

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

Deleon Spring Valero,

Appellant,

v.

Case Number: C0211048

Retailer Operations Division,

Respondent.

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 a permanent disqualification from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) was properly imposed against Deleon Spring Valero (Appellant) by the Retailer Operations Division of FNS.

ISSUE

The issue accepted for review is whether the Retailer Operations Division took appropriate action, consistent with 7 CFR § 278.6(e)(1)(i) in its administration of the SNAP, when it imposed a permanent disqualification against Deleon Spring Valero on September 17, 2018.

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 August 22, 2018, the Retailer Operations Division informed the Appellant that Deleon Spring Valero was in violation of the terms and conditions of the SNAP regulations, 7 CFR § 270 –282, based on EBT SNAP benefit transactions that "establish clear and repetitive patterns of unusual, irregular, and inexplicable SNAP activity for your type of firm."

In responses to the Retailer Operations Division of August 23, 2018 and August 28, 2018, the Appellant denied the trafficking allegations and stated that Deleon Spring Valero is located in a small town with a small population. Many of the customers patronizing the store do not have

their own car and have walk to the Deleon Spring Valero. Customers come to the subject firm to get their daily essentials and needs. The store is located within walking distance of a state park and an elementary school and many customers come to the store to get snacks, foods, and drinks for the day.

After considering the Appellant's replies and the evidence in the case, the Retailer Operations Division issued a Determination Letter dated September 17, 2018, informing the Appellant that Deleon Spring Valero was being permanently disqualified from participation in the SNAP in accordance with 7 CFR § 278.6(e)(1) for trafficking violations.

In a letter postmarked September 25, 2018, the Appellant requested an administrative review of the Retailer Operations Division's decision to permanently disqualify the firm from participation in the SNAP. FNS granted the Appellant's request for administrative review by letter dated October 5, 2018.

STANDARD OF REVIEW

In appeals of adverse actions, the Appellant bears the burden of proving by a preponderance of the evidence, that the administrative actions should be reversed. That means 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, amended, 7 U.S.C. § 2021 and 278 of Title 7 of the Code of Federal Regulations (CFR). 7 U.S.C. § 2021, Part 278.6(a) and Part 278.6(e)(1)(i) of the Regulations establish the authority upon which a permanent disqualification may be imposed upon a retail food store or wholesale food concern. There also exist FNS policy memoranda and clarification letters which further explain the conditions necessary in order to permanently disqualify retail stores.

7 U.S.C. § 2021(b)(3)(B) states, inter alia:

... 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 § 278.6(a) 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].

7 CFR § 278.6(e)(1)(i) states:

Disqualify a firm permanently if: Personnel of the firm have trafficked as defined in § 271.2.

7 CFR § 271.2 states, inter alia:

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

7 CFR § 278.6(f)(1) states, inter alia:

A civil money penalty for hardship to SNAP households may not be imposed in lieu of a permanent disqualification.

7 CFR § 278.6(i) states, inter alia:

FNS may impose a civil money penalty in lieu of a permanent disqualification for trafficking as defined in § 271.2 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 ...

7 CFR § 278.6(b)(2) states, inter alia:

(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 penalty. [Emphasis added].

SUMMARY OF CHARGES

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

- There were multiple transactions made from individual benefit accounts within a set period of time; and
- There were excessively large purchase transactions made from recipient accounts.

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

APPELLANT'S CONTENTIONS

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

In the replies to the Charge Letter, in the administrative review request, and in a subsequent correspondence to FNS, the Appellant stated the following summarized contentions, in relevant part:

- Deleon Spring Valero is located in a small town that has a small population. The majority of the population includes low income families with children and a minority population of Hispanic Americans.
- The nearest 5 U.S.C. § 552 (b)(6) & (b)(7)(C) is about 15 minutes away by car. Many of the store's patrons do not have their own car and have to walk. As such, the Appellant gets a lot of foot traffic from low income individuals who come for their daily essentials and needs. As the Appellant offers convenience, customers choose to shop at the store in lieu of waiting in long lines or making a far drive to the grocery store. The Appellant stocks many SNAP eligible food items such as bread, milk, cheese, sodas, chips, candy, bananas, prepackaged sandwiches, cases of water, juice, cereal, canned goods, flour, and sugar.
- The Appellant is located within walking distance of a state park resulting in many families stopping at the store to get snacks, drinks, and foods. The Appellant is also located adjacent to an elementary school which gives it surplus business from families and children. Deleon Spring Valero has been operating for 16 years and has established itself as a neighborhood market of sorts.
- Because the Appellant is located in a prime location in the middle of a low income neighborhood, it is frequented multiple times a day by SNAP customers. Based on the store and its level of inventory, it is fully capable of selling groceries in the volumes in question. The total amount adds up 5 U.S.C. § 552 (b)(6) & (b)(7)(C) over a six month period which means that monthly the store is selling well under 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in groceries via EBT. This is a realistic amount for a store of its capacity.
- The Appellant is requesting that FNS reconsider its decision to permanently disqualify Deleon Spring Valero from participation in the SNAP.

In support of the Appellant's contentions, five customer affidavits were submitted to FNS.

ANALYSIS AND FINDINGS

Store Characteristics

FNS authorized Deleon Spring Valero as a convenience store on May 2, 2011. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a June 18, 2018 store visit conducted by a FNS contractor to observe the nature and scope of the firm's operation, stock, and facilities. This information obtained from the store visit was also 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:

- Approximately 1,800 square feet in size with approximately 100 square feet of additional food storage outside of public view that stocks predominantly drinks;
- No shopping carts or hand-held baskets available for customer use;
- Two cash registers and one EBT point-of-sale (POS) device for use in ringing-up SNAP transactions;
- Limited check-out counter space;
- No optical scanners;
- No signs posted or flyers available advertising the availability of bulk foods offered at a discounted rate to include meats in bulk, foods sold by the case, and grocery package deals;
- No meat/seafood specials or bundles or fruit/vegetable boxes that might sell for high prices;
- No evidence of a wholesale business such as posted prices or separate entrances for wholesale customers;
- No indication from the store visit report that the firm has a special pricing structure, such as prices ending in \$x.x9 and/or \$x.00;
- The four most expensive foods items in stock were Red Bull at \$7.49 per 4 pack; Coffee at \$6.99 per 11 ounces; Meat jerky at \$6.49 per 3.25 ounces; and Coke at \$5.49 per 12 pack;
- No fresh or frozen meats, poultry, or seafood;
- Deli meats and cheeses were not sold by the pound;
- Hot foods were not sold;
- Meat items included units of canned/potted meat, canned fish, meat jerky, and eggs;
- Dairy included milk, cheese, and butter;
- Fresh produce consisted of a few limes and bananas;
- Other staple foods available for purchase include such items as juice, pasta, rice, bread, cereal, flour, baking mix, and canned goods;
- Much of the remaining food stock consists of accessory foods such as candy, carbonated and non-carbonated drinks, coffee, sugar, and condiments; and
- Ineligible nonfood items included tobacco products, health and beauty items, paper products, household cleaning supplies, alcohol, gasoline, lottery tickets, automotive supplies, pet food, souvenirs/gift items, and household items.

The available inventory of SNAP eligible food at the time of the store visit showed food stock that would be typical of a convenience store, where households normally purchase a limited number of items. There was little indication that SNAP households would be inclined to regularly visit the store to purchase large quantities of groceries. Given the available inventory and the store's characteristics, this review could find no reason why the Appellant firm's SNAP redemption patterns differed so significantly from those of similar sized competitors.

Charge Letter Attachments

On review, the investigative materials provided by the Retailer Operations Division, including computer printouts of transaction data available from Federal records, store visit observations, information regarding area competitor firms, and household shopping patterns, were analyzed.

Government analyses of stores caught in trafficking violations during on-site investigations have found that transactions involving trafficking consistently display particular characteristics or patterns. These patterns include, in part, those cited in the letter of charges. Based on this empirical data, and in the absence of any reasonable explanations for such transaction patterns, a conclusion can be drawn through a preponderance of evidence that the most likely explanation for "unusual, irregular, and inexplicable" transactions and patterns cited in the letter of charges is trafficking. Transactions having such characteristics sometimes do have valid explanations that support that they were the result of legitimate purchases of eligible food items. This is why opportunities are afforded to charged retailers to explain the questionable transactions cited. In this case, the Retailer Operations Division determined that the Appellant's contentions did not outweigh the evidence. The issue in this review is whether, through a preponderance of evidence, it is more likely true than not true that questionable transactions were the result of trafficking. As patterns of unusual transactions appear across multiple Attachments, the case of trafficking becomes more convincing.

Repeat Transactions by the Same Household (Charge Letter Attachment 1)

This Charge Letter Attachment documents 22 sets of transactions (61 total transactions) **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** in SNAP benefits to 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.

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 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 the Appellant's stock and facilities and are therefore indicative of trafficking. The photographs from the store visit offer no explanation as to why SNAP customers would routinely shop at Deleon Spring Valero multiple times during a short period or purchase such a large volume of items, there being no great variety of products, price advantage, profusion of large packages, or

significant bulk items or food cases for sale. The second, third, fourth, and sixth transactions in each set are too large to consist of forgotten items.

The Appellant has provided several contentions related to Attachment 1, including a claim that Deleon Spring Valero is located in a small town that has a small population. The majority of the population includes low income families with children and a minority population of Hispanic Americans. The nearest 5 U.S.C. § 552 (b)(6) & (b)(7)(C) is about 15 minutes away by car. Many of the store's patrons do not have their own car and have to walk. As such, the Appellant gets a lot of foot traffic from low income individuals who come for their daily essentials and needs. As the Appellant offers convenience, customers choose to shop at the store in lieu of waiting in long lines or making a far drive to the grocery store. The Appellant stocks many SNAP eligible food items such as bread, milk, cheese, sodas, chips, candy, bananas, prepackaged sandwiches, cases of water, juice, cereal, canned goods, flour, and sugar. The Appellant is located within walking distance of a state park resulting in many families stopping at the store to get snacks, drinks, and foods. The Appellant is also located adjacent to an elementary school which gives it surplus business from families and children. Deleon Spring Valero has been operating for 16 years and has established itself as a neighborhood market of sorts. Because the Appellant is located in a prime location in the middle of a low income neighborhood, it is frequented multiple times a day by SNAP customers. Based on the store and its level of inventory, it is fully capable of selling groceries in the volumes in question.

With regard to these contentions, while there are no limits on the number of times EBT cards may be used or the amount of eligible foods that may be purchased, the SNAP transactions noted in this Charge Letter Attachment are questionable because they display characteristics of use inconsistent with the nature and extent of the store's stock and facilities and are indicative of trafficking. Although it is not uncommon for customers to conduct more than one transaction per day, it is not common that such multiple transactions are for large dollar amounts. Deleon Spring Valero is not set up to provide for all of one's food needs with no fresh or frozen meats, poultry, or seafood, no frozen fruits or vegetables, a very minimal variety and amount of fresh produce, and lacks an abundant depth and breadth of staple foods. Also, the store visit observations indicate that there is no evidence of a price advantage or custom or special services rendered at the subject store that are not offered at other authorized SNAP stores in the area.

The store visit report and photos of June 18, 2018 indicate that there were no signs posted or flyers available advertising the availability of bulk foods offered at a discounted rate to include meats in bulk, foods sold by the case, and grocery package deals, no evidence of meat/seafood specials or bundles or fruit/vegetable boxes that might sell for high prices, and no evidence of a wholesale business such as posted prices or separate entrances for wholesale customers. The store visit report and photos indicate that Deleon Spring Valero is approximately 1,800 square feet in size with approximately 100 square feet of additional storage area outside of public view that stocked predominantly drinks. It is irregular for convenience stores to have purchases such as those cited, especially when Deleon Spring Valero stocks only a few high priced food items so the majority of the food items stocked at the store are low priced items.

Sometimes a firm may have unusual transaction patterns due to a recipient's lack of access to other SNAP authorized stores. However, there are three SNAP authorized retailers (including a

medium grocery store) located within a 0.6 mile radius and seven SNAP authorized retailers (including a supermarket) located within a 5.0 mile radius of Deleon Spring Valero that can meet the nutritional needs of SNAP customers. Several of these authorized SNAP stores are larger than Deleon Spring Valero and offer a greater quantity and variety of food products at comparable or better prices as compared to the subject store. As mentioned previously, SNAP customers who shopped at Deleon Spring Valero during the review period also shopped at other area grocery stores and, therefore, transportation to other stores is not an issue for these customers. Therefore, lack of access to other authorized stores does not appear to be an explanation for Deleon Spring Valero abnormally high SNAP transaction amounts conducted within a short timeframe of each other.

Unfortunately, the Appellant has not provided any evidence to show that the transactions listed in Attachment 1 were legitimate purchases of eligible foods. The arguments presented by the Appellant hold little weight without some kind of evidence to substantiate its claims.

Excessively Large Purchase Transactions (Charge Letter Attachment 2)

This Charge Letter Attachment lists 131 transactions (**5 U.S.C. § 552 (b)(6) & (b)(7)(C)**) **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. These large transactions are not consistent with a convenience store in Volusia County, Florida. During the review period, the average transaction amount for a convenience store in Volusia County, Florida was \$6.62. The average transaction in Attachment 2 is six times larger than the average purchase amount for this store type. There is no evidence that the firm would be likely to have SNAP redemption patterns that differ considerably from similar sized competitors. These large transaction amounts are also not consistent with the store's inventory. There were no fresh or frozen meats, poultry, or seafood and only a minimal variety and amount of fresh produce in stock. Most of the food products in Deleon Spring Valero consisted of accessory food items such as snack foods, candy, and drinks and inexpensive staple foods such as canned and packaged goods. The frequency of high dollar purchases in the review period calls into question the legitimacy of these transactions.

The Appellant has provided several contentions related to Attachment 2, including a claim that Deleon Spring Valero is located in a small town that has a small population. The majority of the population includes low income families with children and a minority population of Hispanic Americans. The nearest **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** is about 15 minutes away by car. Many of the store's patrons do not have their own car and have to walk. As such, the Appellant gets a lot of foot traffic from low income individuals who come for their daily essentials and needs. As the Appellant offers convenience, customers choose to shop at the store in lieu of waiting in long lines or making a far drive to the grocery store. The Appellant stocks many SNAP eligible food items such as bread, milk, cheese, sodas, chips, candy, bananas, prepackaged sandwiches, cases of water, juice, cereal, canned goods, flour, and sugar. The Appellant is located within walking distance of a state park resulting in many families stopping at the store to get snacks, drinks, and foods. The Appellant is also located adjacent to an elementary school which gives it surplus business from families and children. Deleon Spring Valero has been operating for 16 years and has established itself as a neighborhood market of sorts. Because the Appellant is located in a prime location in the middle of a low income neighborhood, it is frequented multiple times a day by SNAP customers. Based on the store and its level of inventory, it is fully capable of selling groceries in the volumes in question. The total amount

adds up 5 U.S.C. § 552 (b)(6) & (b)(7)(C) over a six month period which means that monthly the store is selling well under 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in groceries via EBT. This is a realistic amount for a store of its capacity.

With regard to these contentions, the food stock and facilities of the 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. The Appellant contends that the large transactions are not the result of trafficking of SNAP benefits. However, it is rare for a convenience store such as Deleon Spring Valero to have purchases like those included in Attachment 2 to the Charge Letter. This Attachment cites 131 EBT transactions during the six month period of investigation 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

The FNS store visit report and photos of June 18, 2018 show that Deleon Spring Valero offers a minimal stock of SNAP eligible foods with no fresh or frozen meats, poultry, or seafood, no frozen fruits or vegetables, and only a minimal variety and amount of fresh produce. The store visit inventory report and photos also show only a few expensive eligible foods in stock that would account for these large amounts as well as showing the store has limited checkout counter space and no shopping carts or hand-held baskets in which to transport the large number of items required to make up these large transaction amounts. Without these, it is unlikely that such large dollar value transactions could be for actual food purchases and more likely they are trafficking.

The record shows that there are three SNAP authorized retailers (including a medium grocery store) located within a 0.6 mile radius and seven SNAP authorized retailers (including a supermarket) located within a 5.0 mile radius of Deleon Spring Valero that can meet the nutritional needs of SNAP customers. Several of these authorized SNAP stores are larger than Deleon Spring Valero and offer a greater quantity and variety of food products at comparable or better prices as compared to the subject store. An analysis of the shopping patterns for all of the SNAP households listed in this Attachment shows that the majority of the households shopping at Deleon Spring Valero have access to transportation and that all are regularly shopping at a variety of larger stores, including super stores and/or supermarkets, located nearby and at several miles distance from the Appellant's location. While Deleon Spring Valero does offer some staple food items, SNAP recipients are already shopping at other larger SNAP retailers located in proximity to the Appellant's business offering a greater quantity and variety of products, including fresh meats/seafood and produce, at lower prices. Therefore, the store has nothing to attract SNAP customers as there are no special or custom services offered.

5 U.S.C. § 552 (b)(7)(E).

Lastly, the case record documents that the Retailer Operations Division conducted a detailed analysis of three SNAP households identified in the Charge Letter to analyze their shopping patterns at Deleon Spring Valero compared to their shopping patterns at other SNAP authorized stores. Each of these households had access to, and shopped at larger stores including super stores and/or supermarkets. It is obvious that these SNAP households had transportation available to them to reach these other authorized stores. However, despite this access to better

stocked stores, these sampled households conducted excessively large transactions at Deleon Spring Valero 5 U.S.C. § 552 (b)(6) & (b)(7)(C) of shopping at the larger stores where they conducted much smaller SNAP purchases. It is highly unlikely that a convenience store with minimal staple foods would have legitimate SNAP transactions greater than these larger and better stocked stores.

In summary, the store's layout, infrastructure, and food inventory do not support a high percentage of transactions markedly exceeding those 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 lack of shopping carts and hand-held baskets support the Retailer Operations Division's determination. It is not plausible that the store's customers are carrying large amounts of food around the store without the benefit of shopping carts and hand-held baskets. Customers purchasing such large quantities of food items would have to hold them in their arms, or enlist the help of others while shopping. Based on the 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.

Customer Affidavits

In support of the Appellant's contentions, five customer affidavits were submitted to FNS. While the Appellant asserts that the statements/affidavits provided to FNS purpose to establish that questionable transactions were legitimate and that no trafficking occurred, the truth of such declarations cannot be verified. Customers engaging in trafficking transactions would be unlikely to admit to this behavior. On the contrary, customer statements would be expected to attest to the legitimacy of questionable transactions regardless of whether they were, in fact, legitimate.

Reconsideration of Charges

The Appellant is requesting that FNS reconsider its decision to permanently disqualify Deleon Spring Valero from participation in the SNAP. However, the Food and Nutrition Act of 2008 at § 2021 does not allow for discretion in determining sanctions for trafficking and is specific in its requirement that "... a disqualification . . . 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 ...". In keeping with this legislative mandate, 7 CFR § 278.6(e)(1)(i) of the SNAP regulations states that FNS shall 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.

CIVIL MONEY PENALTY

As previously indicated, the September 17, 2018 Determination Letter advised the Appellant of the ineligibility for consideration for a trafficking civil money penalty according to the terms of

Section 278.6(i) of the SNAP regulations. The letter of charges dated August 22, 2018 advised the Appellant that documentation of eligibility for that alternative sanction was to be provided within 10 days. The regulations specify that such documentation must, in part, establish that there was an effective compliance policy and training program and that both were in effect and implemented prior to the occurrence of violations. The letter indicates that no information was provided by the Appellant for consideration; therefore, on review the Retailer Operations Division's determination that the Appellant firm is ineligible for the imposition of civil money penalties in lieu of disqualification is affirmed.

CONCLUSION

The Retailer Operations Division's analysis of the Appellant's EBT transaction record, upon which charges of violations are based, together with observations made during the store visit and an analysis of customer shopping behaviors, provide substantial evidence that questionable transactions during the focus period have characteristics and display patterns that are not consistent with legitimate sales of eligible food to SNAP benefit customers at a store of this type, size and makeup. Rather, the characteristics are indicative of illegal trafficking in program benefits. The Appellant's contentions do not outweigh this evidence.

The record has yielded no indication of error or discrepancy in the reported findings by the Retailer Operations Division that program benefits were accepted in exchange for cash or consideration other than eligible food. Therefore, based on a review of the evidence in this case, it is more likely true than not true that program violations did, in fact, occur as charged. Therefore, the decision to impose a permanent disqualification from participation in the SNAP against Deleon Spring Valero is sustained.

RIGHTS AND REMEDIES

Your attention is called to Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. 2023) and to Section 279.7 of the Regulations (7 CFR § 279.7) with respect to your right to a judicial review of this determination. Please note that if a judicial review is desired, the Complaint, naming the United States as the defendant, must be filed in the U.S. District Court for the district in which you reside or are engaged in business, or in any court of record of the State having competent jurisdiction. If any Complaint is filed, it must be filed within thirty (30) days of receipt of this Decision.

Under the Freedom of Information Act, 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.

LORIE L. CONNEEN
Administrative Review Officer

April 11, 2019