

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

Randa's Market,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0247780

FINAL AGENCY DECISION

The U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) finds there is sufficient evidence to support the determination by the Retailer Operations Division to impose a permanent disqualification of Randa's Market ("Appellant") from participating as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP).

ISSUE

The issue accepted for review is whether the Retailer Operations Division took appropriate action, consistent with Title 7 Code of Federal Regulations (CFR) Part 278, when it imposed a permanent disqualification against Randa's Market.

AUTHORITY

7 U.S.C. § 2023 and implementing regulations, at 7 CFR § 279.1, provide that "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 SUMMARY

Randa's Market was initially authorized to participate in SNAP on October 14, 2015. In a letter dated September 8, 2021, the Retailer Operations Division charged Appellant with trafficking, as defined in § 271.2 of SNAP regulations, based on a series of irregular SNAP transaction patterns that occurred between the months of January 2021 and June 2021 and information obtained during a visit to the store by an FNS contractor on July 12, 2021. The attachments enclosed with the charge letter specified the questionable and unusual SNAP transactions indicative of trafficking that were conducted at Appellant's firm during the review period. The letter noted that the penalty for trafficking is permanent disqualification, as provided by 7 CFR § 278.6(e)(1). It informed Appellant of the right to respond to the charges within 10 days of receipt to explain

the irregular SNAP transaction patterns and provided that Appellant may request a civil money penalty (CMP) in lieu of permanent disqualification for trafficking within 10 days of receipt of the charge letter, under the conditions specified in 7 CFR § 278.6(i).

Appellant responded to the trafficking charges, through counsel, in a letter dated September 16, 2021. In the response, Appellant requested a CMP in lieu of disqualification. Appellant also attempted to explain the unusual transactions in the charge letter as being due to allowing SNAP customer to purchase items on credit, which was later repaid in SNAP benefits. Appellant claimed to know this was wrong but did it to help the community in difficult times.

The Retailer Operations Division replied in a letter dated September 23, 2021, that the acceptance of SNAP benefits as payment for items sold to a household on credit is a violation of 7 CFR § 278.2(f). The letter requested documentation to support that food items were purchased on credit and stated this documentation must be substantial enough to prove that the retailer allowed purchases on credit. In response, the Appellant submitted three customer affidavits, copies of two SNAP training acknowledgement forms, and 16 pages of handwritten ledgers presumably showing credit purchases.

After considering Appellant's reply and further evaluating the evidence, the Retailer Operations Division concluded that trafficking had occurred as charged and issued a determination letter dated October 7, 2021. This letter informed Appellant that the firm would be permanently disqualified from SNAP upon receipt of the letter, in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The letter also stated that Appellant was not eligible for a trafficking CMP in accordance with § 278.6(i) because Appellant failed to submit sufficient evidence to demonstrate the firm had established and implemented an effective compliance policy and program to prevent SNAP violations.

In a letter dated October 18, 2021, Appellant appealed the Retailer Operations Division's determination by requesting an administrative review. The request was granted. In its administrative review request, Appellant noted that it was no longer being represented by counsel.

STANDARD OF REVIEW

In an appeal of an adverse action, the appellant bears the burden of proving, by a preponderance of the evidence, that the administrative action should be reversed. This means the appellant has the burden of providing relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

CONTROLLING LAW

The controlling law in this matter is found in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and promulgated through regulation under Title 7 CFR Part 278. In particular, 7 CFR § 278.6(a) and (e)(1)(i) establish the authority upon which a permanent disqualification may be imposed against a retail food store or wholesale food concern.

7 U.S.C. § 2021(b)(3)(B) states, in part:

[A] disqualification under subsection (a) shall be...permanent upon...the first occasion or any subsequent occasion of a disqualification based on the purchase of [SNAP benefits] or trafficking in [SNAP benefits] or authorization cards by a retail food store or wholesale food concern or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards....

7 CFR § 271.2 states, in part:

Eligible foods means: Any food or food product intended for human consumption except alcoholic beverages, tobacco and hot food and hot food products prepared for immediate consumption....

Trafficking means:

The buying, selling, stealing, or otherwise effecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone....

7 CFR § 278.2(a) states, in part:

[SNAP benefits] may be accepted by an authorized retail food store only from eligible households...only in exchange for eligible food. [SNAP benefits] may not be accepted in exchange for cash...[and] may not be accepted in payment of interest on loans or for any other nonfood use.

7 CFR § 278.2(f) states, in part:

SNAP benefits shall not be accepted by an authorized retail food store in payment for items sold to a household on credit. A firm that commits such violations shall be disqualified from participation in SNAP for a period of one year.

7 CFR § 278.6(a) states, in part:

FNS may disqualify any authorized retail food store...if the firm fails to comply with the Food and Nutrition Act of 2008, as amended, or this part. Such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through on-site investigations, **inconsistent redemption data, [or] evidence obtained through a**

transaction report under an electronic benefit transfer system.... Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for [a] period of 12 months to 10 years for a firm's second sanction; and **disqualification shall be permanent for a disqualification based on paragraph (e) (1) of this section.** [Emphasis added.]

7 CFR § 278.6(b)(2)(ii) states, in part:

Firms that request consideration of a civil money penalty in lieu of a permanent disqualification for trafficking shall have the opportunity to submit to FNS information and evidence... that establishes the firm's eligibility for a civil money penalty in lieu of a permanent disqualification in accordance with the criteria included in § 278.6(i). This information and evidence shall be submitted within 10 days, as specified in § 278.6(b) (1) .

7 CFR § 278.6(b)(2)(iii) states:

If a firm fails to request consideration for a civil money penalty in lieu of a permanent disqualification for trafficking and submit documentation and evidence of its eligibility within the 10 days specified in § 278.6(b) (1), the firm shall not be eligible for such a penalty.

7 CFR § 278.6(e)(1)(i) states, in part:

[FNS] shall...disqualify a firm permanently if personnel of the firm have trafficked as defined in § 271.2.

7 CFR § 278.6(i) states, in part:

FNS may impose a civil money penalty in lieu of a permanent disqualification for trafficking...if the firm timely submits to FNS substantial evidence which demonstrates that the firm had established and implemented an effective compliance policy and program to prevent violations of the Program.

7 CFR § 284.1 Pandemic Electronic Benefits Transfer (P-EBT) states in part:

(a) Overview. Section 1101 of the Families First Coronavirus Response Act (FFCRA; Pub. L. 116-127), as amended, authorized supplemental allotments to certain households. These benefits shall be referred to as Pandemic Electronic Benefits Transfer (P-EBT) benefits This section establishes the retailer integrity regulations for P-EBT for retailers in any State as defined in Section 3(r) of the Food and Nutrition Act.

(b) Definitions. For this section:

(1) Trafficking means the activities described in the definition of trafficking at § 271.2 of this chapter when such activities involve P-EBT benefits.

(2) Firm's practice means the activities described in the definition of firm's practice at § 271.2 of this chapter when such activities involve P-EBT benefits.

(3) Involving P-EBT benefits or involve P-EBT benefits means activities involving PEBT benefits as well as supplemental nutrition assistance program (SNAP) benefits, or only P-EBT benefits.

(c) Participation of retail food stores and wholesale food concerns, and redemption of PEBT benefits. Requirements and restrictions on the participation of retail food stores and wholesale food concerns and the redemption of coupons described at §§ 278.2, 278.3 and 278.4 of this chapter, including the acceptance of coupons for eligible food at authorized firms, also apply to activities involving P-EBT benefits ...

(e) Penalties. For firms that commit certain violations described at §§ 278.6 and 278.2 of this chapter where such violations involve P-EBT benefits, FNS shall take the corresponding action prescribed at § 278.6 or § 278.2 for that violation. For the purposes of assigning a period of disqualification, a warning letter shall not be considered to be a sanction. Specifically, FNS shall:

(1) Disqualify a firm permanently, as described at § 278.6(e)(1)(i) of this chapter, for trafficking, as defined at § 284.1(b)(1) of this chapter, or impose a civil money penalty in lieu of permanent disqualification, as described at § 278.6(i) of this chapter, where such compliance policy and program is designed to prevent violations of regulations of this section ...

(6) Disqualify the firm for 1 year for credit account violations as described at §§ 278.6(e)(4)(ii) and 278.2(f) of this chapter, where such violations involve P-EBT benefits.... 5

(11) Impose a civil money penalty in lieu of permanent disqualification for trafficking as described at § 278.6(j) of this chapter in an amount calculated using the described formula at § 278.6(j), which shall also include the relevant amount of P-EBT redemptions when calculating the average monthly benefit redemptions....

(g) Administrative and Judicial review. Firms aggrieved by

administrative action under paragraphs (d), (e), and (f) of this section may request administrative review of the administrative action with FNS in accordance with part 279, subpart A, of this chapter. Firms aggrieved by the determination of such an administrative review may seek judicial review of the determination under 5 U.S.C. 702 through 706.

SUMMARY OF CHARGES

FNS charged Randa's Market with trafficking based on an analysis of FNS records, which included observed store characteristics, recorded food stock, and store pricing gathered during a store visit, as well as Electronic Benefit Transfer (EBT) transaction data for January 2021 through June 2021. The attachments enclosed with the charge letter reflected the following transaction patterns, which commonly indicate trafficking:

- **Charge Letter Attachment 1:** Multiple transactions were made from the accounts of individual SNAP households within a set time period.
- **Charge Letter Attachment 2:** EBT transactions that are large based on the observed store characteristics and recorded food stock.

APPELLANT'S CONTENTIONS

Appellant's contentions regarding this matter are summarized as follows:

- Appellant had implemented a legitimate training program for employees and an effective compliance program.
- Appellant is a fully functioning grocery store and customers buy groceries for their entire household.
- Appellant has been a licensed SNAP retailer since 2004, and never had any violations of USDA or SNAP law.
- Appellant gave credit to customers, despite being fully aware that it is not allowed, due to the influx of unemployment in the community and to support the community.
- Appellant denies trafficking.
- It is very hard to present proof of store credits because it was on handwritten notes. When customers make payments, the note was given to them as a receipt.
- Customers would make large purchases on credit. Large transactions occurred because when households got their SNAP benefits, they would pay the credit and stock up on more groceries.
- Once given a second chance, Appellant vows to comply fully and plan on training all employees on the rules and regulations.

Appellant did not submit any additional evidence in support of its contentions.

The preceding represents a brief summary of Appellant's contentions. However, in reaching a decision, full consideration has been given to all contentions presented, including any that have not been specifically listed here.

ANALYSIS AND FINDINGS

This review examines the relevant information regarding the Retailer Operations Division's trafficking determination. The record must contain evidence sufficient to raise a presumption that trafficking occurred. In a trafficking determination, this evidence includes SNAP transaction data, considered together with other available information, such as store visit observations, the location and characteristics of competitor firms, and household shopping patterns. Once the presumption is established, Appellant bears the burden of providing relevant evidence to support a conclusion, considering the record as a whole, that it did not engage in trafficking. If Appellant fails to show this, the case will be sustained.

Retailers are provided opportunities to submit evidence accompanied by explanations of the legitimacy of questionable transactions, both to the Retailer Operations Division and here on administrative review. Without supporting evidence and rationale, assertions that the firm has not violated program rules do not constitute valid grounds for overturning the determination.

Based on the evidence in this case, the SNAP transactions listed in the September 8, 2021, charge letter were indicative of trafficking. Appellant has not provided reasonable explanations supported by sufficient credible and convincing evidence to demonstrate that these transactions were more likely due to reasons other than trafficking. Accordingly, the permanent disqualification is sustained. Discussed below are elements of the Retailer Operations Division's record, Appellant's contentions, and the findings of this review.

Store Characteristics

In reaching a disqualification determination, the Retailer Operations Division considered information obtained from a store visit conducted by an FNS contractor on July 12, 2021, to observe the nature and scope of the firm's operation, stock, and facilities. This store visit information was used to ascertain if there were justifiable explanations for the firm's irregular SNAP transaction patterns.

The store visit report and photographs documented that the Appellant store has about 810 square feet of sales space and a 220 square foot storage room that contained staple and accessory foods. The store had minimal fresh fruits and vegetables and no fresh meats for sale. The store appeared to be adequately stocked for a convenience store. The store visit report shows the highest priced items sold at the store were a 29-ounce box of Banquet chicken and 12 to 13-ounce frozen pizzas. These were sold for \$9.99. The next four highest priced items at the store all sold for \$6.99.

With a few exceptions, the SNAP eligible food stocked by the store was generally of a low dollar value consisting mainly of inexpensive canned and packaged goods, snack foods, single-serving food items and accessory food items. Given the available inventory, there was very little sign that the firm would likely have SNAP redemption patterns that differed significantly from those of similarly sized competitors, especially competitors that sell similar or identical food items.

SNAP Transaction Analysis

While SNAP households have no limit on the number of times they may use their SNAP card or how much eligible food they may purchase in SNAP transactions, government analyses have found that stores likely trafficking SNAP benefits have particular transaction patterns or characteristics that are inconsistent with the transaction patterns and characteristics of similarly situated stores. The Charge Letter Attachments specify the unusual transactions and transaction patterns found at Appellant's store, which are considered together with other available information, such as store visit observations, the location and characteristics of competitor firms, and household shopping patterns, to determine if the anomalies can be explained based on circumstances specific to the store.

Charge Letter Attachment 1: Multiple transactions were made from the accounts of individual SNAP households within a set time period. 5 U.S.C. § 552 (b)(6) & (b)(7)(C). Violating stores often conduct multiple transactions from the same household account in short time periods to avoid the detection of single high-dollar transactions that cannot be supported by the retailer's inventory, store type, or structure.

The transactions in Charge Letter Attachment 1 included sets of transactions that ranged from 5 U.S.C. § 552 (b)(6) & (b)(7)(C). Some of the transactions within sets were close together, taking place within minutes or hours despite each being a large purchase that would likely last for a significant period of time. Although it is not uncommon for customers to have multiple transactions in a day or two, it is uncommon that, at a convenience store, such multiple transactions total large dollar amounts. The SNAP transactions noted in the charge letter are questionable not because they exceed any limits for use, but rather because they display characteristics of use inconsistent with the nature and extent of Appellant's stock and facilities and are therefore indicative of trafficking. The photographs from the store visit offer no explanation as to why SNAP customers would routinely shop at Appellant multiple times during a short period to purchase such a large volume of items, there being no great variety of products, price advantage, profusion of large packages, or significant bulk items for sale.

Charge Letter Attachment 2: EBT transactions that are large based on the observed store characteristics and recorded food stock. 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Since the store sold primarily low dollar value items, it would take a very large volume of items to reach some of these transaction amounts. Given that the store had no shopping carts or baskets and had limited counter space at checkout, the store is not conducive to large purchase transactions. Again, the store's inventory and characteristics do not support the frequency of large transactions reflected in this Charge Letter Attachment. Additionally, there is nothing notable about the store that would make its redemption patterns differ so significantly from those of similarly-sized competitors offering similar food items.

In addition to the transactions in this attachment being unusually large, transaction totals recurred in the attachment an unusual number of times. In large purchase transactions, where multiple items are being purchased, it is unusual for the same transaction total to naturally recur multiple times. This can indicate that transaction totals are being contrived, which happens when stores

traffick SNAP benefits. The table below shows the frequency of recurrent SNAP redemption amounts during the review period.

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

Competitor Stores

The Retailer Operations Division reviewed the number of SNAP authorized retailers within a one-mile radius of Appellant to determine if households living near Appellant had access to other shopping options during the review period. Mapping showed that there were nine superstores, four supermarkets, five large grocery stores, ten medium grocery stores, four small grocery stores, and 33 other convenience stores within the one-mile radius. This comparison demonstrates that households shopping at Appellant likely had access to larger stores that may have lower prices and better inventory. With these shopping options, it is unlikely that SNAP recipients would expend their SNAP benefits in large amounts at Appellant's convenience store, and that they would do so recurrently.

Comparison with Similarly Situated Convenience Stores

Given that there were a number of shopping options near Appellant, the Retailer Operations Division selected three convenience stores nearest to Appellant that were SNAP authorized during the review period to compare to Appellant. Because the stores are close in proximity to Appellant, if the stores are similar in inventory and infrastructure to Appellant, then the sales patterns should be comparable.

The store visit report and photographs for two of the comparison stores show very similar inventory and inventory levels between Appellant and the comparison stores. One comparison store did not have a completed store visit, but the sales figures it reported on its application was significantly higher than Appellant's. Although these stores to be similar to Appellant, Appellant's transaction patterns were significantly different from the other three stores during the review period. For example, Appellant had 37 sets of transactions that met the parameters of Charge Letter Attachment 1, while the other three stores had just eight combined. Likewise, Appellant had 188 transactions that met the parameters of Charge Letter Attachment 2. The other three stores had 102, 48, and 39. While the Charge Letter Attachments identified Appellant's transaction patterns as significantly aberrant when compared against the averages for convenience stores, the Retailer Operations Division's analysis confirmed that Appellant's transaction patterns were likewise strongly inconsistent with very similarly situated convenience stores.

Household Analysis

In addition to determining if households had access to other shopping options, the Retailer Operations Division conducted a household analysis to determine if households shopping at Appellant actually utilized larger stores during the review period. As noted above, larger stores usually have lower prices and better inventory.

The analysis included examples of three households with unusual shopping patterns at Appellant that also shopped at larger stores on the same day, or within a day of shopping at Appellant. Often the households would spend more in SNAP benefits at Appellant than at the larger stores with better prices and inventory. These examples included a household whose home address was located 25 miles away from Appellant. There were two supermarkets and two superstores within a one-mile radius of this household's address 5 U.S.C. § 552 (b)(6) & (b)(7)(C). 5 U.S.C. § 552 (b)(6) & (b)(7)(C). These transaction patterns frequently occur when stores contrive transaction totals in trafficking transactions. A second household lived about two miles away from Appellant. 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

The Retailer Operations Division's analysis demonstrated that households shopping at Appellant during the review period had access to larger stores. In addition, the households' behavior further indicated that the transaction patterns in the Charge Letter Attachments were suspect.

Credit Accounts

Appellant claims that irregular SNAP transaction patterns are due to the firm giving store credit to individuals in need, and not due to trafficking. Aware that providing store credit is a SNAP violation, Appellant claims to have given credit because there was an influx of unemployment in the community and Appellant wanted to provide support. To support these contentions, Appellant provided 16 pages of handwritten ledgers, to show credit purchases and payments. At the same time, Appellant contends that it is hard to present proof of store credits because they were documented on handwritten notes and when customers made payments, the note was given to the customer as a receipt. Appellant also submitted three customer affidavits, but none of these mentioned that they were allowed to use credit for SNAP transactions at the store.

When a retailer claims it maintains credit accounts to explain irregular SNAP transactions and data patterns, FNS requires a level of detail regarding the legitimacy of the claim. This is because retailers have often made false admissions of credit in an attempt to obtain a lesser penalty after committing more egregious violations such as trafficking. Without substantial documentation that credit was extended to SNAP customers, it is impossible to compare against any specific transactions outlined in the charge letter or substantiate that such transactions were indeed the result of credit account repayments.

In this case, the evidence submitted by Appellant falls short of substantiating the questionable transactions in the charge letter. Despite claiming difficulty in providing proof of credit transactions, in response to the charge letter, Appellant did submit 16 pages of handwritten ledgers to show credit purchases and payments. Only five pages had any dates on them, and only one of those pages was dated within the review period. The other four pages were dated in July and September. Around 13 notations in the handwritten ledgers appeared to show payments. None of these are on pages that are dated, and so it is difficult to determine if these were payments made during the review period. Regardless, of the 13 noted payments, the payment amounts match those in Charge Letter Attachment 2 in only two instances. The handwritten ledgers did not identify the items purchased, did not include the full name or other information to allow identification of the customer, often were undated, and payments were inconsistent with the store's redemptions. Additionally, Appellant did not provide copies of SNAP EBT receipts to

show that any credit payments matched the paid accounts in the ledger. For these reasons, the handwritten credit ledger pages fall short of substantiating the transactions in the charge letter attachments.

Customer Affidavits

Appellant submitted three customer affidavits in which customers attested to shopping at Appellant. The handwritten statement in each of these affidavits was identical. In fact, the statement on the affidavit appeared to have been handwritten, copied, and given to customers to sign. Each said that the store owner would do a special order for the customer to meet the customer's specific dietary restrictions. The same word was scribbled out on each of the three customer affidavits. The statement was in black ink, while the name, address, and signature on two of the affidavits was in blue ink.

While the three households that completed affidavits may choose to shop at Appellant for the same reason, the handwritten statements do not appear personal to each customer. Additionally, at least 31 households conducted the transactions on the charge letter attachments, while only three households completed affidavits. The customer affidavits are not particularly compelling in light of all the other evidence in this case. Additionally, customer affidavits are often unreliable, even if well-intentioned. They typically do not represent a household's actual shopping behavior or demographics because households generally do not retain records of transactions or it is difficult to recall spending patterns at a specific location.

Summary

This review finds that the attachments furnished with the charge letter adequately identify irregular patterns of SNAP transactions, thereby indicating that trafficking was likely taking place. The transactions listed in the charge letter are highly unusual and substantially different from comparable stores in the area. Based on these and other factors, such as the store's physical characteristics and inventory and household shopping patterns, the case for trafficking is convincing.

On review, the Appellant failed to prove, by a preponderance of the evidence, that the administrative action should be reversed. The Appellant has not offered sufficient and compelling evidence that the "unusual, irregular, and inexplicable" transactions and patterns cited in the charge letter were not caused by trafficking. In fact, the Appellant offered no reliable evidence to support its contentions regarding specific transactions listed in the charge letter. Given the totality of the record, this review finds the transactions listed in the charge letter attachments were, more likely than not, the result of trafficking violations committed by the Appellant. Therefore, the Retailer Operations Division's decision to impose a permanent disqualification against Randa's Market is sustained.

CIVIL MONEY PENALTY (CMP)

In the charge letter, the Retailer Operations Division informed Appellant of its right to request a trafficking CMP under 7 CFR §278.6(i). Appellant was informed that it would need to provide both the request and supporting evidence within 10 calendar days of receiving the charge letter and that no extension of time could be granted for making the request or for providing the required evidence. The criteria for a trafficking CMP in lieu of disqualification is defined under 7 CFR §278.6(i) which reads, *inter alia*:

In determining the minimum standards of eligibility of a firm for a civil money penalty in lieu of a permanent disqualification for trafficking, the firm shall, at a minimum, establish by **substantial evidence** [emphasis added] its fulfillment of each of the following criteria:

Criterion 1. The firm shall have developed an effective compliance policy as specified in §278.6(i)(1); and

Criterion 2. The firm shall establish that both its compliance policy and program were in operation at the location where the violation(s) occurred prior to the occurrence of violations cited in the charge letter sent to the firm; and

Criterion 3. The firm had developed and instituted an effective personnel training program as specified in §278.6(i)(2); and

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm

The Retailer Operations Division found the firm was ineligible for a trafficking CMP in lieu of disqualification under 7 CFR § 278.6(i) because Appellant failed to submit, within the specified timeframe, evidence of an effective compliance policy and program to prevent SNAP violations. This review agrees.

The only evidence Appellant provided of an effective compliance policy and training program was two SNAP training acknowledgement statements. The statements were signed by the store owner and one other employee and appear to have been construed in an attempt to meet the training and compliance requirements as they were signed on September 14, 2021, after the date of the charge letter. Appellant submitted no further documentation, such as training logs, handouts, etc. to show that this program was actually in placed.

Indeed, it would be very difficult for the Appellant to contend that it had an effective SNAP compliance policy and training program when the owner admits to offering food on credit to its customers and accepting SNAP benefits as repayment on credit accounts in violation of SNAP

regulations. Therefore, the Retailer Operations Division correctly determined that Appellant is ineligible for a trafficking CMP in lieu of disqualification.

CONCLUSION

The Retailer Operations Division's analysis of the EBT transaction record for Randa's Market was the primary basis for its determination to permanently disqualify the retailer. This review finds this data provides substantial evidence that the questionable transactions during the review period had characteristics that are consistent with trafficking in SNAP benefits. Store visit photographs and documentation further support the trafficking determination. Appellant has not proven, by a preponderance of evidence, that the administrative action should be modified or reversed.

Based on a review of all the information available in this case, the determination by the Retailer Operations Division to impose a permanent disqualification against Randa's Market, under the ownership of Majed Bahjet Zeidan, is sustained.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this determination are set forth in Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. § 2023) and in SNAP regulations, at 7 CFR § 279.7. If judicial review is desired, the Complaint, naming the United States as the defendant, must be filed in the U.S. District Court for the district in which Appellant owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If a Complaint is filed, it must be filed within 30 days of receipt of this decision.

Under the Freedom of Information Act, we are 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.

MICHELLE WATERS
ADMINISTRATIVE REVIEW OFFICER

March 8, 2023