

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

Maywood Grocery,

Appellant,

v.

Case Number: C0211034

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 Maywood Grocery (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 Maywood Grocery on August 28, 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 7, 2018, the Retailer Operations Division informed the Appellant that Maywood Grocery 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."

The Appellant did not reply to the charges outlined in the August 7, 2018 Charge Letter. After considering the evidence in the case, the Retailer Operations Division issued a Determination Letter dated August 28, 2018, informing the Appellant that Maywood Grocery 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 10, 2018, the Appellant, through counsel, 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 September 26, 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 January 2018 through June 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 administrative review request and in subsequent correspondence to FNS, the Appellant, through counsel, stated the following summarized contentions, in relevant part:

- Maywood Grocery sells household supplies, general merchandise and food. On a daily basis, approximately 200-220 customers enter the store to make purchases. Maywood Grocery averages approximately 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in sales per month, approximately 66% of sales in foods. Of the approximate 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in food sales, 33% use SNAP benefits.
- The Appellant understands that only groceries are allowed to be purchased with SNAP benefits and that trafficking of SNAP benefits is a violation of the SNAP rules. The employees and manager were trained on the SNAP rules upon Maywood Grocery being authorized to participate in the SNAP in 2014. A compliance policy was in place in 2014 and has always been in place since that time. The owner and the employees of Maywood Grocery were not aware of, did not approve of, did not benefit from, and were not in any way involved in any conduct or approval of any alleged trafficking violations alleged in this case.
- On average, customers typically use their SNAP benefits to spend 5 U.S.C. § 552 (b)(6) & (b)(7)(C) on groceries during a single transaction. It is the understanding of the Appellant that there is no maximum amount of money that a customer can spend using his/her SNAP benefits during one transaction. It is the understanding of the Appellant that a customer can exhaust his/her SNAP benefits during a single transaction and that there is no restriction on the frequency that SNAP benefits can be used.
- The store owner never received any SNAP notices from FNS to post in the store regarding the SNAP rules.
- This is the first time that the Appellant has been cited for SNAP violations.

In support of the Appellant's contentions, the following information/documents were submitted to FNS:

- Affidavit of the store owner;
- Diagram of store layout; and
- Photographs of store, food stock, cash register, and EBT POS device.

ANALYSIS AND FINDINGS

Store Characteristics

FNS authorized Maywood Grocery as a small grocery store on June 18, 2014. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a July 16, 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 no additional food storage outside of public view;
- No shopping carts and two hand-held baskets available for customer use;
- Two cash registers; however, one cash register is designated for lottery sales only;
- 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 \$.x9 and/or \$.00;
- The four most expensive foods items in stock were Italian beef at \$35.99 per 5 pounds; ground beef at \$34.99 per 10 pounds; Enfamil infant formula at \$24.99 per 20.9 to 22 ounces; and Enfamil infant formula at \$29.99 per 22.2 ounces;
- No fresh meats, poultry, or seafood;
- A limited variety of frozen meats, poultry, and fish;
- Deli meats and cheeses were not sold by the pound;
- Hot foods were sold;
- Infant foods were sold as the store is a WIC Program vendor;
- Meat items included units of canned/potted meat, canned fish, eggs, sausage, hot dogs, and meat jerky;
- Dairy included milk, margarine, sour cream, butter, and cheese;
- A limited variety and amount of fresh produce;
- Other staple foods available for purchase include such items as juice, pasta, rice, bread, cereal, flour, baking mix, corn meal, grits, and canned goods;
- Much of the remaining food stock consists of accessory foods such as candy, carbonated and non-carbonated drinks, condiments, sugar, and vegetable oil; and

- Ineligible nonfood items included health and beauty items, paper products, household cleaning supplies, automotive supplies, hats, lottery tickets, and housewares.

The available inventory of SNAP eligible food at the time of the store visit showed food stock that would be typical of a small grocery 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 Maywood Grocery'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 33 sets of transactions (73 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

Maywood Grocery 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, and fourth transactions in each set are too large to consist of forgotten items.

The Appellant, through counsel, has provided several contentions related to Attachment 1, including a claim that on a daily basis, approximately 200-220 customers enter the store to make purchases. Maywood Grocery averages approximately 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in sales per month, approximately 66% of sales in foods. Of the approximate 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in food sales, 33% use SNAP benefits. On average, customers typically use their SNAP benefits to spend 5 U.S.C. § 552 (b)(6) & (b)(7)(C) on groceries during a single transaction. It is the understanding of the Appellant that there is no maximum amount of money that a customer can spend using his/her SNAP benefits during one transaction. It is the understanding of the Appellant that a customer can exhaust his/her SNAP benefits during a single transaction and that there is no restriction on the frequency that SNAP benefits can be used.

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. Maywood Grocery is not set up to provide for all of one's food needs with no fresh meats, poultry, or seafood, a minimal variety of frozen meats, poultry, and seafood, a 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.

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 Maywood Grocery is approximately 1,800 feet in size with no additional storage outside of public view. It is irregular for small grocery stores to have purchases such as those cited, especially when Maywood Grocery stocks only a few high priced food items so the majority of the food items stocked at the store are low priced items.

A review of client shopping data for the review period shows that clients shopping at Maywood Grocery are also shopping at other area grocery stores, as well as full-line supermarkets and super stores that most likely offer customers a much larger quantity and variety of eligible food items for better prices. Based on these shopping patterns, transportation to other stores is not an issue for these SNAP customers. Yet, these customers continue to shop and spend suspicious high dollar amounts in short timeframes at Maywood Grocery, where the eligible food stock is

minimal, 5 U.S.C. § 552 (b)(6) & (b)(7)(C) of their purchases at better stocked stores. This is a strong indicator of trafficking.

Sometimes a firm may have unusual transaction patterns due to a recipient's lack of access to other SNAP authorized stores. However, there are 26 SNAP authorized retailers (including 3 small grocery stores, 2 medium grocery stores, and 1 large grocery store) located within a 1.0 mile radius of Maywood Grocery that can meet the nutritional needs of SNAP customers. Several of these authorized SNAP stores are larger than Maywood Grocery 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 Maywood Grocery 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 Maywood Grocery's 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 181 transactions 5 U.S.C. § 552 (b)(6) & (b)(7)(C). These large transactions are not consistent with a small grocery store in Cook County, Illinois. During the review period, the average transaction amount for a small grocery store in Cook County, Illinois was \$12.79. The average transaction in Attachment 2 is more than 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 meats, poultry, or seafood, a minimal variety of frozen meats, poultry, fish, and a minimal variety and amount of fresh produce in stock. Most of the food products in Maywood Grocery 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, through counsel, has provided several contentions related to Attachment 2, including a claim that Maywood Grocery sells household supplies, general merchandise and food. On a daily basis, approximately 200-220 customers enter the store to make purchases. Maywood Grocery averages approximately 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in sales per month, approximately 66% of sales in foods. Of the approximate 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in food sales, 33% use SNAP benefits. On average, customers typically use their SNAP benefits to spend 5 U.S.C. § 552 (b)(6) & (b)(7)(C) on groceries during a single transaction. It is the understanding of the Appellant that there is no maximum amount of money that a customer can spend using his/her SNAP benefits during one transaction. It is the understanding of the Appellant that a customer can exhaust his/her SNAP benefits during a single transaction and that there is no restriction on the frequency that SNAP benefits can be used. In support of its contentions, the Appellant provided FNS with a diagram of the store layout and several photographs of the store, food stock, cash register, and EBT POS device.

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 small grocery 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 small grocery store such as Maywood Grocery to have purchases like those included in Attachment 2 to the Charge Letter. This Attachment cites 181 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 July 16, 2018 show that Maywood Grocery offers a minimal stock of SNAP eligible foods with no fresh meats, poultry, or seafood, a limited variety of frozen meats, poultry, and seafood, and a limited amount and variety of fresh produce. The photos and store layout diagram provided by the Appellant support these findings. 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 and only two 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 26 SNAP authorized retailers located within a 1.0 mile radius of Maywood Grocery that can meet the nutritional needs of SNAP customers. Several of these authorized SNAP stores are larger than Maywood Grocery 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 Maywood Grocery 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 Maywood Grocery 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 five SNAP households identified in the Charge Letter to analyze their shopping patterns at Maywood Grocery 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 Maywood Grocery often **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 small grocery 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/or 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/or 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.

Denial of Charges

The Appellant contends that it understands that only groceries are allowed to be purchased with SNAP benefits and that trafficking of SNAP benefits is a violation of the SNAP rules. The employees and manager were trained on the SNAP rules upon Maywood Grocery being authorized to participate in the SNAP in 2014. A compliance policy was in place in 2014 and has always been in place since that time. The owner and the employees of Maywood Grocery were not aware of, did not approve of, did not benefit from, and were not in any way involved in any conduct or approval of any alleged trafficking violations alleged in this case.

Regarding the Appellant's argument that it denies the trafficking allegations and that a compliance policy and training program was in effect, this review encompasses and documents the examination of the primary and relevant information in this case, the purpose of which is, as noted above, to determine whether the Appellant demonstrates by a preponderance of the evidence that the permanent disqualification should be reversed. In this case, therefore, if the Appellant demonstrates by a preponderance of the evidence that trafficking did not occur in the Appellant's firm, then trafficking will be considered not to have occurred and the disqualification reversed. If this is not demonstrated the case is to be sustained. Assertions that the firm has not violated program rules, by themselves and without supporting evidence and rationale, do not constitute valid grounds for dismissal of the current charges of violations or for mitigating their impact.

SNAP Posters

The store owner contends that it never received any SNAP notices from FNS to post in the store regarding the SNAP rules. With regards to Appellant's contention regarding the issuance of SNAP posters/training materials, the Appellant received, upon being authorized for participation in the SNAP in June 2014, the same Authorization Kit that is sent to all retail food stores when they are newly authorized in the SNAP, including various information booklets, signs and posters indicating the Dos and Don'ts, rules of the SNAP available in seven different languages,

a copy of the SNAP regulations and a training video. Moreover, periodic newsletters have been sent to all retailer food stores participating in the SNAP highlighting various rules of the SNAP.

Retailer Affidavit

The Appellant provided FNS with a statement of the store owner in support of its contentions. While the Appellant asserts that the statement/affidavit provided to FNS purposes to establish that questionable transactions were legitimate and that no trafficking occurred, the truth of such declarations cannot be verified. Retailers engaging in trafficking transactions would be unlikely to admit to this behavior. On the contrary, retailer statements would be expected to attest to the legitimacy of questionable transactions regardless of whether they were, in fact, legitimate.

No Prior Violations

The Appellant contends that this is the first time that it has been cited for SNAP violations. However, a record of participation in the SNAP with no documented previously violations does not constitute valid grounds for mitigating the impact of the present serious determination of trafficking.

CIVIL MONEY PENALTY

As previously indicated, the August 28, 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 7, 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 Maywood Grocery 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 9, 2019