

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

Arias Mini Market,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0217667

FINAL AGENCY DECISION

It is the decision of the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) that there is sufficient evidence to support a finding that the permanent disqualification of Arias Mini Market (Appellant) from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP), 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(a), (c) and (e)(1) in its administration of the SNAP, when it assessed a permanent disqualification against Appellant.

AUTHORITY

7 USC § 2021 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 June 25, 2019, the Retailer Operations Division charged 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 August 2018 through January 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 Appellant could request a trafficking civil money penalty (CMP) in lieu of a permanent disqualification within ten days of receipt under the conditions specified in 7 CFR § 278.6(i).

Appellant replied to the charges by letter dated July 12, 2019. Appellant denied the allegations and explained that the transactions were for eligible food items only. After considering the retailer's reply and the evidence, the Retailer Operations Division issued a determination letter dated October 29, 2019. The determination letter informed Appellant that it was permanently disqualified from the SNAP in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The determination letter also stated that Appellant was not eligible for a trafficking CMP because Appellant failed to submit sufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program to prevent violations of the SNAP.

By letter postmarked November 7, 2019, Appellant, through counsel, appealed the Retailer Operations Division's determination and requested an administrative review.

STANDARD OF REVIEW

In appeals of adverse actions, the Appellant bears the burden of proving by a clear preponderance of the evidence, that the administrative actions should be reversed. That 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 statute in this matter is contained in the Food and Nutrition Act of 2008, as amended, 7 USC § 2021 and § 278 of Title 7 of the Code of Federal Regulations (CFR). Part 278.6(a), (c) and (e)(1) establish the authority upon which a permanent disqualification may be imposed against a retail food store or wholesale food concern in the event that personnel of the firm have engaged in trafficking SNAP benefits.

7 USC § 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 coupons or trafficking in coupons 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 that the definition of "coupon" includes:

... an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food and Nutrition Act of 2008, as amended, for the purchase of eligible food.

7 CFR § 271.2 states, in part, that, 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.

7 CFR § 271.2 defines trafficking, in part, as:

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 § 278.6(a) states:

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, evidence obtained through a transaction report under an **electronic benefit transfer system**, . . .” (emphasis added)

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.

7 CFR § 278.6(i) states, inter alia:

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 § 278.6(b)(2) states, in part:

(ii) 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 as specified in § 278.6(i), 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).** [Emphasis added.]

(iii) **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. [Emphasis added.]

SUMMARY OF THE CHARGES

Appellant was charged and determined to be trafficking based on an analysis of EBT transaction data from August 2018 through January 2019. This involved the following SNAP transaction patterns which are indicative of trafficking:

- There were a large number of SNAP transactions ending in a same cents value.
- There were multiple transactions made from individual benefit accounts within a set time period.
- There store conducted SNAP transactions that are considered large based on the observed store characteristic 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.

APPELLANT'S CONTENTIONS

In its November 7, 2019, administrative review request, and subsequent correspondence submitted January 1, 2020, Appellant, through counsel, provided the following summarized contentions:

- Appellant is located in a notorious subdivision for poverty that yields a higher than normal amount of EBT customers.
- Most of the customers buy groceries for their entire household as would a customer at a grocery store.
- The average family consists of between three and ten children and a single parent which requires a higher than usual consumption of EBT qualified EBT items at various times throughout a given day.
- Appellant has a high volume of sales and cost of goods.
- Appellant has never had any violations of SNAP law and has never been under investigation for SNAP trafficking.
- Appellant is fully stocked with EBT qualified items and sells a high volume of deli items and bundled goods that account for the large transactions.
- Appellant had a training program that included verbal training, in-store training and a copy of the manual provided to all employees.
- The majority of Appellant's prices end in 99 cents and therefore, when two items are purchased the transaction ends in 98 cents and when three items are purchased the transaction will end in 97 cents.
- Different children belonging to each family will make purchases at different times for themselves as well as their family.
- Since there are numerous individuals living in the same households, there are many transactions.
- The household will make an additional purchase once it knows how much is left on its card after the first purchase, which is a test purchase.
- Appellant sells a large amount of deli items by the pound which account for the large transactions.

- Appellant sells bundles and/or food packages in bulk that increase the volume of per unit sales.
- It is common for transactions to be excessively large since there are sometimes seven children living in the same home with different needs.
- Since the store is located within a short walking distance of their customers, there is normally many transactions from the same card holders.
- This was a first time offense and would dictate a CMP instead of a permanent disqualification.
- Just because the ALERT system attempts to signify that the three trafficking allegations are irregular does not mean that these allegations hold weight.
- Under the SNAP regulations at 7 CFR 278.6 Appellant and its employees have not violated SNAP law.
- The transactions are based on the sale of qualified merchandise; Appellant was never reprimanded in the past; and there was no intent to violate the regulations.
- Appellant's customers are sometimes bound by transportation issues or health issues, for which reason some of them might only shop at this store as well.
- Traditional grocery stores such as 5 U.S.C. § 552 (b)(6) & (b)(7)(C) are not readily available in the neighborhood that Appellant services.
- Appellant's customers are accustomed to paying higher prices that are offered in smaller stores such as this that do not have the ability to take advantage of economies of scale, compared to stores such as 5 U.S.C. § 552 (b)(6) & (b)(7)(C).
- Not being a large volume retailer such as 5 U.S.C. § 552 (b)(6) & (b)(7)(C), Appellant's business can only survive with higher mark-ups on its products since they do not focus on volume sales.
- A photocopied booklet is provided to each of its employees and issues concerning EBT processing are addressed semi-annually, including when updates are published and upon the hiring of each new employee.
- Appellant has had its compliance policy in place since the owner of the store received its SNAP authorization.
- Appellant's training program is a combination of verbal, practical training, and a review of SNAP manual as a group.
- Employees of the business have their own manuals which they use to review their store processes semi-annually or when there are updates to the manual.
- Appellant has never been in trouble with the USDA for SNAP trafficking violation and has ran his business in accordance with SNAP law.
- The current charge allegations are a **first time occurrence** for the business and it is a surprise for the owners as they know that it is not illegal to have multiple transactions in short time frames nor is it illegal to have excessively large purchase transactions made by EBT customers or making sales that end in a same cents value.
- This was a first instance and not a second instance which would warrant a CMP in lieu of a permanent disqualification.

In support of its contention, counsel submitted the following documents:

- Affidavit from accountant with three photographs of EBT SNAP signage posted in store;

- Affidavit from the owner; of its employees;
- Five pages pertaining to the retailer's licenses;
- Affidavits, letters, and Spanish translations of three employees indicating that they have been trained by the owner dated November 7 and November 8, 2019, from owner acknowledging that it trained its two employees;
- Affidavit from the store's previous owner;
- Nine customer statements;
- Price list;
- Sixty-six pages of receipts and invoices; and
- Forty-seven photographs of stock with its listed price.

The preceding may represent only a brief summary of the Appellant's contentions presented 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.

ANALYSIS AND FINDINGS

Store Visit

FNS authorized Arias Mini Market as a small grocery on March 30, 2017. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during an April 29, 2019, store visit 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 firm's irregular SNAP transactions. The store visit report and photographs documented the following store size, description, and characteristics:

- Arias Mini Market is approximately 650 square feet.
- The checkout space is small and limited.
- There were some shopping baskets but no shopping carts for customer use.
- There were one cash register and one point-of-sale device.
- There was no fresh unprocessed meat or poultry.
- There was packaged deli meat.
- Fresh produce was limited and included onions, potatoes, limes, plantains, and bananas.
- Dairy included milk, cheese, butter, and infant formula.
- There were some large bags of rice as well as large containers of oil.
- Other staple foods available for purchase were eggs, juice, rice, bread, beans, cereal, pasta, and a limited selection of canned goods.
- Much of the remaining stock consisted of accessory foods such as candy, spices, and carbonated and uncarbonated drinks.
- Ineligible items included health and beauty products, cleaning products, and paper products.

The highest priced items noted were Ensure - \$36.00; rice - \$21.00; corn oil - \$20.99, and infant formula -\$19.99. Given the available inventory as noted above, there is no indication from the

store visit report that the store would be likely to have SNAP redemption patterns significantly different from similar-sized competitors.

Charge Letter Attachments

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.

Charge Letter Attachment 1. There were an unusual number of transactions ending in a same cents value. During the review period, there were 146 SNAP transactions ending in a same cents value that meet the parameters of this attachment. When such patterns are unsupported by special pricing structures, they are a strong indicator of trafficking in SNAP benefits.

Appellant's, through counsel, that the firm's pricing structure is to price item that end in 99 cents. There were several prices listed that ended in 99 cents; however there were many items that were priced to end in different amounts. It is possible that some of the smaller transactions are the result of purchasing some same cent items and this could explain some of the lower dollar same cent transactions. However, the larger transactions cited in the charge letter would most likely consist of the purchase of several relatively inexpensive items and it is unlikely that these purchases would routinely total to an amount ending in same cents. Consequently, when many transactions end in a same cents amount, it appears that these transaction amounts are contrived and in the absence of compelling evidence to the contrary, are suggestive of trafficking. There was also no explanation provided for the 43 SNAP transactions that end in 49 cents.

Appellant failed to provide a credible explanation for the same cent transactions listed on Charge Letter Attachment #1.

Charge Letter Attachment 2: Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment documents 14 sets of transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** in SNAP benefits that meet the parameters of this scan. Multiple transactions conducted by the same household account within a short period of time is a method which violating stores use to avoid single high dollar transactions that cannot be supported by a retailer's inventory and structure.

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. Although it is not uncommon for customers to have more than one transaction per day, it is not common that such multiple transactions are for large dollar amounts. The second and third transactions in each set are too large to consist of forgotten items.

Counsel explains that customers normally make a test purchase of a qualified grocery item and then plan for future purchases. Their future purchase is normally made **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** of finding out how much money is remaining on their card.

However, none of the transaction sets occurred within 5 U.S.C. § 552 (b)(6) & (b)(7)(C) hours of each other and likely did not occur during the same visit. Moreover, this pattern is not as prolific in nearby stores. The Retailer Operations Division compared Appellant to three nearby small groceries. Appellant conducted 14 transaction sets that met the parameters of this scan, whereas the other two nearby stores collectively conducted three transaction sets that met the parameters of this scan. Appellant's explanation does not address why this transaction pattern occurs much more frequently at Appellant than at other nearby similar stores.

The Retailer Operations Division reviewed the SNAP transaction activity of some of the households that conducted these transactions, including the household that conducted two of the transaction sets (transactions #181, #182, #183, and #184). This household conducted transactions at supermarkets and super stores within one day of its flagged transactions at Appellant. 5 U.S.C. § 552 (b)(6) & (b)(7)(C). These households do not appear to rely on Appellant for all of its grocery needs. The transactions at Appellant were larger than what these households transacted at larger retailers that offered a better selection of fresh produce and fresh meat and poultry. The Retailer Operations Division considered this an indicator of trafficking.

Appellant has not offered convincing evidence to show that the transactions listed in Charge Letter Attachment #2 were legitimate purchases of eligible food.

Charge Letter Attachment 3: Excessively large purchase transactions were made from recipient accounts. This attachment lists 274 transactions 5 U.S.C. § 552 (b)(6) & (b)(7)(C). The frequency of high-dollar purchases in a six-month period calls into question the legitimacy of these transactions.

The Retailer Operations Division determined that Appellant's average SNAP transaction amount was greater than the state and county average of small groceries. Similarly Appellant's total SNAP redemption dollar value was greater than the average for small groceries in the State during the review period. There appears to be no basis for increased customer attraction to Appellant, there being no evidence of a great price advantage or special or custom services rendered. The available inventory of SNAP-eligible food items at the time of the visit showed stock that is primarily of low-dollar value staple foods or convenience foods. There were some higher priced items including large bags of rice, large containers of oil, and infant formula. However, there was no evidence submitted to suggest or support that these transactions were the result of the purchase of these larger dollar items. Since Appellant's available inventory of eligible food stock, these patterns are deemed to be suspicious.

The Retailer Operations Division compared Appellant to three other small groceries that were located nearby. The Retailer Operations Division determined that the transaction pattern of Appellant exceeded the three nearby small groceries.

5 U.S.C. § 552 (b)(7)(E)

The data from these nearby stores show that the transaction patterns at the Appellant firm were highly unusual and indicative of possible trafficking violations.

Counsel explains that traditional grocery stores are not readily available in the neighborhood that Appellant serves. Counsel further states that Appellant's customers are sometimes bound by transportation issues or health issues, for which reason some of them might only shop at this store as well. It is true that sometimes a firm may have higher than average SNAP transactions amounts due to the lack of access to other SNAP authorized stores. However, the Retailer Operations Division determined that there are 30 other authorized retailers located within a one-mile radius of Appellant including two supermarkets and six medium groceries.

The Retailer Operations Division examined six households identified in the charge letter to analyze their shopping patterns at Arias Mini Market compared to their shopping patterns at other SNAP authorized stores. Despite access to better stocked stores, each of the other households conducted excessively large transactions at Arias Mini Market within a short time of shopping at a supermarket or super store. It is questionable as to why households would conduct large transactions at Appellant, when these households had just visited or planned to visit larger stores with a better selection of fresh meat and produce and likely better prices. In fact, counsel acknowledges that Appellant charges higher prices than are offered at these larger stores. There is no compelling reason for customers to consider Arias Mini Market, as a first choice destination to fulfill large purchases of food.

Invoice Analysis

During the initial determination, the retailer submitted 93 inventory invoices/receipts. The Retailer Operations Division analyzed the invoices submitted by the firm. Only one month of the receipts were dated within the review period. The Retailer Operations Division reviewed all of the invoices and determined that based on the inventory invoices submitted by the retailer, the firm did not purchase sufficient inventory to support their SNAP redemptions during the review period. Even with a 60% mark-up, SNAP redemptions exceeded the inventory purchased

In support of its administrative review request, Appellant submitted 66 additional receipts and invoices. However, all of the invoices and receipts were dated after the review period and is not evidence that Appellant purchase sufficient inventory to support its questionable SNAP transactions during the review period.

Customer Statements

With its reply to the charges, Appellant submitted six customer statements to the Retailer Operations Division. The statements were handwritten and contained the household name, EBT number, and address. The Retailer Operations Division reviewed the SNAP transaction history each of these households. The Retailer Operations Division determined that each of the households conducted these flagged transactions while also shopping at supermarket and super stores. Thus, Retailer Operations Division determined that the customer statements are not sufficient evidence that many of the transactions listed on the Charge Letter were for eligible food items only.

With its review request, Appellant submitted nine letters from customers. Two of these households submitted statements with the initial reply to the charges. The Retailer Operations

Division reviewed the new affidavits submitted and found that they were similar to the statements previously submitted and was not sufficient evidence that the transactions were for eligible food items only.

Basis for Determination

Appellant cites 7 CFR § 278.6(d) in its contention that the store or its employees have not violated the SNAP rules and regulations. Appellant also states that the Appellant store has not had any violations of the SNAP regulations. The SNAP regulation at 7 CFR § 278.6(d) states, in part, that in making a disqualification determination FNS shall consider:

- (1) The nature and scope of the violations committed by personnel of the firm,
- (2) Any prior action taken by FNS to warn the firm about the possibility that violations are occurring, and
- (3) Any other evidence that shows the firm's intent to violate the regulations.

With regard to the nature and scope of the violations, trafficking in SNAP benefits is an extremely serious violation and both 7 U.S.C. § 2021(b)(3)(B) and 7 CFR § 278.6(e)(1)(i) state that a first time violation warrants a permanent disqualification. Therefore, whether or not the store had any prior violations is not relevant in this case.

Regarding prior warnings, 7 CFR § 278.6(d) simply requires FNS to consider any prior warnings when determining a sanction. However, the SNAP regulations do not require the Retailer Operations Division to give prior warnings before issuing a charge letter for trafficking. SNAP regulations at 7 CFR § 278.6(e)(7) states that FNS will “send the firm a warning letter if violations are too limited to warrant a disqualification.” Trafficking transactions are not considered to be “violations that are too limited to warrant a disqualification.”

Lastly, the definition of trafficking contained in the SNAP regulations at 7 CFR § 271.2 does not require an element of intent on the part of the violator. Therefore, whether or not the owner or store employees intended to commit SNAP trafficking violations is not relevant in this case. In addition, the store owner signed a certification that he would accept responsibility on behalf of the store and its employees for any violations; therefore, whether or not the store owner was aware of the violations, the store owner is ultimately responsible and accountable for violations committed at the store.

Evidence

Counsel contends that there are no guidelines under SNAP rules that state the original alleged violations are even violations and that just because the ALERT system attempts to signify that the three trafficking allegations are irregular does not mean these allegations hold weight. The transactions reports are derived from the ALERT system, a computerized fraud detection tool to identify SNAP transactions that form patterns having characteristics indicative of trafficking. However, this tool does not by itself determine or conclude that trafficking has occurred. The Retailer Operations Division must still conduct an extensive analysis of the transaction data and patterns, often with other factors such as, in this case, observations from store visits, an analysis

of customer shopping behavior and a comparison of stores in the area, and render a determination whether the questionable transactions were, more likely than not, the result of trafficking.

The legality of this method is supported by 7 CFR §278.6(a) which states, inter alia, “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, **evidence obtained through a transaction report under an electronic benefit transfer system**” [Emphasis added.]

The documentation and evidence provided by the Retailer Operations Division was thoroughly examined. From all indications, the Retailer Operations Division obtained the EBT data (provided by ALERT), found it to be suspicious in comparison to other area stores of similar size, and then undertook a thorough investigation before concluding that trafficking was likely occurring.

Appellant bears the burden of demonstrating by a preponderance of the evidence that the administrative actions should be reversed and that the transactions detailed in the charge letter were more likely than not due to the legitimate sale of eligible food in exchange for SNAP benefits. Appellant offered insufficient evidence to prove that the transactions listed in the Charge Letter were legitimate purchases of eligible food. In the absence of compelling information or documentation weighed in comparison to the evidence provided by the Retailer Operations Division, the evidence weighs in favor of the Retailer Operations Division’s determination that SNAP-benefit trafficking substantially produced the transaction activity at issue in the present case.

CIVIL MONEY PENALTY

Counsel explains that upon the second occasion of trafficking involvement, a firm shall not be eligible for a civil money penalty and implies that a firm is eligible for a CMP upon its first trafficking charge. It is true that the regulations prohibit a retailer from qualifying for a CMP when it is their second violation of trafficking. However, on the first charge of trafficking, a retailer can request a CMP but still needs to meet the eligibility requirements for a trafficking 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 ten 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. Appellant requested consideration for a trafficking CMP in lieu of a permanent disqualification under 7 CFR § 278.6(i), however it was submitted 22 days after the charge letter was received.

With its administrative review request, Appellant through counsel, again requests a CMP. Counsel contends that Appellant has implemented an effective compliance policy and that

Appellant provide verbal training, in-store training, and a copy of the manual to all employees. Counsel also reports that a photocopied booklet made in-house is provided to each of its employees and that issues concerning EBT processing are addressed quarterly. Appellant submitted letters from employees stating that it received training. Appellant submitted an affidavit from its accountant that it explained the store hung all the necessary posters

There is no authority to extend the deadline for making a request for a CMP and submitting the required evidence of its eligibility for this alternative penalty. The regulations are clear that a request for a CMP in lieu of permanent disqualification and any supporting documentation must be submitted to FNS within 10 days of the firm's receipt of the charge letter. In this case, Appellant did not meet this regulatory deadline. Therefore, the Retailer Operations Division's decision not to impose a trafficking CMP in lieu of disqualification is sustained as appropriate pursuant to 7 CFR § 278.6(i).

CONCLUSION

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

The Retailer Operations Division also determined that Appellant was not eligible for a trafficking civil money penalty according to the terms of 7 CFR Section 278.6(i) of the SNAP regulations. Under review, the denial of a trafficking CMP is also correct.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this decision are set forth in 7 USC § 2023 and 7 CFR § 279.7. 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 the Appellant's owner resides or is 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, 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.

MARY KATE KARAGIORGOS
Administrative Review Officer

April 30, 2020