTERIA GRADE:	
0	IDPB	0.00	0.00	Pounds of Butterfat	-	-	-	0	
Hauler	Marketing	46.30	46.30	Price Per Lbs. of Butterfat	\$	-	-	Protein Ben	
0	Supplies	0.00	0.00	Gross Value of Butterfat	-	-	-	-	
Occupation	CP No.	Agent		Price Per Pound of Protein	\$	-	-	Pounds of Protein	
Milker	74	Gioconda Myers		Gross Value of Protein	-	-	-	-	

Pay Deductions		Y-T-D		Commodity Value		Y-T-D		Savings		TAX Acct.	
Child Support	\$ -	\$ -	Gross Income	\$ 973.50	\$ 973.50	Beginning Bal	\$ -	Beginning Bal	\$ -	\$ -	\$ -
Voluntary	\$ -	\$ -	Pay Deductions	\$ -	\$ -	Added	\$ -	Added	\$ -	\$ -	\$ -
Garnishments	\$ -	\$ -	Net Value	\$ 973.50	\$ 973.50	YTD Interest	\$ -	YTD Interest	\$ -	\$ -	\$ -
Rent	\$ -	\$ -	Savings	\$ -	\$ -	Total Bal	\$ -	Total Bal	\$ -	\$ -	\$ -
Assoc. Dues	\$ -	\$ -	TAX Acct.	\$ -	\$ -						
Advance	\$ -	\$ -	Net Income	\$ 973.50	\$ 973.50						
Advance Fee	\$ -	\$ -	INS Payment	\$ -	\$ -						
Misc	\$ -	\$ -	Net Income	\$ 973.50	\$ 973.50						
Adjustments	\$ -	\$ -									
Total	\$ -	\$ -									

0150

FFGAD-Bayonne, N. J.

GOVERNMENT EXHIBIT

3