

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

**Lakeview Food Market,**

**Appellant,**

**v.**

**Office of Retailer Operations  
and Compliance,**

**Respondent.**

**Case Number: C0188110**

**FINAL AGENCY DECISION**

The record supports that Lakeview Food Market (Appellant), committed violations of the Supplemental Nutrition Assistance Program (SNAP). It is the decision of the USDA that there is sufficient evidence to sustain the permanent disqualification of Appellant from participation as an authorized retail food store in the SNAP, as imposed by the Office of Retailer Operations and Compliance (Retailer Operations).

**ISSUE**

The issue accepted for review is whether Retailer Operations took appropriate action, consistent with 7 CFR § 278.6(a), (c), and (e)(1) in its administration of the SNAP, when it assessed a permanent disqualification against Appellant.

**AUTHORITY**

7 U.S.C. § 2023 and the implementing regulations at 7 CFR § 279.1, provide that a food retailer aggrieved by administrative action under § 278.1, § 278.6, or § 278.7, may file a written request for review of the administrative action with the Food and Nutrition Service (FNS).

**CASE CHRONOLOGY**

By Charge letter dated April 11, 2016, Retailer Operations informed the owner that it had compiled evidence that Appellant had violated the SNAP regulations based on electronic benefit transfer (EBT) transactions that established clear and repetitive patterns of unusual, irregular, and inexplicable SNAP activity for the firm type. Retailer Operations charged Appellant with trafficking. The sanction for trafficking is permanent disqualification.

By letter dated April 15, 2016, an attorney made a FOIA request, and replied to the Charge letter. The FOIA office provided a FOIA response dated June 17, 2016. Counsel appealed the FOIA response by letter dated July 30, 2016. The FOIA office replied to the appeal by letter dated October 11, 2019.

On October 16, 2019, Retailer Operations issued the counsel of record, a notice to reply to the Charge letter. The record shows no reply was received. The owner attested that “I am unfamiliar of what, if any, work/response my Attorney submitted on my behalf prior to receiving the decision.” Retailer Operations issued a Determination letter dated September 11, 2020. This letter informed Appellant that it was permanently disqualified as a retail food store in accordance with Sections 278.6(c), and 278.6(e)(1) of the regulations. Retailer Operations considered Appellant’s eligibility for a civil money penalty (CMP) according to Section 278.6(i) of the regulations, and found it was not eligible because insufficient evidence was submitted timely to demonstrate that the firm had established and implemented an effective SNAP compliance policy and program to prevent violations.

New counsel requested administrative review by letter dated September 22, 2020. The review was granted by letter dated October 23, 2020. Counsel requested several extensions due to difficulty obtaining credit card information. Further, counsel noted that despite his requests, prior counsel had not provided him with copies of the submissions and correspondence with the USDA. This office granted the extensions. Counsel provided his submission by email dated January 25, 2021.

## **STANDARD OF REVIEW**

In an appeal of an adverse action, the Appellant bears the burden of demonstrating, by a preponderance of the evidence, that the administrative action should be reversed. That means the Appellant has the burden of providing credible, relevant evidence, which a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the argument asserted is more likely to be true than not true.

## **CONTROLLING LAW AND REGULATIONS**

The controlling statute in this matter is contained in the Food and Nutrition Act of 2008, as amended, 7 U.S.C. § 2021, and § 278 of Title 7 of the Code of Federal Regulations (CFR). Sections 278.6(a) and (e)(1) establish the authority upon which a permanent disqualification may be imposed against a retail food store or wholesale food concern in the event that personnel of the firm have engaged in trafficking SNAP benefits.

7 CFR § 271.2 states: “Eligible foods means: Any food or food product intended for human consumption except alcoholic beverages, tobacco and hot food products prepared for immediate consumption.”

7 CFR § 278.6(a) states: “FNS may disqualify any authorized retail food store if the firm fails to comply with the Food and Nutrition Act of 2008, as amended, or this part. Such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, evidence obtained through a transaction report under an electronic benefit transfer system.”

7 CFR § 278.6(b)(2)(ii) states: “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(e)(1) states: “FNS shall disqualify a firm permanently if personnel of the firm have trafficked as defined in § 271.2.” Trafficking is defined, in 7 CFR § 271.2, as: “(1) 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, 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;...(4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or (5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.”

7 CFR § 278.6(i) states: “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.”

### **SUMMARY OF THE CHARGES**

The issue in this review is whether, through a preponderance of evidence, it is more likely true than not true, that the questionable transaction patterns were the result of trafficking. The charges were based on an analysis of SNAP transaction data during the period of September 2015 through December 2015. The transaction patterns indicative of trafficking are:

- An unusual number of transactions ending in a same cents value.
- Multiple transactions made from individual benefit accounts in unusually short time frames.
- Excessively large purchase transactions made from recipient accounts.

### **APPELLANT’S CONTENTIONS**

In reaching a decision, consideration has been given to all contentions as presented, including any not referenced.

- The USDA in reviewing EBT transactions for this vendor has assumed, and I submit erroneously concluded, that he and his enterprise have misused the SNAP. My client vehemently denies that he and/or anyone involved with or employed by this business have engaged in said activities.
- There is nothing in any of these Attachments that reveal conclusively or by a fair preponderance of the credible evidence that the vendor herein has been exchanging SNAP Benefits for cash. The use of these EBT records in sole support of what you claim to be an unlawful activity is nothing more than an assumption. It is not based on facts, and the conclusion is unfounded and without merit. The decision to permanently disqualify a vendor based upon this inadequate proof will deprive said vendor of this business, and is inequitable and arbitrary. The EBT Transactions should be more carefully reviewed than basing a decision totally upon computer generated reports that only create an unfounded presumption of wrongdoing.
- This retail grocery business is open to the public seven days per week, 24 hours each day, and by virtue of the location of this business a substantial portion of its sales and revenues results from its participation in the Food Stamp Program. The EBT transactions constitute approximately 80% of this vendor's sale, and provide income to keep the business profitable. This vendor will not jeopardize his business by engaging in the illegal activity charged.
- This business is staffed by four fulltime employees. I am informed that the owner since authorization has continuously trained and tested his employees concerning the SNAP regulations and requirements. Furthermore the vendor has maintained an exemplary record. I submit that such unblemished record is evidence of his continued compliance with the law and training and supervision of his employees.
- This record of transactions are not unusual in the normal and lawful conduct of this business. The Household Numbers in the attachments are those of customers who regularly shop in this store during the four month period for all required food items.
- At the conclusion of each paragraph in the letter of charges wherein the violation based upon an "attachment" is described, it is stated, "other similar transactions occurred during the period in question." No specifics are set forth concerning the other similar transactions so the vendor will be afforded an opportunity to fully answer and challenge the charges lodged against it. This is nothing more than unsubstantiated general accusation; it has no merit, and to base a decision upon accusation is to deprive the vendor of due process. The argument applies to the first paragraph of the letter of charges wherein it states, Analysis of the records reveals Electronic Benefits Transfer (EBT) food stamp transactions that established clear and repetitive patterns of usual, irregular, and inexplicable activity for your type of firm. A partial listing of such transactions is enclosed.
- It appears that the disqualification decision is based on a predetermined standard of food activity for the "type of firm" owned and operated by the vendor herein. If this be the case, then a statistical sampling or survey has been used to erroneously determine that the transactions in this store significantly exceed the normal practice for its type of business. I submit that is not adequate. It will be expected in so serious a matter as this that the USDA would investigate and evaluate the specific activities of the store in question.
- Given that the allegations are based upon statistical conclusions, consider the expanded information for what it appears to be, transparency. Unless there is information that has not been shared with the Market, there have been no specific allegations of actual trafficking in

this matter, meaning actual sales on specific dates known to be trafficking, by whatever means.

- The Market runs their business without a POS system, individual receipts regarding the transactions flagged cannot be provided. There are a history of recorded transactions which had independent verification, credit card transactions. Throughout this submission there will be numerous references to the attached credit card records for the same months of the cited violations. These credit card transactions show a similar pattern of purchases your computer system has flagged for potential trafficking. As these are actual credit card transactions of sales that have not been charged back as errors or mistakes, they show a trend of identical sales, which mitigates any concern of trafficking.
- Lakeview Food Market is not trafficking in benefits, but continuing to run an honest legitimate business to best serve the community which it is a part in. That community includes SNAP Members, and has as a part of their sales for a long time.
- Without the ability to receive SNAP Benefits, both the business and people in the community have been suffering these past three months. For the same reason the Market has prospered by providing a service to those who need it, now everyone is suffering because they can no longer provide it.

## **ANALYSIS AND FINDINGS**

SNAP authorization is dependent solely upon whether a firm meets the eligibility requirements for participation, and subsequently abides by the statute and implementing regulations. That a firm has profited or otherwise benefited from a SNAP authorization does not create a property interest which supersedes the statute or implementing regulations. The FNS employs a computerized fraud detection tool to identify SNAP transactions that form patterns having characteristics that are indicative of trafficking. This method is supported by the regulations that FNS may disqualify any authorized retail food store if the firm fails to comply with the Food and Nutrition Act of 2008, and that such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through inconsistent redemption data, and evidence obtained through a transaction report under an electronic benefit transfer system. Retailer Operations analyzes the transaction patterns, reviews the store visit report, conducts an analysis of recipient shopping behavior, makes a comparison of data of like-type stores in the area, and assesses other information to render a determination whether the transaction patterns are, more likely than not, the result of trafficking. This review encompasses the examination of the case information to determine whether the owner demonstrates by a preponderance of the evidence, that the permanent disqualification should be reversed.

A contracted FNS-onsite store visit was conducted at Appellant on January 9, 2016. The firm is typed as a convenience store. Per the report, the selling floor is approximately 1,000 square feet. The report records that Appellant had no baskets or shopping carts to transport foods to the checkout. As seen in the FNS photos, the checkout counter was small and cluttered. The inventory on the date of the onsite visit showed staple foods such as: onions, breads, cereals, frozen foods, canned fruits and vegetables, rice, soups, dairy products, cheese, hot dogs, packaged deli meat, and canned meat and fish. The inventory shows no stock of infant formula. Appellant also stocked accessory foods such as: condiments, soft drinks, chips, and candy.

SNAP ineligible items in stock included: tobacco products, alcoholic beverages, lottery products, household supplies, health and beauty items, household plastic goods and paper products, clothing, automotive supplies, and cleaning products.

Retailer Operations found it unusual that recipients would transact a considerable part of their benefits in this store when there is a supermarket nearby, and a super store located less than a mile from Appellant. Retailer Operations noted that Appellant did not appear to have any specials, promotions or incentives, and did not stock bulk, specialty, or high priced items such as fresh meats, poultry, or fish. Retailer Operations concluded that Appellant did not have the inventory, facilities such as a scanner, or shopping carts, or appear to offer a price advantage that would result in recipients transacting high benefit amounts in one or multiple short term visits for SNAP eligible foods. Rather, Retailer Operations determined that trafficking more likely explained the transaction patterns.

Retailer Operations identified ten authorized stores located within a one mile radius from Appellant, that are typed as larger than a convenience store. There were also more than 20 other convenience stores in a one mile radius of Appellant. Retailer Operations compared Appellant to two same-type stores located within less than a one mile radius. When compared to these two local convenience stores, Appellant had the highest average SNAP transaction amount, and the highest SNAP total transaction dollar volume. Appellant also had many more flags on all three Attachments. Compared to Erie County stores of the same type, Appellant had a 79% higher total SNAP transaction dollar volume amount, and a 5.9% higher SNAP average transaction amount. This is irregular.

A record of participation in the SNAP with no previously documented instance of violations does not constitute valid grounds for dismissal of the current charges of violations or mitigate the regulatory sanction. There is no provision in the Act, or regulations, that reverses or reduces a sanction based upon a lack of prior violations by a firm and its owners, managers and/or employees. The owner contends that a SNAP disqualification will have a negative financial impact on Appellant's business. It is recognized that some degree of economic hardship is a likely consequence whenever a store is disqualified from participation in SNAP. However, there is no provision in the SNAP regulations for waiver or reduction of an administrative penalty assessment on the basis of possible economic hardship to the firm resulting from imposition of a regulatory sanction. To allow ownership to be excused from an assessed administrative penalty based on purported economic hardship to the firm would render virtually meaningless the enforcement provisions of the Food and Nutrition Act of 2008 and the enforcement efforts of the USDA. Furthermore, giving special consideration to economic hardship to the firm would forsake fairness and equity, not only to competing stores and other participating retailers who are complying fully with program regulations, but also to those retailers who have been disqualified from the program in the past for similar violations.

The contention in the 2016 reply that at the conclusion of each paragraph in the charge letter wherein the violation based upon an "attachment" is described, it is stated, "other similar transactions occurred during the period in question;" is not supported by the record. Likewise, the contention that the same applies "to the first paragraph of the letter of charges wherein it is states, Analysis of the records reveals Electronic Benefits Transfer (EBT) food stamp

transactions that established clear and repetitive patterns of usual, irregular, and inexplicable activity for your type of firm. A partial listing of such transaction is enclosed;” is not supported by the record under review. The Charge letter does it state that the Attachments are only a “partial listing,” nor do the Attachments have any language that refers to “other similar transactions” during the period. Each Attachment furnished with the Charge letter represents the questionable and unusual patterns of SNAP transactions indicative of trafficking which were conducted at Appellant during the review period.

**Attachment 1:** Upon review of the new information presented, Retailer Operations dismissed this Attachment.

**Attachment 2:** Listed are 24 transactions in ten sets, made from individual benefit accounts in unusually short time frames, by eight different households (HHs). 5 U.S.C. § 552 (b)(7)(E). With the limited selection of eligible food items at Appellant, Retailer Operations found the pattern of data sets to be irregular.

Contentions:

- Many of these results from orders made over the telephone where customers usually pickup and sometimes they will make another additional purchase. A customer’s shopping habits should not be interpreted in a negative manner with an inference that trafficking occurred.
- This charge is summarily concluding that because there is more than one transaction from the same household 5 U.S.C. § 552 (b)(6) & (b)(7)(C), there must be fraud on the part of the Market. Never mind that individuals can go back to the same store in a short time period, and SNAP participants are not the only people doing this. The same is true for non-food stamp customers, and a review of my records will also show that this is the case, and is not trafficking.
- There is not facial recognition to confirm the same person returning to the store every day. However, the information on electronic sales can be confirmed, additionally for non-EBT card users. So aside from the flagged transactions, there are numerous credit transactions which show the same card uses in similar circumstances, quite frequently.
- During the months of September 2015 through December 2015, 10 sets of transactions from households were flagged in Attachment 2. During the month of September 2015, there were 65 card holders whom made purchases numerous times 5 U.S.C. § 552 (b)(6) & (b)(7)(C). During the entire 4 month “violation period” there were a total of 181 series of transactions from the same card used within close proximity. 181 compared to 10 is worthy of consideration and note that trafficking is not occurring at Lakeview Food Market.
- While FNS has no power or control over non-EBT card users, none of these non-EBT card users have alleged or charged the Market with fraud for illegally using their card without their permission. If the Market was lawfully receiving the same credit cards from the same account holders in the same day more than once, sometimes three times, then why would anyone using their EBT card properly within the same time be trafficking? There is insufficient evidence to conclude that the Market must have trafficked because people choose to repeatedly shop at their store.
- Even though the computer may be programed to look for such things to indicate trafficking, this store clearly has sales which negate that proposition. As there is no concern of

trafficking based on such close purchases, permanent disqualification, or any sanction for that matter, is not warranted.

The owner did not provide documentation to support the contention that Appellant took telephone orders. The store photos do not show signage posted to indicate that the retailer offered such a service. During the review period, 87.5% of the eight households with flagged transactions listed on this Attachment, conducted a transaction(s) at a supermarket and/or super store within one day of shopping at Appellant. Retailer Operations identified households that made large transaction amounts at Appellant, even while making transactions at larger store types. Based on the unremarkable store stock, Retailer Operations found the shopping patterns at Appellant indicative of trafficking.

Retailer Operations reviewed the credit card transactions listed in the 65 data sets in Exhibit C. A timestamp is not seen in the data, nevertheless, any transaction set showing the same day or one date difference, was assessed to be conducted within 5 U.S.C. § 552 (b)(7)(E). Only one data set, number 46, met the parameters of Attachment 2, with five transactions listed for more than 5 U.S.C. § 552 (b)(7)(E). These four data sets do not meet the threshold criteria for this Attachment pattern, and would not have been flagged had they been SNAP redemption transactions.

Based on the data counsel provided, there is no way to know if the credit card holders are the same individuals as the SNAP recipients who frequented Appellant in 2015. In contrast to SNAP benefits cards, credit cards are not restricted to the purchase of eligible foods. Therefore, individuals' usage of credit cards, and recipients' usage of SNAP benefit cards may not be similar as contended. Appellant was not able to provide detailed cash register tapes to support that it sold eligible foods. Likewise, the credit card data is not detailed, and there is no way to determine what was charged. Retailer Operations concluded that only one credit card data set meets the Attachment 2 pattern parameters. This is clearly fewer than the ten SNAP data sets flagged with the Charge letter. Retailer Operations determined that given the logistics of Appellant's checkout area, the lack of shopping baskets or carts, and the limited staple food inventory recorded, that the multiple transactions made from individual benefit accounts in unusually short time frames, were less likely the result of legitimate food purchases, than of trafficking benefits for cash.

The owner claims that sometimes other family members will come in, or they will even come back together in the same day. When a household is certified for participation in the SNAP, if there are multiple families living in one household and every member of the household purchases, prepares, and eats food together, the SNAP benefits are issued on one card for the entire household. However, if there are multiple individuals living under one roof, and they purchase, store, prepare, and eat separately, their benefits are issued as separate households, each household with its own EBT card. Therefore, individuals residing under one roof are not necessarily apportioned SNAP benefits under one SNAP benefits account.

No customer recipient affidavits were presented to support how beneficiaries shopped at Appellant. Moreover, if family shopping impacted Appellant's data patterns as contended, it would stand to reason that such shopping would manifest at comparable firms in the area,



resulting in similar transaction patterns. The data shows that this was not the case. When Retailer Operations compared Appellant to two nearby convenience stores, one store had two transactions flagged in one set, and the other had zero flags on this pattern for the same time period. This supports that Appellant's data is unusual.

**Attachment 3:** Listed are 178 excessively large purchase transactions made from 78 unique household accounts. Appellant had many more transactions flagged on this Attachment than the two comparator stores which had 27 and 4 transactions flagged for the same time period.

Contentions:

- This store is at all times stock [sic] with staple food inventory, fresh produce and a large variety of meats. I am informed that large quantities of baby formula are sold at this store. This inventory maintained is especially designed to accommodate those customers who regularly purchased items with food stamp benefits.
- These are legitimate charges for eligible items purchased by established customer of this business who do virtually all of their grocery shopping at this store.
- The charge is based solely on the conclusion that the sales are too large for what they should be based upon some determination, which has not been disclosed to the Market or the undersigned. There is no rule prohibiting or expressly permitting a SNAP Member, or a SNAP retailer, from limiting the amount of the purchase, or even permitting them to deny a rightful purchase. The owner does not discriminate on how SNAP Members lawfully use their benefits. Additionally, to assist Snap Members, and overall sales, numerous bulk items are maintained in inventory.
- You may notice from Exhibit B that there are also large purchase numbers listed, some even larger than those listed in Attachment 3.
- For many individuals, the Market is closer for many items than the nearest grocery store, which is permanently closing soon. The Market does not have a POS Transaction Machine, due to cost. They are unable to pull up the transactions by card and tell you what was purchased, like a large grocer may do. Nonetheless, it does not mean that they are trafficking.
- As there is no reason to believe trafficking is taking place given the large number of SNAP transactions, and small number of "excessively large" ones, the charges against the Market should not be found to warrant permanent disqualification.

A review of the onsite inventory reports shows that Appellant did not have any infant formula in inventory. The FNS photos do not show this product in stock, and there is no store signage seen that indicates that infant formula was available for purchase. No vendor invoices to support the purchase of this product were advanced for review. A SNAP participant who might acquire infant formula would also be eligible for WIC, and would more likely buy formula using WIC benefits at a WIC-authorized store. While a SNAP participant might purchase infant formula with SNAP benefits, it would likely be infrequent and in small quantities, reserving the SNAP benefits for a wide range of eligible foods, and using the restricted WIC benefits on infant foods. Thus, Retailer Operations did not find the contention that large amounts of infant formula were being sold at Appellant to be convincing. The record also did not support that Appellant sold a large of amount of fresh produce. On the day of the onsite store visit, only onions were seen as

evidence of fresh produce. Although counsel claims that Appellant maintains numerous bulk items and a large inventory, the firm did not provide evidence to support these claims.

Counsel avers that the credit card transactions show large purchases. Retailer Operations determined that only 27 of the more than one thousand five hundred credit card transactions advanced for review were for amounts higher than the lowest amount listed on this Attachment. This represents 1.79% of the credit transactions. The transactions listed on this Attachment represent 4.19%, of the more than four thousand SNAP transactions conducted at Appellant during the review period. Each of the transaction amounts listed on this pattern were at least three times larger than the average SNAP transaction amount made at a state convenience store during the review period.

As to the claim that SNAP recipients shop at Appellant due to convenience and accessibility, Retailer Operations determined that 82% of the HHs listed completed a transaction(s) at a supermarket or super store within one day of conducting a flagged transaction(s) at Appellant. This supports that the majority of the households listed had access to and redeemed benefits at other SNAP authorized firms. It also supports that the majority of the households were not doing all of their grocery stopping at Appellant.

The case record supports that Retailer Operations compiled evidence of trafficking before making its determination. The owner bears the burden of providing credible, relevant evidence, which a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the argument asserted is more likely to be true than not true. Although Appellant asserts that the use of EBT records in sole support of “what you claim to be an unlawful activity is nothing more than an assumption,” and “is not based on facts,” this contention does not disprove the trafficking case by a preponderance of the evidence, or make the permanent disqualification sanction arbitrary or capricious. The regulations state that FNS may disqualify any authorized retail food store if the firm fails to comply with the Food and Nutrition Act of 2008, as amended, and that such disqualification shall result from a finding of a violation on the basis of evidence that may include facts established through inconsistent redemption data, and evidence obtained through a transaction report under an EBT system. Under review, the owner has not provided a preponderance of evidence to support that two of the three Attachment patterns provided with the Charge letter, represent transactions for eligible foods rather than the charged trafficking.

### **CIVIL MONEY PENALTY**

The regulations at 7 CFR Section 278.6(i) specify the criteria for a firm’s eligibility for a CMP in lieu of permanent disqualification for trafficking. The criteria are identified as a minimum standard that firms must meet to be eligible for CMP consideration. Retailer Operations determined that the owner did not submit substantive documentation which demonstrates that the firm had established and implemented an effective compliance policy and program to prevent SNAP violations. Given the lack of a timely substantial evidence submission to support a trafficking CMP in lieu of permanent disqualification, it is decided that the owner did not meet the criteria for a CMP.

## **CONCLUSION**

Retailer Operations' analysis of Appellant's SNAP transaction data was the primary basis for its determination to permanently disqualify Appellant. The record also included onsite store photographs, an onsite store report, households' shopping histories, and other information that provided evidence that the questionable transaction patterns during the review period had characteristics that are consistent with trafficking violations in SNAP benefits. Retailer Operations dismissed Attachment 1 upon review of Appellant's submission of credit card information. Nevertheless, Retailer Operations found that two data patterns supported the charge of trafficking. On review, Retailer Operations properly denied a trafficking CMP per the applicable regulations. Therefore, the decision to impose a permanent disqualification against Appellant is sustained. This decision is effective 30 days from its delivery to Appellant.

## **RIGHTS AND REMEDIES**

Attention is called to Section 14 of the Food and Nutrition Act of 2008, and to 7 CFR § 279.7 of the regulations, with respect to the applicable rights to judicial review of this decision. If 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 Appellant's owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If any Complaint is filed, it must be filed within thirty (30) days of delivery 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.

M. Viens  
ADMINISTRATIVE REVIEW OFFICER

February 5, 2021