

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

**Estevez Grocery & Deli,**

**Appellant,**

**v.**

**Retailer Operations Division,**

**Respondent.**

**Case Number: C0212911**

**FINAL AGENCY DECISION**

It is the decision of the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) that a permanent disqualification of Estevez Grocery & Deli (hereinafter “Appellant”) from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) was properly imposed by the Retailer Operations Division.

**ISSUE**

The issue accepted for review is whether or not the Retailer Operations Division, in its administration of SNAP, took appropriate action, consistent with Title 7 Code of Federal Regulations (CFR) Part 278, when it imposed a permanent disqualification against Estevez Grocery & Deli.

**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.”

**SUMMARY OF CHARGES**

The Appellant was charged with trafficking and subsequently permanently disqualified based on an analysis of EBT transaction data from April 2018 through September 2018. This involved the following transaction patterns which are common trafficking indicators:

- There were multiple transactions made from the accounts of individual SNAP households within a set time period.
- Excessively large purchase transactions were made from recipient accounts.

## CASE CHRONOLOGY

The agency's record shows that FNS initially authorized Estevez Grocery & Deli for SNAP participation as a convenience store on September 28, 2017. In a letter dated November 26, 2018, 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 between the months of April 2018 and September 2018. The letter noted that the penalty for trafficking is permanent disqualification as provided by 7 CFR § 278.6(e)(1). The letter also stated that the Appellant could request a civil money penalty (CMP) in lieu of permanent disqualification for trafficking, but noted that such a request must be made within 10 days of receipt of the charge letter under the conditions specified in 7 CFR § 278.6(i).

In a letter dated November 28, 2018, the Appellant responded to the charge letter, claiming that the firm has always complied with SNAP regulations and under no circumstances has it abused the program. The Appellant argued that the firm is an averaged-sized grocery store/deli that sells a wide variety of foods that are popular in the community and are affordably priced. The Appellant contended that the firm is one of the few stores in the community with an EBT terminal and the nearest supermarket is nearly a mile away. According to the Appellant, many of its customers are regulars and do most of their shopping at the store because they are unable to get to a regular supermarket.

The Appellant further expressed its understanding that the agency's allegation of trafficking may have been based solely on a contractor's visit to the store in August 2018. The Appellant argued that during that month, the firm's owner was out of the country and the family member who was left in charge did not keep stock up to date as it normally would have. This not only affected sales during the month, but some of the merchandise was missing. The Appellant further stated that due to recent renovations at the store, much of the firm's documentation was damaged.

In a second letter dated December 18, 2018, the Appellant provided a number of additional contentions to support its original response. For example, it contended that there are many reasons why the store has so many large transactions, such as offering a wide variety of inventory at affordable prices, being open seven days a week, and selling very popular freshly made sandwiches. The Appellant argued that it does its best to satisfy the customers by ordering food items that they want.

The Appellant further claimed that families frequently do their weekly shopping at Estevez Grocery & Deli. For this reason, the firm developed two deli specials. Combo #1 is comprised of seven pounds of different deli meats and one pound of cheese for \$39.99. By purchasing this combination, customers also receive a free loaf of bread and a dozen eggs. Combo #2 includes 14 pounds of lunch meat and two pounds of cheese, as well as the free bread and eggs, for \$79.99. In another special offer, a customer can receive a free can of soda and a bag of chips when they purchase a sandwich. According to the Appellant, these specials are some of the reasons why there are high, repetitive transaction counts. The Appellant states that the firm makes up to 400 sandwiches a week and 20-30 deli combos.

In addition to the food items listed above, the firm sells chicken wings, chicken breasts and thighs, ground beef, beef steaks, and frozen seafood, such as crab legs, shrimp, and fish. Some of these items are expensive, as are cans of infant formula, which cost between \$19.99 and \$32.99. The Appellant argued that even in the simplest of transactions, families can spend large amounts of money at Estevez Grocery & Deli. The Appellant stated that it has no control over how much a person decides to spend at the store.

Next, the Appellant claimed that it does its best to comply with the law. The firm's owner claimed that she does not even have so much as a parking ticket. The owner's second job is to enforce the transportation laws in the State of Maryland, so she knows what it means to respect the law. As such she would never do anything that would jeopardize the well-being of herself or her family. The Appellant does not think the store should have been targeted due to other stores in the area that committed program violations.

Finally, the Appellant stated that it plans to change its point-of-sale system. It is looking into buying a system that is similar to that of a supermarket so that it can avoid these kinds of accusations in the future and so it can keep reports of all sales that take place at the store.

In support of its responses and in an effort to prove that the firm has not engaged in trafficking, the Appellant provided a large amount of documentation, including photographs of the firm's inventory; copies of inventory invoices and receipts; a price list of food products available for purchase in the store; a listing of EBT deposits into the firm's bank account; a summary of inventory purchases made during the review period; and more than 100 pages of financial records, including copies of cancelled checks and bank statements.

After considering the Appellant's responses to the charges and further evaluating the evidence in the case, the Retailer Operations Division concluded that trafficking had occurred as charged and issued a determination letter dated March 6, 2019. This letter informed the Appellant that it would be permanently disqualified from SNAP upon receipt of the letter in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The letter also stated that the Retailer Operations Division considered the Appellant's eligibility for a trafficking CMP according to the terms of Section 278.6(i) of the regulations, but determined that a CMP was not appropriate in this case 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 SNAP violations.

In a letter postmarked March 15, 2019, the Appellant, through counsel, appealed the Retailer Operations Division's determination by requesting an administrative review. The request was granted.

### **STANDARD OF REVIEW**

In an appeal of adverse action, such as disqualification from SNAP participation, an appellant bears the burden of proving by a preponderance of the evidence that the administrative action should be reversed. This means that 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 found in the Food and 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 § 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, [or] evidence obtained through a transaction report under an electronic benefit transfer system....

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 states, in part:

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 § 271.2 states, in part:

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

7 CFR § 278.6(b)(1) 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) states, 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(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.

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...

## APPELLANT'S CONTENTIONS

The Appellant, through counsel, made the following summarized contentions in its request for administrative review, in relevant part:

- The Appellant requests a civil money penalty in lieu of disqualification and claims that the firm has implemented an effective compliance program to prevent SNAP violations.
- The firm holds itself out as a fully-functioning grocery store and most of the firm's customers buy groceries for their entire household as would a customer at a grocery store such as 5 U.S.C. § 552 (b)(6) & (b)(7)(C) or 5 U.S.C. § 552 (b)(6) & (b)(7)(C).
- The firm sells combination packages that result in higher than average per unit sales.
- The firm sells a high volume of SNAP-eligible items at a lower cost than its competitors.
- Since the time of the firm's opening, there have never been any violations of SNAP law.
- The Appellant entirely denies the trafficking charges. Both the owner and her four employees attest to program compliance at the firm.
- Regarding multiple transactions from the same household account, the transactions in the charge letter take place 5 U.S.C. § 552 (b)(6) & (b)(7)(C). The second transaction in the set is often much smaller, supporting the theory that the customer returned to the store after realizing that they forgot something during their first visit. The evidence in this attachment suggests that the transactions are reasonable and should not be considered illegitimate.

- Regarding excessively large transactions, these are also reasonable charges that reflect the merchandise purchased by the firm as well as its typical retail markup. Additionally, the firm sells family combination plans for \$39.99 and \$79.99 that drive up the price of the average transaction. The firm sells approximately 20-30 combination plans per week.
- Since receiving the charge letter, the firm has avoided selling large combination packages. Although these sales are not illegal, Appellant realizes that these bulk sales have resulted in a charge letter.
- Appellant lists several reasons why it believes it is eligible for a civil money penalty in lieu of disqualification.
- Appellant stands by its position that it has committed no errors in the processing of EBT sales and has followed the rules provided in the SNAP training guide.

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

- An “Affidavit of Employee Trainings,” signed by Appellant owner **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** on March 11, 2019.
- “Acknowledgement of Training” documents signed by four of the firm’s employees.
- Four letters from apparent SNAP customers claiming to shop at the store on a regular basis and attesting to the firm’s excellent customer service and food selection.
- A five-page price list of inventory items available for purchase at the store.
- A Customer Sales Report from wholesale vendor B. Green & Co. Inc., listing items sold to Estevez Grocery & Deli during the review period.
- A two-page summary of inventory purchased by the firm from wholesale vendor Restaurant Depot.
- Approximately 50 photographs of the firm’s on-the-shelf inventory.

The preceding may represent only a brief summary of the Appellant’s contentions presented in this matter. However, in reaching a decision, full attention was given to all contentions and evidence presented, including any not specifically summarized or explicitly referenced in this document.

## **ANALYSIS AND FINDINGS**

The primary issue for consideration in a case based on suspicious SNAP redemption data is whether or not the Retailer Operations Division adequately established that the Appellant firm engaged in the violation of trafficking. In other words, did the Retailer Operations Division, through a preponderance of the evidence, establish that it is more likely true than not true that the irregular and unusual transactions cited in the charge letter were the result of trafficking?

### **Contractor Store Visit**

The case file indicates that in reaching a conclusion of trafficking, the Retailer Operations Division considered not only the Appellant firm’s EBT transactions, but also information obtained during an August 29, 2018, store visit which was conducted by an FNS contractor to observe the nature and scope of the firm’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 and photographs documented the following store size, description, and characteristics:

- Estevez Grocery & Deli is a small convenience store/corner market, approximately 600 square feet in size, operating in the city of Baltimore, Maryland.
- At the time of the contractor's visit, the firm did not have any shopping carts or shopping basket for customer use, which is typical for stores of this size. Customers shopping in such stores generally purchase only as much food as they can carry in their arms.
- The store visit photographs show one cash register for food purchases and agency records reflect the use of one EBT point-of-sale device.
- It appears that the firm does not use optical scanners to process transactions.
- The checkout area consists of a small countertop where items can be placed for purchase. In order to reach the checkout counter, customers must reach across a slide-top floor freezer. The constricted checkout area is not suitable for conducting large or rapid transactions as there is little space on the counter to place more than a few items at a time and little room for customers to maneuver with large amounts of groceries.
- The firm's staple food inventory is sufficient for program eligibility. The overall breadth of staple foods is typical of a convenience store or corner market.
- SNAP-eligible, non-staple accessory food items available at the store include carbonated and uncarbonated drinks, snacks, candy, and condiments. The store also sells ineligible, nonfood items, including tobacco products, cleaning supplies, personal care items, and other miscellaneous household merchandise.
- The store has a kitchen area, where fresh, made-to-order sandwiches are prepared. The store also sells deli meat and cheese by the pound.
- There is no indication from the store visit report that the firm has a special pricing structure. Most prices end in 9, such as \$0.99, \$1.79, \$3.29, etc.
- According to the contractor's report, the most expensive SNAP-eligible food items were a 2-pound bag of frozen salmon for \$29.99; a 12.4-ounce can of Similac infant formula for \$21.99; a 32-ounce package of frozen shrimp for \$19.99; and a 3.1-pound package of ground beef for \$13.99. The store also sells deli meat specials: seven pounds of deli meat and one pound of cheese for \$39.99; and 14 pounds of deli meat and two pounds of cheese for \$79.99. When purchasing the deli specials, the customers also receive a free loaf of bread and a dozen eggs.

The available inventory of SNAP-eligible food at the time of the store visit showed stock that would be typical of a convenience store or corner market, where households normally purchase a limited number of items to complement their overall dietary needs. There was no indication that SNAP households would be inclined to regularly visit Estevez Grocery & Deli to purchase large quantities of groceries, especially considering the overall variety of staple foods, the absence of shopping carts and baskets, and the availability of larger SNAP-authorized stores nearby, including a superstore less than three-quarters of a mile away. 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 nearby, similar-sized competitors.

## SNAP Transaction Analysis

**Charge Letter Attachment 1: Multiple transactions were made from the accounts of individual SNAP households within a set time period.** This attachment lists 26 sets of transactions (55 transactions in all) 5 U.S.C. § 552 (b)(6) & (b)(7)(C). 5 U.S.C. § 552 (b)(7)(E).

For example, 5 U.S.C. § 552 (b)(6) & (b)(7)(C), an extraordinary amount for a convenience store with no shopping carts or baskets.

The next month, 5 U.S.C. § 552 (b)(6) & (b)(7)(C). Such patterns and transaction totals at a convenience store are highly irregular and are often an indication of trafficking. As such, these transactions warrant further explanation.

The Appellant has argued that the second transaction in the sets are often much smaller than the first, supporting its theory that the customers returned to the store after realizing that they forgot something during their first visit. While this could certainly be true, the amount of the second transactions (i.e., the forgotten items) in the examples above are substantially larger than what is typically found at a convenience store. It is also possible that 5 U.S.C. § 552 (b)(6) & (b)(7)(C). All of this is speculation, of course, because the Appellant not offered any evidence to prove what took place at the point of sale. Such evidence might have included itemized cash register receipts or other accounting records to show what transpired during each transaction. Inventory records, bank statements, and photographs are useful in that they give an indication of the kinds of foods available for purchase at a store and the volume of business a firm is doing, but none of these records offer any insight into what occurred at the cash register. That is the critical issue in this case.

It is noted that SNAP regulations do not provide limitations on the number of transactions that can be made by SNAP households or how large the individual transactions can be. However, the transactions in Attachment 1 are questionable not because they exceed any limits for use, but because they display patterns of use that are inconsistent with the store's documented physical characteristics and in comparison with similar stores in the area, which do not exhibit such transaction patterns. It should be further noted that the transaction patterns identified in the charge letter are not marginally abnormal, but decidedly so. This review does not contend that the EBT transactions detailed in the charge letter are overtly suspicious when they occur on an occasional or intermittent basis. But when such transactions form repetitive and questionable patterns on a consistent basis over a substantial period of time, such activity is considered highly irregular, and a firm's intent to comply with program regulations is called into question.

Because the Appellant's evidence offers little insight into the specific transactions in question, and because the transactions themselves are highly unusual, it is reasonable for this review to conclude that trafficking was a likely cause of the transaction patterns listed in this attachment.

**Charge Letter Attachment 2: Excessively large purchase transactions were made from recipient accounts.** This attachment lists 523 SNAP transactions 5 U.S.C. § 552 (b)(6) & (b)(7)(C). These large transactions are not consistent with other convenience stores in the state of Maryland. The Retailer Operations Division has determined



that during the review period, the average SNAP transaction amount for a convenience store in Maryland was \$7.46. In Baltimore City, the average was even lower at just \$7.00 per transaction, but the average transaction in Attachment 2 is more than six times larger than the average purchase amount for this store type.

Given that the Appellant firm has a moderate inventory of staple foods and other SNAP-eligible items, such as snacks and drinks, and given that the store has a small number of expensive food items and deli specials, it is probable that there would be an occasional purchase where the transaction amount is high, 5 U.S.C. § 552 (b)(6) & (b)(7)(C). As such, there may well be some legitimate SNAP transactions sprinkled among the transactions listed in Attachment 2. However, as noted earlier, there is no evidence that the firm would be likely to have SNAP redemption patterns that differ significantly from nearby, similar-sized competitors, especially considering the constricted checkout area, the absence of shopping carts and baskets, and the availability of much larger stores in the area. The substantial number of high-dollar transactions in a six-month period calls into question the legitimacy of these transactions.

Attachment 2 lists eight transactions 5 U.S.C. § 552 (b)(6) & (b)(7)(C) during the review period, including a high of 5 U.S.C. § 552 (b)(6) & (b)(7)(C). 5 U.S.C. § 552 (b)(6) & (b)(7)(C). Considering how many food items it would typically take to add up 5 U.S.C. § 552 (b)(6) & (b)(7)(C), and considering the store's characteristics, this review finds it unlikely that all of the transactions in Attachment 2 are legitimate.

Included in Attachment 2 are several transactions that were made by SNAP households who shopped at much larger supermarkets and superstores 5 U.S.C. § 552 (b)(6) & (b)(7)(C) of shopping at Estevez Grocery & Deli. For example, 5 U.S.C. § 552 (b)(6) & (b)(7)(C). It is difficult for this review to comprehend what was available at Estevez Grocery & Deli that would not have been available at a supermarket or superstore, where overall inventory and variety are substantially greater, where prices are likely lower, and where shopping carts and baskets are available to help transport large amounts of merchandise.

The Appellant contends that its large transactions are valid purchases and are simply a reflection of the firm's convenience to the neighborhood, such as its wide variety of inventory at affordable prices, the store's extended operating hours, and the availability of popular food items such as fresh sandwiches and deli meat packages. To support these contentions, the Appellant provided a large amount of documentation, such as inventory invoices, price lists, banking records, photographs, client statements, etc.

Unfortunately, the Appellant's arguments and evidence do not convince this review that the transactions in question were legitimate purchases of eligible food. While inventory records, financial information, and photographs can be useful in demonstrating that the firm had sufficient stock to account for the SNAP transactions during the review period, such records offer no insight into what transpired at the cash register.

As for the handwritten customer statements, this review finds such documentation to be of little evidentiary value. Experience has shown that SNAP recipients rarely admit to trafficking, especially when such an admission could potentially expose them to administrative and/or

criminal charges. Customer declarations, affidavits, and petitions routinely attest to irregular transactions being legitimate even when there is strong evidence to suggest otherwise.

It is unfortunate that the Appellant did not provide itemized cash register receipts or other accounting records to clearly identify what occurred during the specific transactions listed in Attachment 2. Anecdotal explanations coupled with inconclusive evidence does not convince this review that the transactions in Attachment 2 were legitimate purchases of eligible food.

It is the finding of this review that the attachments furnished with the charge letter adequately identify the irregular patterns of SNAP transactions which indicate that trafficking was likely taking place. The transactions listed in the charge letter are highly unusual and substantially different from comparable stores in the area. Based on these and other factors, such as the store's physical characteristics and inventory, the case of trafficking is convincing.

In an appeal of adverse action, the onus is on the Appellant to prove, by a preponderance of the evidence, that the administrative action should be reversed. This means submitting sufficient and compelling evidence that would lead a reviewer to conclude that trafficking did not occur. Unfortunately, the Appellant's contentions and evidence do not sufficiently address the specific transactions in question. Therefore, it is the conclusion of this review that the transactions in the charge letter were, more likely than not, the result of trafficking violations.

### **No Prior Violations**

The Appellant contends that since the time of the firm's opening, there have never been any violations of SNAP law. This contention implies that because of the Appellant's prior history of program compliance, the disqualification penalty should be reconsidered.

Unfortunately, the law does not agree. SNAP regulations at 7 CFR § 278.6(e) require that when trafficking occurs, permanent disqualification is the necessary penalty, even on the first occasion, regardless of a firm's prior compliance with program rules. In this case, the sanction imposed by the Retailer Operations Division fully conforms to SNAP regulations and is consistent with sanctions imposed upon other retailers that have committed similar first-time violations.

### **Civil Money Penalty**

As noted earlier, the Retailer Operations Division determined that the Appellant firm was not eligible for a civil money penalty in lieu of permanent disqualification for trafficking because it did not submit sufficient evidence to demonstrate that it had established and implemented an effective compliance policy and training program to prevent SNAP violations.

In accordance with regulations at 7 CFR § 278.6(b)(2), in order for a civil money penalty to be considered, a firm must not only notify FNS that it desires the agency to consider a trafficking CMP in lieu of permanent disqualification, but it must also submit appropriate documentation within designated timeframes. The case record shows that the Appellant did not request a trafficking CMP when it originally replied to the charge letter and it offered no evidence of any kind to show that the firm had established and implemented an effective compliance policy and

training program. It was not until it submitted a request for administrative review that the Appellant made a request for a CMP and submitted any evidence of a training program.

It must be made clear that this review has no authority to extend the deadline for making a request for a CMP and submitting the required evidence of its eligibility for this alternative penalty. The regulations are clear that a request for a CMP in lieu of permanent disqualification and any supporting documentation must be submitted to FNS within 10 days of the firm's receipt of the charge letter. In this case, the Appellant did not meet this regulatory deadline.

Therefore, in accordance with 7 CFR § 278.6(b)(2)(iii) and § 278.6(i), a civil money penalty in lieu of permanent disqualification for trafficking is not an option in this case.

### **CONCLUSION**

An analysis of the Appellant's EBT transaction record was the primary basis for the decision by the Retailer Operations Division to permanently disqualify Estevez Grocery & Deli from SNAP participation. This data provided sufficient evidence for this review to conclude that the questionable transactions and patterns listed in the charge letter were more likely than not the result of trafficking violations committed by the Appellant. Likewise, the Appellant has not proven, by a preponderance of the evidence, that the administrative action should be reversed.

Based on a review of all available information and evidence in this case, the decision to impose a permanent disqualification against the Appellant, Estevez Grocery & Deli, under the ownership of 5 U.S.C. § 552 (b)(6) & (b)(7)(C), is sustained.

### **RIGHTS AND REMEDIES**

Applicable rights to a judicial review of this decision are set forth in Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. § 2023) and in Section 279.7 of the SNAP regulations. If a judicial review is desired, the complaint, naming the United States as the defendant, must be filed in the U.S. District Court for the district in which the Appellant owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If a complaint is filed, it must be filed within 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.

JON YORGASON  
Administrative Review Officer

July 2, 2019