

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

Moon Star Grocery Mart Inc,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0223744

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 the permanent disqualification of Moon Star Grocery Mart Inc. (Moon Star Grocery Mart or Appellant) from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP), as initially imposed by the Retailer Operations Division, was appropriate.

ISSUE

The issue accepted for review is whether the Retailer Operations Division 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 USC § 2021 and the 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 December 27, 2019, the Retailer Operations Division charged Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations, based on a series of irregular SNAP transaction patterns that occurred during the months of July 2019 through October 2019. The letter noted that the penalty for trafficking is permanent disqualification as provided by 7 CFR § 278.6(e)(1). The letter also noted that Appellant could request a trafficking civil money penalty (CMP) in lieu of a permanent disqualification within ten days of receipt under the conditions specified in 7 CFR § 278.6(i).

Appellant, through counsel, replied to the charge letter on January 2, 2020, and denied that the transactions involved trafficking. After considering the retailer's reply and the evidence, the Retailer Operations Division issued a determination letter dated January 21, 2020. The determination letter informed Appellant that it was permanently disqualified from the SNAP in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The determination letter also stated that Appellant was not eligible for a trafficking CMP because Appellant failed to submit sufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program to prevent violations of the SNAP.

By letter dated January 28, 2020, Appellant, through counsel, appealed the Retailer Operations Division's determination and requested an administrative review. The administrative review was granted.

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, as amended, 7 USC § 2021 and § 278 of Title 7 of the Code of Federal Regulations (CFR). Part 278.6(a), (c) 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 USC § 2021(b)(3)(B) states, in part:

... a disqualification under subsection (a) shall be ... permanent upon ... the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern or a finding of the unauthorized redemption, use, transfer, acquisition, alteration, or possession of EBT cards ...

7 CFR § 271.2 states that the definition of "coupon" includes:

... an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food and Nutrition Act of 2008, as amended, for the purchase of eligible food.

7 CFR § 271.2 states, in part, that, 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 § 271.2 defines trafficking, in part, as:

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

7 CFR § 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**, . . .” (emphasis added)

7 CFR § 278.6(e)(1) reads, in part:

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

7 CFR § 278.6(i) states, inter alia:

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

7 CFR § 278.6(b)(2) states, in part:

(ii) Firms that request consideration of a civil money penalty in lieu of a permanent disqualification for trafficking shall have the opportunity to submit to FNS information and evidence as specified in § 278.6(i), that establishes the firm's eligibility for a civil money penalty in lieu of a permanent disqualification in accordance with the criteria included in § 278.6(i). **This information and evidence shall be submitted within 10 days, as specified in § 278.6(b)(1).** [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 a penalty. [Emphasis added.]

SUMMARY OF THE CHARGES

Appellant was charged and determined to be trafficking based on an analysis of EBT transaction data from July 2019 through October 2019. This involved the following SNAP transaction patterns which are indicative of trafficking:

- There were multiple transactions made from individual benefit accounts within a set time period.
- The majority or all of individual recipient benefits were exhausted in unusually short periods of time.
- 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 the questionable transactions were the result of trafficking.

APPELLANT'S CONTENTIONS

In its January 28, 2020, administrative review request, and subsequent information postmarked February 25, 2020, Appellant, through counsel, provided the following summarized contentions:

- Appellant denies trafficking.
- There is no evidence that Appellant received cash or paid cash during any of the transactions.
- The charges are mere allegations and there is no proof.
- More than one person from the same household purchases food **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** of the other household member's purchase.
- Some of these charges **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** are not large amounts for purchases for a store of this size when keeping with the claim that it is members of the same family who are purchasing goods under the SNAP.
- The store owner does not examine the SNAP card when it is swiped nor does he ask for identification.
- The store owner is not advised as to how much food could be purchased under the SNAP and there is no way that the store owner would have knowledge of these things nor do they have knowledge of what the food purchasing habits are of any individual household.
- There is no evidence that the USDA knew the amount of food that Appellant carried on any given day.
- Appellant states that it is able to buy wholesale food on a daily basis and because it will get it cheaper and Appellant has been able to pass these savings on to its customers.
- The amount of food that was in the store which was recorded in 2019 was before the store was authorized and its sales volume increased after.
- Appellant cannot sustain the store without SNAP recipients being able to shop.
- The owner has never received a warning letter nor a previous sanction.
- Appellant requests a warning or a lesser penalty such as for six months or one year.
- Appellant has now implemented an electronic tracking system whereas previously all orders were handwritten.

In support of its contentions, Appellant submitted 40 handwritten customer receipts for the month of October with the last four digits of the customer's SNAP number.

The preceding may represent only a brief summary of the Appellant's contentions presented in this matter. However, in reaching a decision, full attention and consideration has been given to all contentions presented, including any not specifically recapitulated or specifically referenced.

ANALYSIS AND FINDINGS

Store Visit

FNS authorized Moon Star Grocery Mart as a convenience store on June 3, 2019. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a November 1, 2019, store visit conducted by a FNS contractor to observe the nature and scope of the firm's operation, stock, and facilities. This information was then 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:

- Moon Star Grocery Mart is approximately 1100 square feet.
- There was one cash register and one point-of-sale device.
- There was no optical scanner for the speedy processing of items at checkout.
- There were no shopping baskets or shopping carts for customer use.
- The checkout space was small and limited with items for sale covering much of the space.
- There was no fresh unprocessed meat, poultry, or fish.
- There were some packages of hot dogs and deli meat.
- There was no fresh produce.
- Dairy included milk, cheese, sour cream, and infant formula
- Other staple foods available for purchase were eggs, juice, rice, bread, beans, cereal, pasta, and a selection of canned goods.
- Frozen food includes several bags vegetables, pizza, some individual microwavable meals, and some small boxes of appetizers.
- Much of the remaining stock consisted of accessory foods such as candy, spices, and carbonated and uncarbonated drinks.
- Ineligible items included tobacco, health and beauty products, cleaning products, automotive supplies, household items, and paper products.
- There were empty, broken, or unused freezers noted.

The SNAP eligible food stocked by the store was generally of a low dollar value consisting mainly of inexpensive canned and packaged goods, snack foods, single-serving food items and accessory food items. The highest priced items noted were infant formula - \$26.00 and \$24.00; oil - \$23.99; and a case of juice - \$22.00. These higher priced items were in limited quantities. Given the available inventory as noted above, there is no indication from the store visit report

that the store would be likely to have SNAP redemption patterns significantly different from similar-sized competitors.

Charge Letter Attachments

Each attachment furnished with the charge letter represents the questionable and unusual patterns of SNAP transactions indicative of trafficking which were conducted at the Appellant firm during the review period. As there is more than one pattern of irregular transactions, the case of trafficking becomes more convincing.

Charge Letter Attachment 1: Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment documents 170 sets of SNAP transactions conducted by 130 households **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** in SNAP benefits that 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.

Counsel reports that some of these transaction sets occurred within weeks. However, each of the flagged transaction sets occurred within a few days and not weeks. **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

Counsel explains that it is not unusual for a household members to visit Appellant many times per day. Counsel further reports that the store owner was not aware of any limitation on the use of SNAP cards. 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 Appellant's stock and facilities and are therefore indicative of trafficking. 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 photographs from the store visit offer no explanation as to why SNAP customers would routinely shop at Appellant 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 for sale. Appellant is not set up to provide for all of one's food needs and lacks an abundant depth and breadth of staple foods. The second and third transactions in each set are too large to consist of forgotten items.

Counsel explains that some SNAP recipients shop with other members of their families and separate their transactions. **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. It is unlikely that a cashier could ring up **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** worth of SNAP eligible items within this timeframe and more unlikely that it could complete all the necessary steps to conduct four separate legitimate SNAP transactions within that short amount of time. Moreover, when a firm has a pattern of several customers shopping in a different manner than other nearby stores, the question becomes why the pattern exists at this particular store. The Retailer Operations Division compared Appellant to six nearby convenience stores. Appellant conducted 170 transaction sets that met the parameters of this scan, whereas the other six nearby stores collectively conducted four transaction sets that met the parameters of this scan. Appellant's

explanation does not address why this transaction pattern occurs much more frequently at Appellant than at other nearby similar stores.

Appellant has not offered any evidence to show that the transactions listed in Charge Letter Attachment #1 were legitimate purchases of eligible food.

Charge Letter Attachment 2: In a series of transactions, the bulk of SNAP households' remaining benefits were depleted within short time frames. This attachment lists 85 sets of SNAP transactions conducted by 65 households **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

On September 21, 2019, one household conducted four SNAP transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** at Appellant. It is not unusual for violating retailers to conduct trafficking transactions in which a household spends the vast majority of its allotment at one store in a short period of time or in a single transaction. A suspicion of trafficking is reinforced when these balance-depleting purchases occur in small stores such as Moon Star Grocery, where there is minimal overall inventory, with no fresh meat and no fresh produce. It makes little sense that a household would spend almost the entirety of its SNAP allotment in a single transaction or in a series of rapid transactions at this store.

A government report on SNAP shopping patterns¹ indicates that on average SNAP households have less than one-quarter of their benefits left by the middle of the month. On the day the issuance was distributed, the average household redeemed more than a fifth of its benefit. By the first week, the average household had redeemed over half of its benefit, and by the second week, over three-quarters of it. Households redeemed about an additional 10 percent of benefits by the end of the third week (exhausting 90 percent of benefits) and ultimately redeemed 97 percent of their monthly benefits by the end of the day before receiving their next issuance. Therefore, transactions in which SNAP benefits are exhausted in one or a few transactions during a short period of time are suggestive of trafficking.

Again, the Retailer Operations Division reviewed this transaction patterns at six nearby convenience stores and determined that none of the other stores had any transaction sets that met that parameters of this scan. The Retailer Operations Division determined that the most likely reason that this pattern would be found at only one store would be trafficking in SNAP benefits.

Appellant did not submit sufficient evidence that the transactions conducted on the Attachment were for eligible food items only.

Charge Letter Attachment 3: Excessively large purchase transactions were made from recipient accounts. This attachment lists 307 SNAP transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. Appellant's average SNAP transaction amount was four times greater than the average SNAP transaction of convenience stores in the State. These large transaction amounts are questionable because they are not consistent with the store's inventory. Appellant does not have any shopping carts or baskets to transport such large orders and it has

¹ Benefit Redemption Patterns in the Supplemental Nutrition Assistance Program, Mathematica Policy Research, by Laura Castner and Juliette Henke, for the U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis, February 2011

limited space at the check-out counter to place items for purchase. The frequency of high-dollar purchases in a four-month period calls into question the legitimacy of these transactions.

Counsel alleges that the charges are based on a store visit that occurred prior to the review period. It is true that there was a store visit that occurred on May 31, 2019, as part of the authorization process. However, a second store visit was conducted on November 1, 2019. The evidence from the case file indicated that the Retailer Operations Division used the report and photographs from the November 1, 2019, store visit in its analysis. A review of both store visits did show that the firm began to stock some higher priced items after the original store visit and these items are noted in the case record. However, these limited items do not sufficiently explain the volume of large dollar SNAP transactions.

Counsel argues that there is no evidence that the USDA knew the amount of food that Appellant carried on any given day. As indicated previously, the record contains the two sets of store visits reports and photographs. However, it is true that Appellant did not send in any additional evidence to support that it purchased sufficient inventory of eligible food items to support its SNAP redemptions.

The Retailer Operations Division compared Appellant to six other convenience stores that were located nearby. The Retailer Operations Division determined that Appellant's average SNAP transaction amount was much greater than each of the other six convenience stores. Similarly, Appellant's total SNAP redemption dollar value was larger than each of the other stores during the review period. The Retailer Operations Division also determined that the transaction pattern of Appellant exceeded the six nearby convenience stores, as seen on the table herein. The data from these nearby stores show that the transaction patterns at the Appellant firm were highly unusual and indicative of possible trafficking violations.

5 U.S.C. § 552 (b)(7)(E)

Sometimes a firm may have higher than average SNAP transactions amounts due to the lack of access to other SNAP authorized stores. However, the Retailer Operations Division determined that within a one-mile radius of Appellant there are 28 authorized stores including 17 other convenience stores, nine small groceries, one medium grocery, and one super store.

The Retailer Operations Division examined four households identified in the charge letter to analyze their shopping patterns at Moon Star Grocery Mart compared to their shopping patterns at other SNAP authorized stores. 5 U.S.C. § 552 (b)(6) & (b)(7)(C). Despite access to better stocked stores, each of the other households conducted excessively large transactions at Moon Star Grocery Mart within a short time of shopping at a supermarket or super store. It is questionable as to why households would conduct large transactions at Appellant, when these households had just visited or planned to visit larger stores with a better selection of staple food item and likely better prices. The inventory and layout at Moon Star Grocery Mart does not support these transactions.

The SNAP transactions noted in this Attachment are not presumed to be trafficking because they exceed a set dollar amount; they are questionable because they are inconsistent for this type of

store and the store's stock. There appears to be no basis for increased customer attraction to Appellant, there being no evidence of a great price advantage, profusion of specialty or ethnic goods, or special or custom services rendered. The available inventory of SNAP-eligible food items at the time of the visit showed stock that is primarily of low dollar value staple foods or convenience foods. As indicated, households in this Attachment are regularly shopping at much larger stores and conducting transactions of large dollar amounts, yet are conducting comparable or higher dollar value transactions at Appellant's smaller and minimally stocked business. Moreover, Appellant has a small checkout area and no shopping baskets or carts thereby making it difficult to facilitate the quantities of eligible food items required to make up these high dollar transactions. Therefore, it is unlikely that the food items purchased in these large dollar amounts could be carried to the register without the use of baskets or carts and more likely that the amounts were contrived.

Receipts

Appellant, through counsel, submitted 40 handwritten receipts for the some of the SNAP transactions conducted in October 2019. The Retailer Operations Division analyzed the submitted receipts. Thirty-three of the 40 transactions, for which receipts were provided, were found in the charge letters attachments. Two receipts were not found, two contained illegible dates, two had illegible household numbers, and one receipt was a duplicate.

The Retailer Operations Division questioned the authenticity of the handwritten receipts. Considering all the steps necessary to complete a legitimate SNAP transaction, (entering each item's price in the register, customer sliding card and entering their pin, and the cashier bagging the items), the Retailer Operations Division determined that it is unlikely these transactions could have been conducted in such short time frames. It would be even more unlikely if the cashier also had to hand write out a receipt for each transaction. In addition, on the day of the store, the store visit report did not indicate that the store has a special pricing structure. However, most of the items on the handwritten receipts show items ending in 00 cents. This was not indicated when it was asked during the store visit.

Moreover, even if the receipts are legitimate, there were only 33 receipts provided. Charge Letter Attachment 1 contained 170 SNAP transactions, Attachment 2 listed 85 SNAP transactions, and Attachment 3 contained 307 transactions. The receipts do not adequately explain each of the questionable transactions.

Warning and Lesser Penalty

Appellant, through counsel, states that Appellant did not receive a previous warning. 7 CFR § 278.6(d) simply requires FNS to consider any prior warnings when determining a sanction. However, the SNAP regulations do not require the Retailer Operations Division to give prior warnings before issuing a charge letter for trafficking. SNAP regulations at 7 CFR § 278.6(e)(7) states that FNS will "send the firm a warning letter if violations are too limited to warrant a disqualification." Trafficking transactions are not considered to be "violations that are too limited to warrant a disqualification."

Counsel contends that the regulations allow for a six-month or one year period of disqualification. Neither the Food and Nutrition Act of 2008, as amended, nor the regulations allow discretion in this matter nor provide for a lesser penalty or a term disqualification for violations related to trafficking of SNAP benefits. Trafficking is always considered to be the “most serious” of SNAP violations. Trafficking in SNAP benefits is an extremely serious violation and both 7 USC § 2021(b)(3)(B) and 7 CFR § 278.6(e)(1)(i) state that even a first time violation warrants a permanent disqualification.

Appellant Hardship

Counsel states that Appellant cannot sustain the store without SNAP recipients being able to shop. 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 such penalty. To excuse ownership from assessed administrative penalties 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.

Moreover, 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. Therefore, Appellant’s contention that the firm will incur economic hardship based on the assessment of an administrative penalty does not provide any valid basis for dismissing the charges or for mitigating the penalty imposition.

Evidence

Counsel contends that there is no evidence showing that any of the charges that Appellant received cash or paid cash and that the charges are mere allegations with no proof. The transactions reports are derived from the ALERT system, a computerized fraud detection tool to identify SNAP transactions that form patterns having characteristics indicative of trafficking. However, this tool does not by itself determine or conclude that trafficking has occurred. The Retailer Operations Division must still conduct an extensive analysis of the transaction data and patterns, often with other factors such as, in this case, observations from store visits, an analysis of customer shopping behavior and a comparison of stores in the area, and render a determination whether the questionable transactions were, more likely than not, the result of trafficking.

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

The documentation and evidence provided by the Retailer Operations Division was thoroughly examined. From all indications, the Retailer Operations Division obtained the EBT data (provided by ALERT), found it to be suspicious in comparison to other area stores of similar size, and then undertook a thorough investigation before concluding that trafficking was likely occurring.

Appellant bears the burden of demonstrating by a preponderance of the evidence that the administrative actions should be reversed and that the transactions detailed in the charge letter were more likely than not due to the legitimate sale of eligible food in exchange for SNAP benefits. Appellant offered insufficient evidence to prove that the transactions listed in the charge letter were legitimate purchases of eligible food. In the absence of compelling information or documentation weighed in comparison to the evidence provided by the Retailer Operations Division, the evidence weighs in favor of the Retailer Operations Division's determination that SNAP-benefit trafficking substantially produced the transaction activity at issue in the present case.

Summary

In summary, Appellant's layout, business structure, and food inventory do not support a high percentage of transactions markedly exceeding the average SNAP transaction amount of similar type stores. Therefore, in the absence of evidence to legitimize such transaction patterns, a conclusion can be drawn, through a preponderance of evidence that the "unusual, irregular, and inexplicable" transactions and patterns cited in the letter of charges evidence trafficking as the most likely explanation.

CIVIL MONEY PENALTY

In the charge letter, the Retailer Operations Division informed Appellant of its right to request a trafficking CMP under 7 CFR § 278.6(i). Appellant was informed that it would need to provide both the request and supporting evidence within ten calendar days of receiving the charge letter and that no extension of time could be granted for making the request or for providing the required evidence. Appellant did not request consideration for a trafficking CMP in lieu of a permanent disqualification under 7 CFR § 278.6(i), even though it was informed of the right to do so in the charge letter.

Even if a timely request had been submitted, Appellant would likely not have been eligible for a trafficking CMP in lieu of disqualification because there is insufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy to prevent SNAP violations. Therefore, the Retailer Operations Division's decision not to impose a trafficking CMP in lieu of disqualification is sustained as appropriate pursuant to 7 CFR § 278.6(i).

CONCLUSION

The Retailer Operations Division's analysis of Appellant's EBT transaction record was the primary basis for its determination to permanently disqualify Appellant. This data provided substantial evidence that the questionable transactions during the review period had

characteristics that are consistent with trafficking violations in SNAP benefits. Therefore, based on a review of all of the evidence in this case, it is more likely true than not true that program violations did occur as charged by the Retailer Operations Division. The determination to impose a permanent disqualification against Appellant is sustained.

The Retailer Operations Division also determined that Appellant was not eligible for a trafficking civil money penalty according to the terms of 7 CFR Section 278.6(i) of the SNAP regulations. Under review, the denial of a trafficking CMP is also sustained.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this decision are set forth in 7 USC § 2023 and 7 CFR § 279.7. 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'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 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.

MARY KATE KARAGIORGOS
Administrative Review Officer

April 22, 2020