

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

**Ocoa Grocery Corp.,
Appellant,**

v.

**Retailer Operations Division,
Respondent.**

Case Number: C0220125

FINAL AGENCY DECISION

It is the decision of the USDA that the record indicates that Ocoa Grocery Corp., (hereinafter Appellant) committed violations of the Supplemental Nutrition Assistance Program (SNAP). There is sufficient evidence to support a finding that the permanent disqualification from participation as an authorized retailer in the program, as initially imposed by the Retailer Operations Division was appropriate.

ISSUE

The issue accepted for review is whether the Retailer Operations Division took appropriate action, consistent with 7 CFR § 278.6(c) and (e)(1) in its administration of the SNAP, when it assessed a permanent disqualification against Appellant by letter dated October 24, 2019.

AUTHORITY

7 U.S.C. § 2023 and the 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 CHRONOLOGY

In a letter dated September 13, 2019, Retailer Operations Division charged the Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations, based on a series of irregular SNAP transaction patterns that occurred during the months of February 2019 through July 2019. The letter noted that the penalty for trafficking is permanent disqualification as provided by 7 CFR § 278.6(e)(1). The letter also noted that the Appellant could request a trafficking civil money penalty (CMP) in lieu of a permanent disqualification within 10 days of receipt under the conditions specified in 7 CFR § 278.6(i).

In email correspondence dated September 18, 2019, Appellant, through representation, requested a 10-day extension in which to respond to the charge letter. In correspondence dated September 19, 2019, Retailer Operations Division granted Appellant an extension to September 30, 2019. Appellant was informed that the time to request a civil money penalty in lieu of permanent disqualification and to provide the documentation to support such a request has not been extended. Appellant replied to the charge letter in correspondence dated September 19, 2019, and offered its apologies for the irregularities that were mentioned that caused the incident. Appellant stated, that as manager of the store it will implement all the necessary regulations to prevent this from happening again. As you know we do not have the authority to question program users or beneficiaries or limit the clients on how many times they use or come to our business, making our record appear as fraudulent transactions. Appellant listed eight items sold in the store which were Canilla Rice 20 lbs. \$15.49, Milk Nest Family size \$24.99, Pure Rice \$14.49, Gallon of Oil \$13.49, Pork Chops family package \$34.49, Salami family size \$17.49, Psalms large pack \$18.89. Appellant asked for an opportunity to stay on the program and stated that as a first step we will install a point-of-sale that recognizes the products that are approved by the program (SNAP). If you have any educational material for my personal education and my employee, please provide.

Retailer Operations Division issued a Determination letter dated October 24, 2019. The letter informed Appellant that it was permanently disqualified from the SNAP in accordance with Sections 278.6(c) and 278.6(e)(1) of the SNAP regulations. The letter also stated that Retailer Operations Division considered Appellant's eligibility for a trafficking civil money penalty (CMP) according to the terms of Section 278.6(i) of the SNAP regulations. However, Retailer Operations Division determined that Appellant was not eligible for the CMP because it failed to submit sufficient evidence to demonstrate that Appellant had established and implemented an effective compliance policy and program to prevent violations of the SNAP.

In a letter dated October 28, 2019, Appellant, through counsel, appealed the Retailer Operations Division's assessment and requested an administrative review of this action. The appeal was granted.

STANDARD OF REVIEW

In appeals of adverse actions, the Appellant bears the burden of proving by a preponderance of the evidence, that the administrative actions should be reversed. That means an Appellant has the burden of providing relevant evidence which a reasonable mind, considering the record, 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 statute in this matter is contained in the Food & Nutrition Act of 2008, as amended, 7 U.S.C. § 2021 and 278 of Title 7 of the Code of Federal Regulations (CFR). Part 278.6(a) (c) and (e)(1)(i) establish the authority upon which a permanent disqualification may be imposed against a retail food store if personnel of the firm have engaged in trafficking SNAP benefits.

7 CFR § 278.6(a) states, *inter alia*, that “FNS may disqualify any authorized retail food store...from further participation in the program 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 based on evidence that may include facts established through on-site investigations, inconsistent redemption data, evidence obtained through a transaction report under an **electronic benefit transfer system ...**” (*Emphasis added*)

7 CFR § 278.6(c) reads, in part, “*Review of Evidence.* The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS regional office, which shall then issue the determination. In the case of a firm subject to permanent disqualification under paragraph (e)(1) ...the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS...”

7 CFR § 278.6(e)(1) reads, in part, “FNS shall disqualify a firm permanently if personnel of the firm have trafficked as defined in § 271.2.” Trafficking is defined, in part, in 7 CFR § 271.2, as “the buying or selling of SNAP benefits for cash or consideration other than eligible food.”

7 CFR § 271.2 states in part that, “Eligible foods mean: Any food or food product intended for human consumption except alcoholic beverages, tobacco and hot food and hot food products prepared for immediate consumption.”

SUMMARY OF THE CHARGES

The charges on review were based on an analysis of SNAP electronic benefit transfer (EBT) transactions dated during the six-month period of February 2019 through July 2019. This involved three patterns of EBT transaction characteristics indicative of trafficking:

1. There were many transactions ending in the same cents value.
2. Multiple transactions were made from the accounts of individual SNAP households within a set period.
3. Your store conducted EBT transactions that are large based on the observed store characteristics and recorded food stock.

The issue in this review is whether, through a preponderance of evidence, it is more likely true than not true that the questionable transactions were the result of trafficking.

FOIA REQUEST

In subsequent correspondence dated February 2020, Appellant, through counsel, submitted a Freedom of Information Act (FOIA) request. The FOIA was processed, and the record reflects that the requested FOIA documentation was provided to counsel on June 30, 2021, via email.

APPELLANT'S CONTENTIONS

The Appellant, through counsel, made the following summarized contentions in its response to the permanent disqualification letter issued by Retailer Operations Division, and its request for administrative review, in relevant part:

1. We are not responsible for the use that the beneficiary gives to their benefits, and we cannot limit them how often they can come to our establishment to make use of their benefits, of which we have been accused.
2. As the manager of the store, I will implement all the necessary regulations to prevent this from happening again.
3. We have attached vendor ledger record. The records substantiate our inventory and demonstrate that there were adequate eligible food items to account for the transactions during the review period. This voluminous evidentiary presentation should be taken as clear and persuasive evidence that our clients did not traffic in SNAP benefits, but instead conducted legitimate transactions.
4. Attachment 1: These transactions are a result of the store's pricing practice. This is shown by the inspector reports as the highlighted items end in .49, .89 or .99. It is not a stretch to say that a large portion of the other products sold by the store also end in these numbers and since these items are not taxed, this would lead to a high number of transactions that would end in .49, .89 or .99.
5. Attachment 2: All these transactions are the result of the store's business practices, co-shopping, and/or the habits of the SNAP clientele.
6. Past Administrative Review Branch decisions have identified several certain explanations which adequately explain the presence of Scan B2 transactions. For a decision from this office to not be considered arbitrary, it would need to follow the established case law and precedent.
7. Attachment 3: the cause of these transactions is tied directly to the store's inventory and convenience.
8. The transactions included in the Scan F attachment to the charge letter are not trafficking. They are supported by the substantial inventory of the store and are reasonably explained by co-shopping, the store's pricing structure, reliance on the store as a primary grocer for some minutiae of local participants, or the general aberration and statistical outlier to the average whole.

Appellant provided a copy of its response to the charge letter and signatures of clients willing to testify of the store's impeccable services. Appellant also requested educational materials for ownership and employees. Appellant through counsel provided a copy of a June 2017 Preventive Medicine Report on Shopping pattern and food purchase differences among SNAP households and Non-SNAP households in the US; a copy of a November 2016 USDA report of foods typically purchased by SNAP households; a copy of the Pennsylvania Congressional District 8 Profile of SNAP Households in 2017; a copy of a 2014 Social Science & Medicine Report on what SNAP benefit usage tells us about food access in low-income neighborhoods; a copy of an explanation of the Pearson Correlation Coefficient Calculator; a printout of the firms vendor invoice totals from February 2019 thru July 2019; and a copy of an Insight Policy

Research Final Report entitled Benefit Redemption Patterns in Supplemental Nutrition Assistance Program in Fiscal Year 2017.

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

ANALYSIS AND FINDINGS

The FNS authorized the business as a small grocery store on November 9, 2018. The file indicates that in reaching a disqualification determination, Retailer Operations Division considered information obtained during an August 17, 2019, store visit to the business conducted by a FNS contractor to observe the nature and scope of the firm's operation, stock, and facilities. This information was then used to ascertain if there were justifiable explanations for the EBT transactions at Appellant that formed patterns indicative of trafficking. The firm review summary documented the following store size, description, and characteristics:

1. One checkout area with one cash register and one POS device with a small counter area partially obstructed by other smaller items available for sale. Hours of Operation 7 am – 9 pm 7-days a week
2. Estimated to be approximately 960 square feet.
3. 10 shopping baskets listed and 2 shopping carts available for customers.
4. No adding machines or optical scanners were available at checkout. No specialty registers present.
5. Store does not operate through a night window or plastic barrier with food stock behind the barrier.
6. No evidence of wholesale business such as posted prices or separate entrances for wholesale customers.
7. No unusual pricing structure such as ending most products with 00 cents and does not round transaction totals.
8. No food is stored in an area outside of public view.
9. Store has no storage freezers or coolers and no food stored off site.
10. Store is not primarily selling one food type such as meat, poultry, dairy, seafood, fruits, baked goods, or vegetables.
11. Store offers telephone orders and offers delivery.
12. Highest priced eligible food items were Members Mark canned Atlantic Salmon (\$17.49), Puro Long Grain Rice (\$12.89), Similac Advance (\$23.99), Nestle Nido (\$22.99).
13. Store stocks a significant amount of non-food items such as but not limited to paper products, household products and cookware, automotive products, health and beauty aids, mobile phones/phone cards, charcoal, and cleaning products.
14. Store stocks limited amounts of dairy products, bread and cereal products, fruit and vegetable products and meat, poultry, and fish products. Limited fresh fruits or produce, no fresh meat or poultry. Most meats are canned, packaged, or frozen.
15. No kitchen/prepared food area
16. No hot foods sold for onsite consumption.

17. No deli or prepared food section. Stock is not used in preparation of food.
18. No meat or seafood specials or bundles or fruit/vegetable boxes sold.

The issue for consideration is whether Retailer Operations Division has presented a convincing case that Appellant likely trafficked in SNAP benefits. Each attachment furnished with the charge letter represents the questionable and unusual patterns of SNAP transactions indicative of trafficking which were conducted at the Appellant firm during the review period. As there is more than one pattern of irregular transactions, the case of trafficking becomes more convincing.

Attachment 1 of the Charge Letter – There were an unusual number of transactions ending in a same cents value.

This attachment lists 708 transactions totaling \$28,024.12 whereby 77 percent of those transactions ended in 49, 89 and 99 cent values. When such repetitive patterns are unsupported by special pricing structures, they are a strong indicator of trafficking in SNAP benefits.

The store visit documentation indicates that Appellant does not have a special pricing structure that would account for the percentage of transactions that ended in 49, 89 and 99 cents. Although Appellant has individual items ending in those cent values, it is unlikely that a purchase including a few of these items would consistently end in the cent values cited in this Attachment. When there are a disproportionate number of transactions ending in same cent value it appears the transactions are contrived and absent any compelling rationale to the contrary it is a strong indicator of trafficking. Especially when item prices end with a standard *9 it is implausible that several of these relatively inexpensive items purchased together would routinely total to a purchase amount ending in .49, .89 and/or .99 cents. In addition, a store that is rounding prices up or down or an even value would not have any transactions ending in odd values.

Multiple repetitive digits strongly indicate that many of the SNAP transaction amounts reflected in Attachment 1 were contrived. Random data, which legitimate transaction activity approximates, is extremely difficult to produce intentionally; it is very difficult to avoid repetitive patterns when attempting to create the appearance of normal, near-random transactions. Such sets of repeating digits are highly unorthodox, implausible and do not regularly occur in legitimate transactions; that dollar and/or cents values would be repeated by an individual customer in a set period severely strains the credibility of Appellant's contentions that the activity represented therein resulted from the acceptance of SNAP benefits in exchange for eligible food items. Such transaction structuring, as well as breaking large transactions into a series of smaller transactions in an ostensible attempt to avoid detection, is indicative of trafficking activity.

Additionally, random data, which legitimate transaction activity approximates generally does not produce such a large percentage of repeating same cents transactions. The record reflects that the Appellant submitted a list of foods that he purports to stock in the store. None of the products on the list submitted appeared in the high price items section of the August 17, 2019, store visit report. It appears that Appellant used the FNS Charge Letter to construct a list of items matching some of the repeating dollar amounts that occurred during the review period. Even assuming the

FNS contractor missed all the high-priced items submitted by Appellant and the submitted list is accurate, that would only account for the smaller dollar amounts listed in this Attachment. The record also reflects that after Appellant received the charge letter the percentage of transactions ending in these cent values drastically decreased from 77 percent to 25 percent. If the transactions in this Attachment were legitimate SNAP transactions the percentage of transactions ending in the cited cent values would not have decreased once Appellant received the Charge Letter.

Appellant failed to provide a credible explanation for the same cent transactions listed on Charge Letter Attachment #1. Based on the analysis above, it appears that the transactions cited in the charge letter are contrived and therefore, in the absence of plausible evidence to the contrary, are likely the result of trafficking in SNAP benefits.

Attachment 2 of the Charge Letter - Multiple transactions were made from individual accounts in unusually short timeframes.

There were 44 sets of 94 SNAP transactions, completed by 29 different households, that met the parameters of this attachment. Multiple transactions conducted by the same household account within a set time is a method which violating stores use to avoid the detection of single high dollar transactions that cannot be supported by the retailer's inventory and structure.

Appellant, through counsel, contends that these transactions are the result of the store's business practices, co-shopping, and/or the habits of the SNAP clientele. Regarding these contentions, these claims have not been corroborated nor has Appellant demonstrated that these statements are true. Counsel offered no evidence to support its contention that these were legitimate transactions. Such evidence could include cash register receipts or other documentation to prove that the transactions cited in attachment 2 were legitimate purchases of eligible food. As such, family members using the same EBT card stated in the reply, while possible, was not supported by the evidence submitted nor by the Appellant's stock or store characteristics. Counsel's citation of SNAP reports does not specifically address Appellant and the shopping pattern exhibited as cited in the charge letter. General data does not provide an adequate reflection of the Appellant store as it is not data taken from the Appellant's transaction history. Moreover, if co-shopping truly impacted the Appellant, concluded by counsel, it would stand to reason that co-shopping would affect other nearby firms as well. This would manifest itself in comparable firms having similar transaction patterns. According to the record, this is not the case.

When a household is certified for participation in the SNAP, if there are multiple families living in one household and every member of the household purchases, prepares, and eats food together, the benefits issued are for the entire household. However, if there are multiple individuals living under one roof, and they purchase, store, prepare, and eat separately, their benefits are issued as separate households, each with its own EBT card. Therefore, the different shopping priorities and needs of multiple generations residing under one roof are not necessarily portioned out via one single SNAP benefits account. The attorney's argument of "co-shopping" does not adequately explain the transactions as cited in the charge letter.

Furthermore, the Benefit Redemption Patterns in the Supplemental Nutrition Assistance Program Final Report for 2017 states that transactions at supermarkets/superstores accounted for over half of transactions and 82 percent of benefits redeemed. Although the information in these various

reports is the result of studies conducted and show valid information to the same, the studies were not conducted on Appellant's store and do not specifically address the transactions cited in the charge letter without tangible evidence to the same.

Moreover, if these purchases were for legitimate food purchases, one would expect the shopping patterns in this Attachment to continue at the rate cited in the Charge Letter. Yet, the record reflects that in the first month since Appellant received the September 13, 2019, Charge Letter there were only 3 Scan B2 sets transacted at the Appellant's store for dollar amounts far below the review period totals. Based on the analysis above, it appears that the transactions cited in the charge letter are contrived and therefore, in the absence of plausible evidence to the contrary, are likely the result of trafficking in SNAP benefits.

Attachment 3 of the Charge Letter - Excessively large purchase transactions were made from recipient accounts.

There were 322 SNAP transactions that met the parameters of this attachment. Based on the results of the contracted store visit, the large transaction amounts are not consistent with the store's inventory of low-priced foods. Though the firm offers some large bulk bags of rice and sugar, the firm does not offer any ethnic or specialty foods that sell for a high price. Therefore, the substantial number of high dollar purchases calls into question the legitimacy of these transactions.

Transactions in this attachment range from \$41.25 to \$359.37. The statements made by counsel as taken from the various reports supplied during this review, though they may be the result of studies conducted on households receiving and using SNAP benefits in general, these statements do not directly or specifically explain the transactions in Appellant's store as cited in the charge letter given the specific characteristics of Appellant's firm and the review period in question. Therefore, it is the decision of this review that the analysis information in the provided reports cannot be used to justify and definitively explain Appellant's transaction activity as cited in the charge letter.

Counsel offered no evidence to support its contention that these were legitimate transactions. Such evidence could include cash register receipts or other documentation to prove that the transactions cited in attachment 1 were legitimate purchases of eligible food. As such, family members using the same EBT card stated in the reply, while possible, was not supported by the evidence submitted nor by the Appellant's stock or store characteristics. Counsel's citation of SNAP reports does not specifically address Appellant and the shopping pattern exhibited as cited in the charge letter. General data does not provide an adequate reflection of the Appellant store as it is not data taken from the Appellant's transaction history.

The record reflects that although the store is well stocked for a small grocery store, the selection of SNAP-eligible food pales in comparison to that of a typical supermarket or superstore. There are only a couple of bulk items but no promotional items, any expensive ethnic food or other special services rendered that would justify these high dollar transactions. Also, with 262 transactions more than \$50 for the review period, one would expect more than two (2) shopping carts on hand for customers to be able to carry out the large purchases that would be necessary to

justify the transactions as cited in the Charge Letter.

Inventory Purchase Invoices/Receipts

Appellant, through counsel, contends that there is more than enough inventory and the gross revenue numbers are right in line with the inventory. A few invoices/receipts were provided that were dated February 2019 through July 2019. Upon review many of the invoices were for utility and other services, some included only non-food items, some did not have any eligible food items listed but only totals, and some were missing parts of the receipts or were illegible. Regarding this contention, it is important to note, that though the receipts/invoices provided did not show that Appellant purchased enough staple food items to cover the redemptions for the review period, even if the invoices were sufficient, there still was not enough information to determine whether they account for the sum of Appellant's SNAP and non-SNAP transaction activity. While the overall dollar amount of SNAP activity is relevant, the charge letter did not cite as evidence Appellant's SNAP sales total. Rather, the Retailer Operations Division identified a series of different suspicious transaction patterns.

Retailer Operations also conducted an analysis of the shopping habits of five (5) of the households identified in the charge letter. This analysis concluded that these households also shopped at other area grocery stores including full-line supermarkets and superstores that offer a much larger quantity and variety of eligible food items for likely better prices either on the same day or within days of visiting Appellant's firm. This again indicates that lack of access to other stores is not at issue. However, despite this access to large supermarkets and superstores, these households consistently conducted much higher transactions at the Appellant firm than at better stocked supermarkets/superstores in and around the Luzern County area of Pennsylvania. This is another strong trafficking indicator.

Confirmation Bias

Appellant, through counsel, contends that it is likely that the presence of a Confirmation Bias exists. When relevant factors are disregarded or devalued (like prior negative RIB investigations conducted at the store and other information submitted by Appellant during the initial administrative proceedings) the statistical analysis becomes inherently flawed. Regarding this contention, the purpose of this review is to give full and fair consideration to all evidence provided by both Retailer Operations Division and Appellant. The tendency to seek confirming evidence to both the sanctions and contentions, as presented during the administrative review, does not, in and of itself, violate the norms of effective and deductive reasoning. As previously stated, the Appellant has the burden of providing relevant evidence which a reasonable mind, considering the record, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

Administrative Review Decisions

Regarding counsels' quotes of previous Administrative Review Decision, it is important to note that this administrative review decision is based on the specific circumstances of this case as documented by materials provided by Appellant and the Office of Retailer Operations and

Compliance. This administrative review decision does not establish policy or supersede federal law or regulations.

Based on this empirical data, and in the absence of sufficient evidence as to the legitimacy of such transactions, a conclusion can be drawn, through a preponderance of evidence that the “unusual, irregular, and inexplicable” transactions and patterns cited in the charge letter evidence trafficking as the most likely explanation. In this case, ownership did not provide sufficient evidence to legitimize Appellant’s transaction data as outlined in the Attachments. Retailer Operations Division determined that Appellant’s contentions did not outweigh the evidence that the store was trafficking and concluded, through a preponderance of evidence, that trafficking is the most probable explanation for the questionable transactions listed in the charge letter attachments.

The transaction data and overall firm record convincingly demonstrate repetitive patterns of unusual, irregular, and inexplicable SNAP activity for this type of firm indicative of trafficking. Once Retailer Operations Division established a convincing case against Appellant, ownership bears the burden of proving, by a preponderance of the evidence, that the administrative action should be reversed. That means the Appellant has the burden of providing relevant evidence which a reasonable mind, considering the record, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true. If this is not demonstrated, the case is to be sustained.

As noted, 7 CFR § 278.6(a) states that 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 based on evidence that may include facts established through inconsistent redemption data, and evidence obtained through a transaction report under an electronic benefit transfer system.

Retailer Operations Division has presented a convincing case that Appellant has likely trafficked in SNAP benefits. This is evidenced by: the suspicious patterns in three attachments of EBT transaction data, the lack of register receipts as evidence that the transactions were legitimate SNAP purchases, the lack of evidence of invoices of foods in inventory to cover SNAP redemption totals for the review months, the lack of explanation for the specific transactions as cited in the charge letter given that there are other SNAP authorized stores located within proximity to Appellant, and the irregular SNAP transaction data of Appellant as compared to other small grocery stores in the State.

Generally, stores caught in trafficking violations consistently display particular characteristic transaction patterns including those cited in the charge letter and, in the absence of evidence for the legitimacy of such transaction patterns, based on information submitted by the Appellant and a comparison of the store’s characteristics and available stock to the transaction patterns cited in the charge letter, a conclusion can be drawn through a preponderance of evidence that the unusual, irregular, and inexplicable transactions and patterns evidence trafficking as the most likely explanation. While ownership was afforded the opportunity to provide valid explanations and evidence that support that the questionable transactions were the result of legitimate purchases of eligible food items, Retailer Operations Division determined that Appellant’s

contentions did not outweigh the evidence in the record.

The purpose of the administrative review process is to ensure that firms aggrieved by Retailer Operations Division' adverse actions could have their position fairly considered by an impartial review authority prior to that adverse action becoming final. Appellant has been duly given and has taken the opportunity to present to USDA through the administrative review process whatever evidence and information it deems pertinent in support of its position that Retailer Operations Division' adverse action should be reversed. Therefore, any evidence and information that Appellant presented to Retailer Operations Division, as well as any such information submitted subsequently, have now been considered in this administrative review in rendering the final agency administrative decision in this case. The record does not indicate any departure from established policy or procedures regarding Appellant's right to a fair and thorough review.

CIVIL MONEY PENALTY

Appellant was notified in the charge letter dated September 13, 2019, that it had 10 calendar days upon receipt of the charge letter to provide required documentation to be considered for the trafficking CMP. Appellant failed to provide Retailer Operations Division with the required documentation to be considered for a trafficking CMP in lieu of disqualification. Therefore, Retailer Operations Division correctly determined that Appellant was not eligible for a trafficking CMP as set forth in the SNAP regulations.

CONCLUSION

Ownership, through counsel, has not provided sufficient evidence to rebut the case that Appellant most likely trafficked in SNAP benefits. As such, the SNAP regulations are specific regarding the action that must be taken if personnel of the firm have trafficked, which is that FNS shall disqualify the firm permanently.

Retailer Operations Division' analysis of Appellant's EBT transaction record was the primary basis for its determination to permanently disqualify Ocoa Grocery Corp. from participation in the SNAP. This data provided substantial evidence that the questionable transactions during the review period had characteristics that are consistent with trafficking in SNAP benefits. Therefore, based on a review of all the evidence in this case, it is more likely true than not true that program violations did, in fact, occur as charged by Retailer Operations Division. Based on the discussion herein, the determination to impose a permanent disqualification against Ocoa Grocery Corp. is sustained.

RIGHTS AND REMEDIES

Your attention is called to Section 14 of the Food and Nutrition Act of 2008, as amended, (7 U.S.C. § 2023) and to Title 7, Code of Federal Regulations, Part 279.7 (7 CFR § 279.7) with respect to your right to a judicial review of this determination. Please note that if a 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 you reside or are engaged in business, or in any court

of record of the State having competent jurisdiction. If any Complaint is filed, it must be filed within thirty (30) days of receipt of this Decision.

Under the Freedom of Information Act (FOIA), 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.

Monique Brooks
ADMINISTRATIVE REVIEW OFFICER

August 23, 2021