

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

**Central Market #1,**

**Appellant,**

**v.**

**Case Number: C0212774**

**Retailer Operations Division,**

**Respondent.**

**FINAL AGENCY DECISION**

The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) finds that there is sufficient evidence to support the determination by the Retailer Operations Division (“ROD”) to impose a permanent disqualification from participating as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) against Central Market #1 (“Appellant”).

**ISSUE**

The purpose of this review is to determine whether the ROD took appropriate action, consistent with Title 7 of the Code of Federal Regulations (CFR) § 278.6(a), (c) and (e)(1)(i), when it imposed a Permanent Disqualification against Appellant on January 30, 2019.

**AUTHORITY**

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

**CASE CHRONOLOGY**

In a letter dated October 10, 2018, the ROD charged Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations. This charge was based on a series of SNAP transaction patterns that “establish clear and repetitive patterns of unusual, irregular, and inexplicable activity for your type of firm.” This letter of charges states: “As provided by Section 278.6(e)(1) of the SNAP regulations, the sanction for trafficking is permanent disqualification.” The letter

also states that “. . . under certain conditions, FNS may impose a civil money penalty (CMP) . . . in lieu of a permanent disqualification of a firm for trafficking.”

Appellant replied to the ROD’s charges in writing. The record reflects that the ROD received and considered the information provided prior to making a determination. The ROD determined that Appellant’s contentions did not outweigh the evidence that the store was trafficking. Based on the preponderance of evidence, the ROD concluded that trafficking is the most probable explanation for the questionable transactions listed in the charge letter attachments.

The ROD issued a determination letter dated January 30, 2019. This letter informed Appellant that it was permanently disqualified from participation as an authorized retailer in SNAP in accordance with Section 278.6 (c) and 278.6(e)(1) for trafficking violations. The letter also states the ROD considered Appellant’s eligibility for a trafficking civil money penalty (CMP) according to the terms of Section 278.6(i) of the SNAP regulations. The ROD determined that Appellant was not eligible for the CMP because Appellant had not submitted sufficient evidence to demonstrate that it had established and implemented an effective compliance policy and program to prevent SNAP violations.

On February 11, 2019, Appellant, through counsel, appealed the ROD’s determination and requested an administrative review of this action. The appeal was granted.

## STANDARD OF REVIEW

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

## CONTROLLING LAW

The controlling law in this matter is contained in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and implemented through regulation under Title 7 CFR 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 in the event that personnel of the firm engaged in trafficking of SNAP benefits.

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, evidence obtained through a transaction report under an **electronic benefit transfer system** . . . .

(Emphasis added.)

7 CFR § 278.6(a) states, in part:

Any firm considered for disqualification ... under paragraph (a) of this section... shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification. The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter . . .

7 CFR § 278.6(c) reads, in part:

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) of this section, 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, regardless of whether a request for review is filed in accordance with part 279 of this chapter.

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

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

Trafficking is defined in 7 CFR § 271.2, 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”

Also at 7 CFR § 271.2, eligible food is defined as:

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 § 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.

### **SUMMARY OF CHARGES**

The charges under review were based on an analysis of SNAP Electronic Benefit Transfer (EBT) transaction data during the period from March 2018 through August 2018. This analysis identified the following patterns of SNAP transaction activity that indicate trafficking:

- An inordinate number of transactions ending in same-cents values; and,
- Excessively large transactions.

The attachments enclosed with the charge letter specify the questionable and unusual SNAP transactions indicative of trafficking which were conducted at Appellant during the review period.

### **APPELLANT'S CONTENTIONS**

Appellant's responses regarding this matter are essentially as follows:

- Appellant denies the allegations.
- Appellant has not had a previous problem with SNAP compliance.
- Appellant provides a full line of grocery items.
- Appellant does not have a hot food station. Appellant prepares food after it is purchased by its customers. This is permitted under SNAP regulations.
- Appellant prepares food after it is purchased by its customers.
- There was no eye-witness evidence. The computer algorithms are not applicable to this type of high-volume store.
- Appellant's transactions are not excessively large considering a family of four averages 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in weekly food purchases.
- Appellant sells a variety of food priced between \$1.99 and \$65.99. These prices change regularly.
- The largest transactions were special orders for a family events.
- Same cents transactions are due the purchase of multiple food items ending in 99 cents or even-dollar amounts.
- The response to Appellant's FOIA response denies the firm due process. Very large portions of the documents were redacted. Appellant provided the documents received through the FOIA process.
- Only 6 of 1459 decisions were overturned on administrative review according to the 2015 SNAP Retailer Management Report.

In support of its contentions, Appellant provided the following documentation:

- ~20 store pictures;
- A two-page article on dining out trends;
- USDA's average cost of food at home from September 2018; and,
- Four pages of register receipts.

These explanations may represent only a brief summary of Appellant's contentions. However, in reaching a decision, full consideration has been given to all contentions presented, including any others that have not been specifically listed here.

## **ANALYSIS AND FINDINGS**

Regarding Appellant's denial of violations, this review examines the relevant information regarding the determination. Once the ROD establishes trafficking occurred, Appellant bears the burden of providing relevant evidence to support a conclusion, considering the record as a whole, that that it did not engage in trafficking. If this is not demonstrated, the case will be sustained. Without supporting evidence and rationale, assertions that the firm has not violated program rules do not constitute valid grounds for overturning the determination.

### **Store Characteristics**

In reaching a disqualification determination, the ROD considered information obtained during a September 21, 2018 store visit conducted by a USDA contractor to observe Appellant'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 documented the following store size, description, and characteristics:

- Store size is approximately 1,900 square feet with no area of food storage outside of public view;
- Available inventory of SNAP-eligible food items showed stock composed predominantly of inexpensive items, which is typical of a convenience store;
- Only one cash register and one electronic SNAP terminal device;
- No shopping carts or hand baskets;
- No scanners or conveyor belts;
- No evidence of a wholesale business such as posted prices or separate entrances for wholesale customers; and,
- No meat or seafood specials or bundles.

In addition, the store's checkout counter space area was cluttered and small allowing very little surface area to place large purchases and making it impractical to process more than one customer at a time.

There was no indication that SNAP households were inclined to visit the store regularly to purchase large quantities of grocery items. Contrary to Appellant's contention that it provides a

full line of grocery items, the available food was primarily of a low-dollar value and there was no hint that the firm sold items in bulk. Given the available inventory, there was no sign that Appellant would be likely to have SNAP redemption patterns that differed significantly from those of similarly-sized competitors.

### **Same-Cents Transactions**

An interesting characteristic of questionable transactions is that many of them end in a same-cents value. Sets of repeating digits are highly unorthodox and do not regularly occur in legitimate transactions; such transaction structuring is a common hallmark of trafficking activity. In the absence of any compelling rationale to the contrary, these patterns strongly indicate that the firm is trafficking in SNAP benefits.

Attachment 1 to the charge letter documents transactions ending in same-cents values. A review of the store visit record indicates that the store did not promote any specials that could explain the pattern of large numbers of transactions ending in these values. This attachment includes 1884 same-cents transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

There were a total of 5,459 SNAP transactions that met the parameters of this attachment. Of these transactions, a total of 287 (5%) ended in “97” cents, 787 (14%) ended in “98” cents, and 810 (15%) ended in “99” cents. Same-cents values comprised ~34% of all these SNAP transactions conducted by the firm during the six-month review period. In other words, more than one out of every three of these transactions was a transaction ending in “97”, “98”, or “99” cents.

Appellant contends same-cents transactions are due the purchase of multiple food items ending in “99” cents or even-dollar amounts. The prices evident in the store visit photos show a pricing structure typical of convenience stores, where items are often priced to end in “.x9” cents. With such a pricing structure, it is unlikely for transactions to naturally end in “97”, “98”, or “99” cents with the frequency they occurred during the review period. The store photos show a variety of items, like drinks, that end in “.x9” cents but not “99” cents. Even if many of Appellant’s prices were to end in “99” cents, the purchase of even a single additional item that was not priced at “99” cents or an even-dollar amount would rule out these types of even-dollar transactions.

Patterns of transactions ending in same-cents amounts indicate that SNAP transaction amounts are 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. That various customers each repeatedly had totals with identical cents values during the review period strains the credibility of Appellant’s declaration that this activity reflected the acceptance of SNAP benefits in exchange for eligible food items. As Appellant has offered no rational explanation for why such patterns might exist, it is reasonable to conclude that these same-cents transactions are the result of trafficking.

## Availability of Alternative Stores

The record reflects that customers conducting rapid, repetitive, and large transactions at Appellant frequently spent SNAP benefits at better-stocked and more competitively-priced grocery stores, sometimes on or about the same day they shopped at Appellant.

The Case Analysis Document identifies much a large grocery store with more reasonable prices located within one mile of Appellant. There is no basis for unusually high customer attraction to Appellant, there being no great price advantage, profusion of ethnic goods, or special or custom services rendered.

## Large Transactions

Appellant also reported a family of four typically spends **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** per week on food. The supporting documentation provided by Appellant shows the cost to purchase a nutritious diet at different income levels; not actual average amounts spent by SNAP households on food. While SNAP participants may occasionally make large purchases, it is rare for such purchases to occur at a convenience store. The food stock and facilities of Appellant as reported in the store visit documentation do not appear sufficient to provide for all of one's food needs. People generally do not spend large sums at such stores. They usually stop at convenience stores to pick up a few staple food items, such as bread, milk, or a can or two of food that they may consider are not worth a trip to the supermarket to purchase. It is rare for a convenience store such as Appellant's to have purchases like those included in Attachment 2 to the charge letter. This attachment cites 1354 EBT transactions during the six-month period of investigation **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

These transactions significantly exceed the county's average SNAP transaction, which was \$6.18 for this type of store during the six months of the review period.

**5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. Appellant's average transaction is significantly higher than the county's average transaction. As previously stated, Appellant has a limited food stock typical of a convenience store and does not have any features that would induce people to spend substantially more than the typical convenience store purchase amount.

Its large transactions during the review period were also much more frequent than those of similar stores in the county. **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

Additionally, the Case Analysis Document contains a comparison of Appellant's redemption activity during the analysis period to the four other SNAP-authorized convenience stores located within one mile. Appellant's SNAP redemptions during the analysis period ranged from over 2.5 to over 8 times that of the nearby comparable firms.

Based on the store layout, infrastructure, and available inventory, it is not credible that the Appellant would so frequently conduct large transactions closely resembling those typically found at a supermarket or superstore. It is not plausible that the firm's customers would regularly carry very large amounts of merchandise around the store without the benefit of shopping carts or shopping baskets, especially since larger, better-stocked stores are readily available and in the

vicinity of the Appellant firm. Appellant is not set up to process high-dollar transactions, as indicated by its lack of equipment to facilitate large transactions and limited counter space. There are no legitimate bases for SNAP customers' unusual attraction to the firm such as a superior selection of staple foods, price advantages, package specials, bulk or promotional items, an extensive variety of otherwise unavailable ethnic food items, or special services rendered. Appellant failed to provide convincing evidence to establish the legitimacy of these excessively large transactions, such as itemized cash register receipts. Based on all of these factors discussed in this section, the large volume of transactions for high-dollar amounts is unlikely to indicate a pattern of legitimate food purchases.

### **Expensive Offerings**

Appellant asserts it sells expensive items costing up to \$65.99 which explain the large purchases. Appellant alleges it does not have a hot food station. Further, Appellant states it cooks food after it is purchased by its customers, and that dining out is on the rise. Appellant also states that the largest transactions were special orders for a family events. The evidence does not support these contentions.

Appellant did not provide any evidence in support of its contention that its largest transactions were special orders. An unsubstantiated argument such as this does not provide a valid basis for dismissing the charges or for mitigating the penalty imposed.

Appellant seems to be confusing a "hot food station" with a buffet. Appellant does sell hot food, and its meal packages do cost up to \$65.99. A firm with a majority of its sales in prepared foods, including those cooked after purchase, would be considered a restaurant and ineligible to be a SNAP retailer. There was no signage at the firm indicating SNAP customers could purchase certain items raw, and then have the firm cook these items. Such a practice would be unusual, given some of the items on Appellant's menu ("build your own omelet"). Even if Appellant was selling prepared foods with SNAP benefits, a review of the food available for Appellant's hot food operation did not appear sufficient to explain the volume of large SNAP transactions. Appellant did not provide any invoices in support of its contentions that its transaction activity was due to sales of eligible foods.

At the time of the store visit, the only items sold by the store that cost more than \$5 were infant formula. However, it would be unusual for a SNAP household to purchase baby formula with SNAP benefits, as households who participate in SNAP are eligible to participate in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). WIC has a more lenient income threshold for participation - and a higher participation rate of eligible participants than SNAP. WIC provides participants with vouchers for baby formula as well as other staple items, such as orange juice and cereal.

While there may have been occasions when Appellant sold expensive items, based on the low price of these eligible items relative to the large transactions, evidence from the store visit, and lack of corroborating receipts or invoices, it is more likely true than not true that the sale of expensive items does not explain the large SNAP transactions that occurred at Appellant.



Trafficking is a more likely explanation for the unusual and irregular pattern of high-dollar transactions.

### **No Applicable Mitigating Factors**

Appellant asserts that this is the first time there has been an issue related to SNAP. A record of program participation with no documented previous violations, however, does not constitute valid grounds for mitigating the impact of the present serious determination of trafficking.

Neither the Food and Nutrition Act of 2008, as amended, nor the accompanying regulations cite any minimum dollar amount of cash or SNAP benefits, or number of occurrences, for such exchanges to be defined as trafficking. Nor do they cite any degrees of seriousness pertaining to trafficking of SNAP benefits. Trafficking is always considered to be extremely serious, even when the exchange of SNAP benefits for cash is dollar-for-dollar or is conducted by a non-managerial store clerk. This is reflected in the Food and Nutrition Act, which reads, in part, that disqualification "shall be permanent upon . . . the first occasion of a disqualification based on . . . trafficking . . . by a retail food store." In keeping with this legislative mandate, § 278.6(e)(1)(i) of the SNAP regulations states that FNS must disqualify a firm permanently if personnel of the firm have trafficked. There is no agency discretion in the matter of what sanction is to be imposed when trafficking is involved.

### **Receipts**

Appellant provided four pages of register receipts to support the validity of its transactions. However, the register receipts provided by Appellant contain unusual characteristics that call into question the legitimacy of these receipts. The register receipts do not explain the questionable transactions at Appellant.

### **Evidence of Trafficking**

Appellant argues there is no eye-witness evidence or proof of trafficking. As previously stated, 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, **evidence obtained through a transaction report under an electronic benefit transfer system** . . . (Emphasis added.)

Government analyses of stores caught in trafficking violations during on-site investigations found that transactions involving trafficking consistently display particular characteristics or patterns. These patterns include those cited in the letter of charges. FNS employs a computerized fraud detection tool to identify these patterns. This tool does not determine that trafficking has occurred. The ROD must still analyze the transaction patterns, along with other information such as store visit observations, customer shopping patterns, and comparative data from nearby stores.

Only then does the ROD conclude whether questionable transactions were, more likely than not, the result of trafficking. Nevertheless, transactions with these patterns sometimes have valid explanations that support the idea they were the result of legitimate purchases of eligible food items, which is why opportunities are given to charged retailers to explain the questionable transactions cited. In this case, based on the empirical data of past trafficking investigations, the number of suspicious patterns displayed, the other evidence in the file, and in the absence of any reasonable explanations for such transaction patterns, the preponderance of the evidence supports that the “unusual, irregular, and inexplicable” transactions and patterns cited in the letter of charges are the result of trafficking.

### **No Denial of Due Process**

Appellant contends that the redacted response to Appellant’s FOIA response denies the firm due process. In this regard, the permanent disqualification of Appellant by the ROD is neither a criminal nor a civil action, but rather an administrative action imposed against the firm as a result of trafficking violations. Section 278.6(b)(1) of the SNAP regulations states that upon charging a firm with SNAP violations, the letter informing the firm of the charges “shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter.” Appellant has been advised of its right to pursue an appeal of the redactions in the response to its FOIA request through a different process.

FNS’s due process procedures include two levels of review. First, the retailer is afforded an opportunity to reply to the charges leveled by the ROD. The regulations at 7 CFR § 278.6(c) state: in the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section . . . 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, regardless of whether a request for review is filed in accordance with part 279 of this chapter.

After the determination letter is issued, the second level of due process involves an administrative review. Appellant availed itself of this option and in the process of which Appellant was granted 21 days to provide additional information in support of the request for review. Appellant took advantage of this opportunity and provided additional information.

Appellant argues that the administrative review process is flawed, as only 6 of 1459 decisions were overturned on administrative review according to the 2015 SNAP Retailer Management Report. Reversals are only one very small portion of the cases that are not upheld during administrative review. There are a number of outcomes in the administrative review process that could result in the reduction or elimination of a firm’s sanction. As stated in the 2015 SNAP Retailer Management Report, 88 percent of sanctions were upheld through administrative review. Of those that were not upheld, the most common reason was that new evidence was provided on administrative review which, if the ROD had previously had this evidence, would have influenced their earlier determination. This evidence was shared by the administrative review officer with the ROD, prompting the ROD to withdraw the original determination.

The purpose of the administrative review process is to ensure that a firm aggrieved by FNS's adverse actions has the opportunity for their position to be fairly considered by an impartial reviewing authority prior to that adverse action becoming final. Through the administrative review process, Appellant has been duly given, and has taken, the opportunity to present any evidence and information it deemed as pertinent in support of its position that the ROD's adverse action should be reversed. All evidence and information that Appellant presented to the ROD, as well as any such information submitted subsequently, have now been considered in this administrative review prior to rendering the final agency decision. The firm provided no additional records during the administrative review that would establish that the suspicious transactions were legitimate purchases. The record does not indicate any departure from established procedures with regard to Appellant's right to a fair and thorough review. Appellant has exercised its opportunity to reply to the charge letter and its administrative review rights. By doing so, it has availed itself of the full complement of the agency's statutory obligations with regard to due process.

### **Summary**

The ROD determined that Appellant likely trafficked in SNAP benefits. The charges of violations were based on the ROD's assessment that substantial evidence exists that the questionable transactions occurring during the review period displayed patterns inconsistent with legitimate sales of eligible food to SNAP participants. The evidence the ROD considered in support of its determination included:

- The irregular SNAP transaction data of Appellant as compared to similar stores;
- Observations made during an store visit by a USDA contractor, including the inadequacy of the firm's staple food stock to support such large transactions;
- The availability of other SNAP-authorized stores located close to Appellant; and,
- Shopping behaviors of Appellant's customers.

The transaction data and overall firm record demonstrate the patterns of unusual, irregular, and inexplicable SNAP activity for this firm is likely the result of trafficking.

Upon review, Appellant failed to prove by a preponderance of the evidence that the administrative action should be reversed. Appellant provided inadequate explanations for the suspicious transactions and insufficient evidence to legitimize its transaction data. It has not convincingly rebutted the ROD's determination that Appellant most likely trafficked in SNAP benefits. The SNAP regulations are specific with regard to the action that must be taken if personnel of the firm have trafficked, which is that FNS must disqualify the firm permanently.

### **CIVIL MONEY PENALTY**

For a firm to have the opportunity to be considered for a civil money penalty (CMP), it must request that FNS consider a CMP in lieu of permanent disqualification and submit supporting documentation within ten days of receipt of the charge letter. Appellant was advised of these provisions in the charge letter of October 10, 2018. The regulations specify that such supporting

documentation must demonstrate that the firm had established and implemented an effective SNAP compliance policy and training program prior to the occurrence of violations. A review of the administrative record indicates Appellant did not, at any time, request a CMP. Appellant also did not submit any documentation to support its eligibility for this alternative sanction, before or after the deadline.

In the absence of a request for a CMP and any supporting documentation, a CMP was not assessed by the ROD. According to the requirements stated in 7 CFR § 278.6(b)(1), § 278.6(b)(2)(ii and iii), and § 278.6(i), Appellant is not eligible for a CMP in lieu of a permanent disqualification from participation as an authorized retailer in SNAP. The determination by the Retailer Operations Division to deny Appellant a civil money penalty is sustained.

### **CONCLUSION**

The record has yielded no indication of error in the finding by the Retailer Operations Division that Appellant trafficked in SNAP benefits. A review of the evidence supports that it is more likely true than not true that program violations occurred as charged. Based on the discussion above, the determination by the Retailer Operations Division to impose a permanent disqualification against Central Market #1 from participating as an authorized retailer in SNAP is sustained.

### **RIGHTS AND REMEDIES**

Applicable rights to a judicial review of this decision are set forth in 7 U.S.C. § 2023 and 7 CFR § 279.7. If Appellant desires a judicial review, the complaint must be filed in the U.S. District Court for the district in which Appellant's owner resides, is engaged in business, or in any court of record of the State having competent jurisdiction. This complaint, naming the United States as the defendant, 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.

RICH PROULX  
Administrative Review Officer

April 8, 2019