

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

Community Food Store,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0230414

FINAL AGENCY DECISION

It is the decision of the USDA that there is sufficient evidence to support that the Retailer Operations Division properly imposed a permanent disqualification of Community Food Store as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP).

ISSUE

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

AUTHORITY

7 U.S.C. § 2023 and its 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 July 8, 2020, the 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 October 2019 through March 2020. The letter noted that the penalty for trafficking is permanent disqualification as provided by 7 CFR § 278.6(e)(1). The letter stated the Appellant had the right to respond to the charges within 10 days of receipt to provide explanations for the irregular SNAP transaction patterns. The letter also stated 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). The charge letter was delivered to the Appellant by UPS on July 10, 2020.

The Appellant, through counsel, contacted the Retailer Operations Division on July 13, 2020 and requested an extension of time to respond to the charge letter. The Retailer Operations Division granted the request but noted that an extension of time could not be granted to request a trafficking CMP under 7 CFR § 278.6(i).

The Appellant, through counsel, responded to the charges in an email dated August 17, 2020. The Appellant stated, among other contentions, that the transactions identified in the charge letter was explainable by local conditions and the normal shopping habits of store customers. The Appellant provided a list of food items that could have been purchased for each transaction. The Appellant also provided pictures of the store and stated that the store's food inventory could support the transactions cited in the charge letter.

After considering the evidence and the Appellant's response, the Retailer Operations Division issued a determination letter dated September 1, 2020. The letter informed the Appellant it was permanently disqualified from the SNAP in accordance with 7 CFR § 278.6(c) and 7 CFR § 278.6(e)(1). The determination letter also stated that the Retailer Operations Division considered the Appellant's eligibility for a trafficking CMP according to the terms of 7 CFR § 278.6(i). The Retailer Operations Division determined that the Appellant was not eligible for a trafficking CMP because the 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. The determination letter was delivered to the Appellant by UPS on September 4, 2020.

In a letter postmarked September 8, 2020, the Appellant, through counsel, requested an administrative review of the Retailer Operation Division's determination. The request for administrative review was granted.

STANDARD OF REVIEW

In appeals of adverse actions, an appellant bears the burden of proving by a preponderance of the evidence, that the administrative action should be reversed. That means an 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 AND REGULATIONS

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

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

... a disqualification under subsection (a) shall be ... permanent upon ... the first occasion or any subsequent occasion of a disqualification based on the purchase of

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 § 278.6(e)(1)(i) states:

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

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 § 271.2 defines eligible food, in part, as:

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

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(i) states, in part:

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

7 CFR § 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).

SUMMARY OF CHARGES

The Appellant was charged and determined to be trafficking based on an analysis of electronic benefit transfer (EBT) transaction data from October 2019 through March 2020. This involved the following transaction patterns which are trafficking indicators:

- **Charge Letter Attachment 1:** Multiple transactions were made from accounts of individual SNAP households within a set time period. 5 U.S.C. § 552 (b)(6) & (b)(7)(C)
- **Charge Letter Attachment 2:** Large SNAP transactions were made from recipient accounts based on the observed store characteristics and recorded food stock. 5 U.S.C. § 552 (b)(6) & (b)(7)(C)

APPELLANT'S CONTENTIONS

The Appellant made the following summarized contentions in its response to the charge letter and its request for administrative review, in relevant part:

- Community Food Store is a well-established presence in a predominantly low-income black neighborhood. The store has over six (6) hand-held shopping baskets and four (4) shopping carts to accommodate any large scale transactions.
- Food sales at convenience stores in South Florida are normally of much lower amounts; however, there are exceptions to the statistical norm. Small scale/mom and pop food stores embedded in very low income communities in South Florida will have customers who spend large amounts of their benefits on accessory foods or will purchase foods for other individuals.
- If a store is able to show that it has sufficient food inventory to support its SNAP transactions and provide examples of what could have been purchased to amount to such a dollar value, the government should not be allowed to conclusively determine that trafficking must have resulted based on high dollar sales.
- The store owner has no discretion or control over the customers' choice of what eligible items to purchase or in what amounts. SNAP regulations do not impose any restrictions on how frequently a customer may visit a store; or whether household members having access to the EBT card, may use it to purchase food items, independently, of other members also using the benefits.
- Often times multiple individuals from the same household may use SNAP benefits on the same day. In Charge Letter Attachment 1, there are 30 sets of transactions of which 70 percent involve only two (2) transactions occurring on the same calendar day. This is not unusual or otherwise suspicious with regard to typical shopping habits of customers residing in close proximity to a food store. If trafficking was occurring, there would be an

overall greater amount of transactions at higher dollar value ranges than what is shown in Charge Letter Attachment 1.

- The SNAP transactions in Charge Letter Attachment 1 do not involve SNAP recipients engaging in multiple purchases occurring in rapid succession; or at time intervals that would undoubtedly cast suspicion as being trafficking events. Out of the 30 transaction sets, there are only six (6) sets of transactions that occurred **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. None of the transaction sets appear to be out of alignment with legitimate sales that typically occur with households residing close to a food store, who return, with great frequency, to purchase more food items.
- In Charge Letter Attachment 2, over 73 percent of transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. Less than 14 percent involve dollar amounts ranging **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. The larger dollar transactions reflected in this attachment are not beyond the norm of sales that can result from stock inventory during the review period. The photographs provided by the store confirm that there is a sufficient level of food stock to support the large dollar transactions. The photographs also clearly show that there is sufficient counter space at the checkout area, to adequately process such transactions.
- The store has a sufficient level of food stock to support the larger dollar value sales transactions referenced in Charge Letter Attachment 2. In addition to snack and accessory foods, the store sells higher dollar food items including bags of rice (\$27.99-\$28.99) beans (\$27.99) cooking oils (ranging from \$8.99 up to \$21.99) infant formula (\$27.99-\$39.99) and bulk case beverages such as Red Bull, Monster Energy, Nutrament, Sports Shake, Mystic Juices all ranging from \$14.99 to \$18.99.
- The store made total food purchases exceeding **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** during the review period and, with an additional 40 percent markup, that would be more than enough to cover the store's SNAP redemptions during the review period.
- The store will likely have to close if it is permanently disqualified from the SNAP. This will negatively impact not only the store owner but also the local SNAP community which relies upon the store as a readily available food resource especially under current conditions relating to the COVID-19 pandemic.

The preceding may represent only a brief summary of the Appellant's contentions presented in this matter. Please be assured, however, in reaching a decision, full attention was given to all contentions presented, including any not specifically recapitulated or specifically referenced herein.

ANALYSIS AND FINDINGS

Authorization and Compliance History

The Food & Nutrition Service (FNS) authorized Community Food Store for the SNAP on June 22, 2017. During the review period, the Retailer Operations Division classified the store as a convenience store based on reported sales and observed store inventory.

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

Store Visit Report

The case record documents that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a June 20, 2020 store visit conducted by an FNS contractor to observe the nature and scope of the store's operation, stock and facilities. This information was then used to ascertain if there were justifiable explanations for the store's irregular SNAP transactions. The store visit report and photographs documented the following store size, description, and characteristics:

- Community Food Store is approximately 1,200 square feet in size according to store personnel. The store had a storage area which mostly contained alcoholic beverages and a smaller amount of carbonated and non-carbonated drinks.
- The store did not have any handheld baskets and only a single shopping cart for customer use.
- The store had two (2) cash registers and one (1) point-of-sale device for purchases. The store did not have an optical scanner at the checkout. There was no conveyor belt at the checkout area.
- The checkout area consisted of a small window opening in a Plexiglas barrier. There was no counter or ledge on the outside of this barrier for customers to stack purchases. The lack of space for stacking food at the checkout area made it not conducive to conducting transactions consisting of more than a few hand-carried items.
- There was no indication that the store sold food in bulk or sold expensive international or specialty foods that might sell for a high price. There were no promotional signs or flyers advertising bulk sales.
- The store had some shelves which were not fully stocked.

The SNAP eligible staple food stocked by the store consisted mainly of inexpensive canned and packaged goods. The store also sold a large amount of inexpensive accessory food items such as snack foods, ice cream, candy, potato chips, coffee, tea, carbonated and non-carbonated drinks, condiments, and spices. The ineligible items sold by the store included lottery tickets, tobacco, alcohol, automotive products, health and beauty aids, paper goods, cleaning products and general houseware.

At the time of the store visit, store personnel identified the four (4) most expensive food items sold by the store as:

- Three (3) stocking units of Red Bull at \$18.99 per 12-pack;
- Six (6) stocking units of Folgers coffee at \$6.99 per eight (8) ounce can;
- Ten plus (10+) stocking units of Carlini vegetable oil at \$6.99 per gallon;
- Three (3) stocking units of Gerber rice cereal at \$5.49 per 16 ounce package.

Given the available inventory and store layout as noted above, there is no indication from the store visit report that the store would be likely to have SNAP transaction patterns significantly different from similar-sized competitors offering similar food items.

The Appellant provided undated photographs taken after the issuance of the charge letter which indicate that the store has since stocked up by adding more expensive foods items in greater quantities and adding handheld shopping baskets and additional shopping carts. These photographs have little to no probative value as they do not accurately reflect store conditions during the review period prior to the issuance of the charge letter.

Trafficking Case Based on Irregular Transaction Patterns

The Appellant contends that it should be a standard of review, that if a store is able to show that it has sufficient food inventory to support its SNAP transactions and provide examples of what could have been purchased to amount to such a dollar value, the government should not be allowed to conclusively determine that trafficking must have resulted based on high dollar value sales.

With regard to these contentions, FNS employs 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 analyze 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. It should also be emphasized again that this administrative review is based on a **preponderance of the evidence** standard.

The legality of this method is supported by 7 CFR §278.6(a) which 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.]

Multiple Transactions by the Same Household within a Set Time Period

It is true that SNAP households have no limit on the number of times they may use their SNAP cards or how much eligible food they may purchase. However, 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 this convenience store’s stock, conditions and facilities and are thus indicative of trafficking.

Violating stores often conduct multiple split transactions from the same household account as a method to avoid the detection of single high-dollar transactions that cannot be supported by the retailer’s inventory and conditions. This irregular transaction pattern often involves a store that is purchasing a card or PIN from the SNAP recipient in order to run transactions at the store at various times during the day. **5 U.S.C. § 552 (b)(6) & (b)(7)(C) and 5 U.S.C. § 552 (b)(7)(E)**

The Appellant states that there are 30 sets of transactions of which 70 percent involve only two (2) transactions occurring on the same calendar day. However, these two-transaction sets are in fact indicative of trafficking. **5 U.S.C. § 552 (b)(6) & (b)(7)(C) and 5 U.S.C. § 552 (b)(7)(E)**

The Appellant opines that if trafficking was occurring, there would be an overall greater amount of transactions at higher dollar value ranges than what is shown in Charge Letter Attachment 1. However, the irregular transaction patterns identified in the charge letter is actually typical of a retailer that is attempting to mask or disguise large dollar transactions by splitting them so that individually they do not look as large.

The Appellant contends that, out of the 30 transaction sets, there are only six (6) transaction sets that occurred **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. The Appellant further states that none of these transactions involved SNAP recipients engaging in multiple purchases occurring in rapid succession; or at time intervals that would undoubtedly cast suspicion as being trafficking events. The Appellant is correct that these transactions are not indicative of rapid and consecutive transactions. However, rapid and consecutive transactions are an entirely different type of trafficking pattern and the Appellant was not charged with conducting rapid and consecutive transactions in this case.

5 U.S.C. § 552 (b)(6) & (b)(7)(C) and 5 U.S.C. § 552 (b)(7)(E)

The Appellant provided a list of food items that **could** have been purchased for each transaction in Charge Letter Attachment 1. However, this information is merely speculation on the Appellant's part and is not actual evidence of what was purchased. In addition, some of these alleged food items and amounts provided by the Appellant exceed the documented highest priced items identified during the store visit. For example, the store visit did not document that Community Food Store carried bags of rice at \$24.99 (Appellant's transaction 9) or Enfamil at \$18.95 (Appellant's transaction 28). Instead, the most expensive item identified by store personnel during the store visit was three (3) stocking units of Red Bull at \$18.99 per 12-pack. As this item was not available in large quantities, it does not appear sufficient to explain the transaction patterns identified in Charge Letter Attachment 1.

The Appellant states that it is not unusual for family members to come back during the day to make additional purchases. Regarding this contention, it is true that sometimes household members may come back to purchase additional items especially if an item or two was forgotten during a previous visit to the store. However, the transactions cited in the charge largely consisted of second or subsequent transactions which greatly exceed the average transaction of a Broward County, Florida convenience store during the review period.

The Appellant states that some SNAP recipients allow others to use their card or they themselves use the card for other families. However, the Appellant offers no reliable evidence to support this. A SNAP household is defined as a household that purchases and prepares meals together. Households that purchase and prepare meals separately are considered separate households. It is unlikely that a family relying on SNAP to supplement their nutritional needs would share these benefits with another family that purchases and prepares meals separately.

The evidence in the case file documents that it is unlikely that SNAP customers would shop at this convenience store and purchase such a large volume of items multiple times during a set time frame. In addition, the store's small checkout window and lack of counter space makes it unsuitable for conducting large transactions. At the time of the store visit, the store did not have

any shopping baskets and only a single shopping cart for customer use. More than a single shopping cart would likely be needed for customers to transport such a large volume of food within the store. Based on the analysis above, and in the absence of any other reasonable explanation, the irregular transaction patterns are more likely than not to be a result of trafficking in SNAP benefits.

Excessively Large Transactions

It is true that SNAP households have no limit on the amount of eligible food they may purchase (subject to the remaining balance on the card). However, the SNAP transactions noted in the charge letter are questionable **not** because they exceed any regulatory limits for use, but rather because they display characteristics of use inconsistent with the nature and extent of this convenience store's stock and facilities and are thus indicative of trafficking.

5 U.S.C. § 552 (b)(6) & (b)(7)(C) and 5 U.S.C. § 552 (b)(7)(E)

The Appellant contends that Community Food Store has a sufficient level of higher priced food stock to support the large dollar transactions referenced in Charge Letter Attachment 2. The Appellant states that, in addition to snack and accessory foods, the store sells higher dollar food items including bags of rice (\$27.99-\$28.99) beans (\$27.99) cooking oils (ranging from \$8.99 up to \$21.99) infant formula (\$27.99-\$39.99) and bulk case beverages such as Red Bull, Monster Energy, Nutrament, Sports Shake, Mystic Juices all ranging from \$14.99 to \$18.99. The Appellant also provided undated photographs of store inventory and prices likely taken sometime after the charge letter was issued.

The store visit report and photographs do not support the Appellant contentions. The store visit report and store visit photographs document actual store conditions during the review period **prior to the issuance of the charge letter**. As noted above, at the time of the store visit, store personnel identified the four (4) most expensive food items sold by the store as:

- Three (3) stocking units of Red Bull at \$18.99 per 12-pack;
- Six (6) stocking units of Folgers coffee at \$6.99 per eight (8) ounce can;
- Ten plus (10+) stocking units of Carlini vegetable oil at \$6.99 per gallon;
- Three (3) stocking units of Gerber rice cereal at \$5.49 per 16 ounce package.

Even the highest priced item of a 12-pack of Red Bull was only available in three (3) stocking units and that item is therefore unlikely to explain the high dollar transactions cited in Charge Letter Attachment 2.

The case record also documents that the Retailer Operations Division conducted a detailed analysis of four (4) households with irregular transactions identified in the charge letter to analyze their shopping patterns at Community Food Store compared to their shopping patterns at other SNAP authorized stores. All of these households had access to, and shopped at grocery stores, supermarkets and/or superstores. Despite this access to larger and better stocked stores, these sampled households also conducted excessively large transactions at Community Food Store on the same day or within a few days of shopping at a grocery store supermarket or

superstore. It is highly unlikely that a convenience store with a limited selection of staple foods would have legitimate high dollar SNAP transactions comparable or, in some cases, larger than these SNAP authorized grocery stores, supermarkets and superstores.

In summary, the store's layout, infrastructure, and food inventory do not support a high percentage of transactions markedly exceeding the average SNAP transaction amount of similar type stores. In addition to the statistical irregularity of such high dollar transactions, the limited availability of counter space for checking out and the limited number of shopping carts support the Retailer Operations Division determination. Based on a preponderance of the evidence, the irregular transaction patterns cited in Charge Letter Attachment 2 are more likely than not the result of trafficking in SNAP benefits.

Store Food Inventory

The Appellant claims that the store made total food purchases exceeding 5 U.S.C. § 552 (b)(6) & (b)(7)(C) during the review period and, with an additional 40 percent markup, that would be more than enough to cover the store's SNAP redemptions during the review period. However, the store did not provide vendor invoices to support this contention.

Even if Community Food Store had sufficient food inventory to support its SNAP redemptions, the Appellant would still need to explain the irregular transaction patterns cited in the charge letter. Violating firms often conduct largely legitimate transactions while also conducting trafficking transactions with a smaller number of trusted households. In the absence of a credible explanation for the irregular transaction patterns, the most likely explanation is that they are a result of the Appellant firm trafficking in SNAP benefits.

Hardship to Firm

The Appellant contends that a permanent disqualification will create a hardship for the store and it would likely have to close. With regard to this contention, it is recognized that some degree of economic hardship is a likely consequence whenever a store is disqualified from participation in the SNAP. However, there is no provision in the SNAP regulations for a waiver or reduction of an administrative penalty assessment on the basis of possible economic hardship to either the owner personally or the firm resulting from the imposition of such penalty. To allow stores to be excused from assessed administrative penalties based on a purported economic hardship would render virtually meaningless the enforcement provisions of the Food and Nutrition Act of 2008 and the enforcement efforts of the USDA.

Hardship to the SNAP Community

The Appellant claims that a permanent disqualification would be a hardship to the SNAP community that relies upon Community Food Store. Regarding this contention, there is no provision in SNAP law or regulations that would negate, waive or reduce a permanent disqualification for trafficking due to a purported hardship to SNAP customers.

Where there is a hardship to SNAP households due to a lack of authorized stores in the area, FNS may impose a hardship CMP on a firm in lieu of a **less than** permanent disqualification. However, the regulations at 7 CFR § 278.6(f)(1) clearly state that “a civil money penalty for hardship to SNAP households may not be imposed in lieu of a **permanent** disqualification.” [Emphasis added.] Because the Retailer Operations Division has taken action to permanently disqualify the Appellant firm, a hardship CMP in lieu of disqualification cannot be granted.

TRAFFICKING CIVIL MONEY PENALTY

The Appellant did not timely request consideration for a trafficking CMP in lieu of a permanent disqualification under 7 CFR § 278.6(i) even though it was informed of the right to do so in the charge letter. The SNAP regulation at 7 CFR § 278.6(b)(2)(ii) mandates that a request for a trafficking CMP along with supporting documentation shall be submitted within ten (10) days of receipt of the charge letter.

The SNAP regulation at 7 CFR § 278.6(b)(2)(iii) also states, in part, that “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** ... the firm **shall not be eligible** for such a penalty.” [Emphasis added.]

Even if a timely request had been submitted, the Appellant would likely not have been eligible for a trafficking CMP in lieu of disqualification because there is insufficient evidence to demonstrate that the firm had established and implemented an effective SNAP compliance policy and program **prior** to the violations. 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 the Appellant’s EBT transaction record was the primary basis for its determination to permanently disqualify the retailer. This data provided substantial evidence that the questionable transactions during the review period had characteristics that are consistent with trafficking in SNAP benefits. Stores caught in trafficking violations consistently display particular, characteristic patterns of transactions, including those cited in the letter of charges.

In the absence of any reasonable explanations for such transaction patterns, a conclusion can be drawn through a preponderance of evidence that the “unusual, irregular, and inexplicable” transactions and patterns cited in the letter of charges evidence trafficking as the most likely explanation. 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 in fact occur as determined by the Retailer Operations Division. Based on the discussion above, the decision to impose a permanent disqualification against Community Food Store, Appellant, is **sustained**.

RIGHTS AND REMEDIES

Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. § 2023) and Title 7, Code of Federal Regulations, Part 279.7 (7 CFR § 279.7) addresses 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. Please note that the judicial filing timeframe is specified in the Act, and this office cannot grant an extension.

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

RONALD C. GWINN
Administrative Review Officer

November 30, 2020