

**U.S. Department of Agriculture  
Food and Nutrition Service  
Administrative Review Branch**

**Jim's Grocery and Liquor,**

**Appellant,**

**v.**

**Office of Retailer Operations and  
Compliance,**

**Respondent.**

**Case Number: C0252141**

**FINAL AGENCY DECISION**

The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), finds that there is insufficient evidence to support the assessment of a fine in the amount of \$20,078.55 against Jim's Grocery and Liquor (Appellant) for the unauthorized acceptance of SNAP benefits during the period of January 14, 2022, through January 28, 2022. Therefore, the determination is reversed and the fine is cancelled.

**ISSUE**

The issue accepted for review is whether the Office of Retailer Operations and Compliance took appropriate action, consistent with Title 7 of the Code of Federal Regulations (CFR) § 278.6(a), § 278.6(e)(2 and 3), and § 278.6(f)(1) in its administration of the SNAP when it imposed an unauthorized acceptance fine against Appellant.

**AUTHORITY**

According to 7 U.S.C. § 2023 and the implementing regulations at 7 CFR § 279.1, "A food retailer or wholesale food concern aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 . . . may . . . file a written request for review of the administrative action with FNS."

**CASE CHRONOLOGY**

The Appellants applied for authorization as a SNAP Retail Food Store in an application dated September 8, 2021, that stated the firm had opened on the same date and submitted business licenses confirming they were the new owners of the business. FNS records show that the Appellants continued to accept SNAP benefits using the previous owner's SNAP license even after their SNAP application was withdrawn on November 12, 2021, for failing to respond to a request for information. SNAP licenses are valid only for the owner(s) listed on the license.

Appellant was notified of the unauthorized acceptance of SNAP benefits in a cease and desist letter dated January 7, 2022. The firm continued accepting SNAP benefits until the firm's Point of Sale (POS) device was turned off by FNS.

In a letter dated February 9, 2022, the Office of Retailer Operations and Compliance charged the Appellant firm for the unauthorized acceptance of SNAP benefits. This letter cited the January 7, 2022, cease and desist letter, but did not mention the period that the unauthorized acceptance occurred.

After giving consideration to the evidence, the Office of Retailer Operations and Compliance notified Appellant in a letter dated March 7, 2022, that it determined that the unauthorized acceptance of SNAP benefits had occurred at the firm, and that a fine in the amount of \$20,078.55 was warranted in accordance with Section 278.6(m) of the SNAP regulations. This determination letter included a Bill for Collection (Form 1114) in the amount of \$20,078.55.

By an email sent on March 8, 2022, Appellant appealed the Office of Retailer Operations and Compliance's decision and requested an administrative review of this action. The appeal was granted and implementation of the sanction has been held in abeyance pending completion of this review. Subsequent correspondence was received in an email sent on March 18, 2022.

### **STANDARD OF REVIEW**

In an appeal of an adverse action, Appellant bears the burden of proving by a preponderance of evidence that the administrative action should be reversed. That means Appellant has the burden of providing relevant evidence that a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the argument asserted is more likely to be true than untrue.

### **CONTROLLING LAW**

The controlling law in this matter is contained in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and implemented through regulation under Title 7 CFR Section 278. In particular, Sections 278.6(m) establishes the authority upon which a fine may be assessed against a firm that accepts SNAP benefits without authorization.

7 CFR § 278.6(m) states that:

Fines for unauthorized third parties that accept food stamps. FNS may impose a fine against any individual, sole proprietorship, partnership, corporation or other legal entity not approved by FNS to accept and redeem food coupons for any violation of the provisions of the Food and Nutrition Act of 2008, as amended, or the program regulations, including violations involving the acceptance of coupons. The fine shall be \$1,000 for each violation plus an amount equal to three times the face value of the illegally accepted food coupons. The fine shall be paid in full within 30 days of the individual's or legal entity's receipt of FNS' notification to pay the fine. The Attorney General of the United States may institute judicial action in any court of competent

jurisdiction against the person to collect the fine. FNS may withdraw the authorization of any firm that is under the same ownership as an unauthorized firm that has failed to pay such a fine, as specified under § 278.1(k). FNS may deny authorization to any firm that has failed to pay such a fine, as specified under § 278.1(j).

### **APPELLANT'S CONTENTIONS**

The following may represent a summary of Appellant's contentions in this matter; however, in reaching a decision, full attention and consideration has been given to all contentions presented, including any not specifically recapitulated or specifically referenced herein:

- Appellant has never operated the store; and,
- Appellant has never had a food stamp license under his name.

Appellant submitted no evidence or other rationales in support of these contentions.

### **ANALYSIS AND FINDINGS**

A review of the evidence does not support the Office of Retailer Operations and Compliance's determination in this case. Accordingly, it is unnecessary to address Appellant's contentions in this matter.

This administrative review decision is based on the specific circumstances of this case as documented by materials provided by the Appellant and the Office of Retailer Operations and Compliance. In addition, this administrative review decision does not establish policy or supersede federal law or regulations.

### **CONCLUSION**

After a review of the pertinent documentation, and based on the applicable regulations and other guidance, the decision by Office of Retailer Operations and Compliance to impose a fine in the amount of \$20,078.55 for the unauthorized acceptance of SNAP benefits is reversed and the fine is cancelled.

Under the Freedom of Information Act, FNS is releasing this information in a redacted format as appropriate. FNS will protect, to the extent provided by law, personal information that could constitute an unwarranted invasion of privacy.

ROBERT T. DEEGAN  
ADMINISTRATIVE REVIEW OFFICER

July 18, 2022