

**U.S. Department of Agriculture
Food and Nutrition Service
Administrative Review Branch
Alexandria, VA 22302**

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| Muna Halal Market, |) | |
| Appellant, |) | |
| |) | |
| v. |) | Case Number: C0187604 |
| |) | |
| Retailer Operations Division, |) | |
| Respondent. |) | |
| _____ |) | |

FINAL AGENCY DECISION

It is the decision of the USDA that the record indicates that Muna Halal Market (Appellant) committed violations of the Supplemental Nutrition Assistance Program (SNAP). There is sufficient evidence to support a finding that the permanent disqualification from participation as an authorized retailer in the program, as initially imposed by the Retailer Operations Division, (Retailer Operations) was appropriate.

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 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

By Charge letter dated February 11, 2016, Retailer Operations informed the owners that Appellant was in violation of the terms and conditions of the SNAP regulations based on electronic benefit transactions (EBT) that “establish clear and repetitive patterns of unusual, irregular, and inexplicable SNAP activity for your type of firm.” The letter of charges states, that “As provided by Section 278.6(e)(1) of the SNAP regulations, the sanction for trafficking is permanent disqualification.”

By facsimile dated February 22, 2016, counsel requested an extension to reply. The record shows that counsel was given until March 7, 2016 to reply to the Charge letter, and he was

notified that an extension to request a trafficking civil money penalty (CMP) could not be granted. Appellant replied to the Charge letter on March 11, 2016, March 15, 2016, and March 24, 2016.

Retailer Operations issued a Determination letter dated August 24, 2016. This letter informed Appellant that it was permanently disqualified from the SNAP in accordance with Sections 278.6(c) and 278.6(e)(1) of the SNAP regulations. Retailer Operations considered Appellant's eligibility for a trafficking CMP according to the terms of Section 278.6(i) of the SNAP regulations. However, Appellant was not eligible for the CMP because insufficient evidence was submitted to demonstrate that the store had established and implemented an effective compliance policy and program to prevent violations of the SNAP per the regulations cited.

By letter dated September 1, 2016, counsel appealed Retailer Operations' determination and requested administrative review of this action. The appeal was granted by letter dated September 8, 2016. On September 29, 2016, counsel requested and was granted an extension to reply to October 6, 2016. His reply dated October 5, 2016, was shared with Retailer Operations for its review. Retailer Operations provided its analysis to this office on November 4, 2016.

STANDARD OF REVIEW

In an appeal of an adverse action, the Appellant bears the burden of proving by a preponderance of the evidence, that the administrative action 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 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 § 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." Trafficking is defined, in part, in 7 CFR § 271.2, as "the buying or selling of SNAP benefits for cash or consideration other than 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 products prepared for immediate consumption."

7 CFR § 278.6(a) states, *inter alia*, 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, 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*)

APPELLANT’S CONTENTIONS

The following may represent a brief summary of the contentions in this matter however, in reaching a decision, attention has been given to all contentions presented, including any not specifically recapitulated or referenced herein. The contentions are:

- The charges are meritless. The conclusions the USDA makes from its attachments are based simply on purchasing patterns without any evidence as to the underlying transaction. These patterns may be atypical as to most markets but does nothing to prove the store was involved in any type of trafficking.
- The letter will show these transactions are fully explained by the community which the store serves.
- The owners are of Somali decent and the store is located in an area of San Diego that has a very large Somali community. The owners viewed the store as an investment and a means of serving the Somali community and believed the community could benefit from a market selling groceries and food items that are consumed within the Somali community.
- The majority of the store’s customers have EBT cards. If the USDA cross referenced the household numbers listed in the Attachments with its internal information, it would learn that virtually all of the people issued a household number are of Somali decent.
- All of the employees at the store who operate the cash register are also of Somali decent, and thus they can easily communicate with the store’s primary clientele.
- All of the employees also know how important EBT is to the Somali community and to the success of the store. The loss of the privilege to accept EBT would be devastating to the store.
- As a result, the employees make sure they separate the food items from the non-food items when a customer comes to the register. The food items are charged as one transaction and the non-food items are charged as a second and separate transaction.
- Placing the patterns that the USDA deems suspicious into the store’s business practices, and understanding the Somali community, reveals that the store is not guilty of trafficking.
- Finally, attached are copies of cash register receipts from less than 2 days in both September and October. The store could provide register receipts for all transactions if requested. These few days illustrate the types of transactions the store participates in and highlighted relevant transactions.

For review, Appellant submitted: Exhibit A – cash register receipts from non-SNAP customers showing transactions above \$3,000; these show the customers tend to have large purchases since the community tends to buy food in bulk; Exhibit B – cash register receipts

from non-SNAP customers showing transactions ending in .00 cents; Exhibit C – cash register receipts from SNAP transactions ending in .00 cents; and Exhibit D – cash register receipts from SNAP transactions alleged to be excessively large.

SUMMARY OF CHARGES

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. The charges on review were based on an analysis of SNAP EBT transaction data during the period of August 2015 through November 2015. This involved four patterns of EBT transaction characteristics which are indicative of trafficking:

1. There were an unusual number of transactions ending in a same cents value.
2. Multiple purchase transactions were made too rapidly to be credible.
3. Multiple transactions were made from individual benefit accounts in unusually short time frames.
4. Excessively large purchase transactions were made from recipient accounts.

FNS authorized Appellant as a medium grocery store October 15, 2009. The file indicates that in reaching a disqualification determination, Retailer Operations considered information obtained during a September 9, 2015, store visit conducted by a FNS contractor to record the nature and scope of the store's operation, stock and facilities. This information was then used to ascertain if there were justifiable explanations for the EBT transactions at Appellant that formed patterns indicative of trafficking.

ANALYSIS AND FINDINGS

Retailer Operations presented a case that Appellant trafficked SNAP benefits. 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. As patterns of unusual transactions appear across multiple Attachments the case of trafficking becomes more convincing.

Attachment 1: There are an unusual number of transactions ending in a same cents value. 7 USC 2018 (b)(7)(e).

Counsel contends:

- The fact that some transactions ended in a same cents value does not support the allegation that trafficking occurred.
- A majority of the groceries sold at the store have prices that are in whole numbers and do not have cents, and because they are food items eligible for EBT there is no sales tax, making the final sale a combination of multiple items with prices ending in whole numbers.
- Included is a series of pictures of grocery items with their price stickers reflecting whole numbers (Exhibit A). The meat and chicken sold by the store are placed in prepackaged bags. These bags are sold for \$10.00, \$15.00, \$20.00 and so on.

- All meat/chicken products are sold by package and not per pound as is sold in typical grocery stores. Also, some items such as goats are sold whole for \$150.00 or more. (Exhibit B) Because of this, many transactions end up in a whole number, thus creating multiple differing transactions ending in the same cents value of 00.
- The store's prices usually end in .00, .25, .50 and .75 cents and the purchase of multiple products end up with a .00 cents value. Cash register receipts from non- SNAP customers show transactions ending in .00 cents (Exhibit B).
- The .00 cents transactions are not indicative of trafficking but result from the store's pricing of its products.
- Cash register receipts, Exhibit C, for SNAP transactions end in .00 cents value.

Appellant submitted photos and other evidence that it sold items priced to end in 00 ending values. The photos are not dated so there is no way to ascertain when they were taken. Items included in the photos were either not available and thus not recorded in stock, or available in limited quantities at the time of the contractor visit. Nevertheless, upon review, it is deemed credible that Appellant could have legitimate foods sales ending in a 00 ending cent value. Thus, this Attachment is not more persuasive of trafficking than not.

Attachment 2: Multiple purchase transactions were made too rapidly to be credible. 7
USC 2018 (b)(7)(e).

Counsel stated:

- It is a frequent practice for customers to call in an order of groceries ahead of time. When an order is placed, one of the employees compiles the order and has it ready for the customer when they arrive, including a slip with the total amount of charges for those food items. This enables the employee to enter the charges into the cash register with one entry and swipe the EBT card.
- If the customer wished to purchase other items once they arrive, it is the store's practice to treat the additional items as a separate transaction, thus resulting in a second transaction, be it EBT or otherwise.
- With regard to the second allegation, a thorough examination of Attachment 2 reveals that one consistent pattern cannot be found. The store is a busy and successful store in an area with a large number of customers who fill the store's limited cash register lines.
- Because the store is so busy, the employees have been trained and are accustomed to completing transactions fast and without delay. In fact, the store has 2 cash registers with separate EBT terminals. (Exhibit C)
- Within the alleged violations listed in Attachment 2, most of the transactions were made beyond two minutes apart per terminal, which only shows that each terminal is busy and the employees operating the register are fast at completing transactions and moving onto the next customer.
- The store's practice of allowing customers to call in orders in advance provides additional evidence that multiple transactions can be entered in 2 or 4 minutes time.

The record shows that the store has two POS devices and two registers. No shopping carts or handheld baskets were noted as present in the store visit report. The rapid times of these transactions given the steps involved to process large orders of eligible foods such as, the cashier's handling of individual items, bagging of items for carry out, and processing the transactions, renders these purchase transactions suspect and indicative of trafficking. In addition, the food inventory as documented by the vendor invoices submitted by Appellant does not support that Appellant carried sufficient inventory of eligible foods to meet its SNAP redemption totals.

Appellant submitted invoices for more than \$300 from different vendors for purchases made during the review period. Retailer Operations analyzed these and noted the reason for documents excluded such as incomplete vendor information. Based on Retailer Operations' analysis, Appellant did not submit sufficient vendor documentation of eligible food purchases to cover its SNAP redemptions during the review period as noted in the chart herein.

7 USC 2018 (b)(7)(e)

The record states that Retailer Operations asked counsel to provide copies of the slips which he stated are filled out by store personnel and show the total amount of charges for the food items pre-ordered by customers. The record goes on to state that "Attorney did not submit any of this documentation."

7 USC 2018 (b)(7)(e)

No advertising was observed in the store and no evidence was provided that call-in orders were commonplace at Appellant. No customer affidavits were advanced that Appellant took advance orders or requests and prepared these orders prior to a customer's store visit. Thus, this Attachment pattern has not been adequately explained as legitimate by a preponderance of the evidence.

Attachment 3: Multiple SNAP purchase transactions were made from individual benefit accounts in unusually short time frames. **7 USC 2018 (b)(7)(e).**

Counsel contends:

- After examining Attachment 3, only 16 out of the alleged 86 violations had charges to the same benefit account within 2 to 6 minutes apart, the rest are over 10 minutes apart. The reasons for such charges can be explained by either the store's practice to allow people to call ahead, that a customer forgot to purchase something in the initial transaction, or that the customer was not sure how much was remaining on his/her EBT account, and thus needed to wait to make additional purchases.
- Also, because of the fact that the store is located in proximity to many of its clientele, when a customer forgets to purchase an item they can easily return to the store in mere minutes.
- There are a number of transactions that took place over four hours apart and twenty- three hours apart, which are random at best, and do not reveal anything.

Retailer Operations did not accept the contention that it was store practice to take call-in orders since Appellant failed to submit any documentation to support phone orders from customers. As to the contention that recipients forgot items and made a second transaction, while this may sometimes occur this explanation does not seem credible when second transactions are large and do not seem to reflect some forgotten item(s). For example, transaction 489 is larger than transaction 488. Also, there is no need for recipients to make a purchase to conduct a balance check. The regulations are clear that households “shall be permitted to determine their SNAP account balances without making a purchase or standing in a checkout line. The State agency shall ensure that the EBT system is capable of providing a transactions history for a period of up to two calendar months to households upon request.” For example on November 7, [7 U.S.C. 2018 (b)(6) & (b)(7)(c)] had shopped at a combination store at 11:38 AM and presumably knew its balance when at 12:50:19 PM and 12:52:06 PM it conducted two rapid transactions at Appellant for \$139.44. It then shopped at a supermarket at 1:43 PM and transacted \$14.81. Also, on November 6, [7 U.S.C. 2018 (b)(6) & (b)(7)(c)] made a transaction at a mainstream convenience store at 08:39:21 AM, and then at a traditional supermarket at 09:08:46 AM. Based on these two transactions, it presumably knew its card balance when it transacted \$27.99 at 11:55:57 AM at Appellant. Thus, the \$27.99 transaction does not appear to be a balance check and the \$102.99 transaction at 12:06:08 PM does not appear to be for forgotten items.

[7 U.S.C. 2018 (b)(6) & (b)(7)(c)] made three transactions for a total of \$263.25 on August 7 at a combination store, a mainstream supermarket, and a well-known super store at 5:10 PM. Based on this shopping pattern, it does not seem likely that the 8/8 transaction at Appellant at 10:13:03 AM was a balance check. It also seems unlikely that it would take almost 35 minutes to purchase \$65.18 in goods at one visit, or that that is sufficient time to go back home and unload items, and then return again for more items. While these may be legitimate purchases for eligible foods, insufficient evidence was advanced that the transactions listed on this Attachment were for eligible SNAP foods. No itemized cash register tapes were produced, the cash tapes as noted all list items as “GROCERY.” No affidavits of SNAP recipients’ shopping patterns were advanced. No price list of the eligible items offered at Appellant was provided. The invoices of stock to support SNAP redemptions were not adequate to prove that Appellant carried sufficient eligible foods to meet its SNAP redemption totals. Appellant advanced no federal business tax records or bank records for review.

7 CFR § 278.6(a) allows disqualification from a finding of a violation on the basis of evidence that may include facts established through inconsistent redemption data, and/or evidence obtained through a transaction report under an electronic benefit transfer system. Therefore, that Retailer Operations used computer printouts of transaction data and other reports, in addition to store visit observations and an analysis of household shopping behavior, in rendering a finding that violations indicative of trafficking were occurring, is as valid a means of establishing facts as direct evidence obtained through an on-site investigation and the eye witnessing of trafficking.

Attachment 4: Excessively large purchase transactions were made from recipient accounts.

[7 USC 2018 (b)(7)(e)].

Counsel contends:

- Mr. Ahmed decided that if the store was to truly serve the community and be successful the store needed to start selling meat products, such as whole goats, whole lambs, beef and fish which are a vital part of the Somali diet.
- Since the store sells meat and groceries, most people in the Somali community go to the store for all their food needs.
- It is not uncommon for a customer to buy two whole goats at one time.
- The fourth allegation can be explained by the fact that a vast majority of the store's customers are eligible for EBT. Many customers wait until there is balance on their card before coming to the store, so that they may purchase large quantities of food at one time that will hopefully last the entire month.
- This may consist of buying the equivalent of an entire goat, large bags of rice and other bulk items. Furthermore, a majority of the transactions listed in Attachment 4 were made within the first ten days of the month, which is when customers have their EBT card balances replenished.
- For example, [7 U.S.C. 2018 (b)(6) & (b)(7)(c)] spent \$389.19 on 08/01/2015, \$379.80 on 09/01/2015 and \$251.91 on 11/02/2015.
- [7 U.S.C. 2018 (b)(6) & (b)(7)(c)] spent \$356.21 on 10/01/2015 and \$374.52 on 11/01/2015. These transactions reveal a consistent shopping pattern where in each respective customer shopped around the same time each month, and purchased similar amount of groceries.
- Attached are copies of cash register receipts from less than 2 days in both September and October. The store could provide register receipts for all transactions if requested. These few days illustrate the types of transactions the store participates in and highlighted relevant transactions.
- Exhibit D includes cash register receipts from SNAP transactions which USDA alleges are excessively large purchases. These show customers are purchasing higher priced products in bulk. This is the purchasing habit of a typical Muna Halal customer.

The record shows that there are seven medium grocery stores, four supermarkets and four super stores within a one mile radius of Appellant. [7 USC 2018 (b)(7)(e)]. Thus, the data supports that the recipients frequenting Appellant had access to and did shop at larger stores.

As to household [7 U.S.C. 2018 (b)(6) & (b)(7)(c)], it conducted 216 SNAP transactions during the review months, including 52 at Appellant, 18 flagged on Attachment 1, eight on Attachment 3, and 13 on Attachment 4. During the review months this HH made transactions of more than \$100 at Appellant on: 8/1, 8/3, 8/19, 9/3, 9/5, 10/1 and 11/1. On or in proximity of these dates, the HH also transacted benefits at a supermarket about .69 miles from Appellant, where it exchanged lower dollar amounts of benefits. Retailer Operations found this irregular. It also frequented different super stores and supermarkets, combination stores, a large grocery, and convenience stores indicating that it used a range of authorized retailers to transact benefits. On review, it is noted that based on the benefit balance amounts in the record, household [7 U.S.C. 2018 (b)(6) & (b)(7)(c)] is a large household. It is possible that it acquired halal meats and other eligible foods at Appellant, expending more of its benefits at this ethnic

store than at a regular supermarket. However, Appellant did not provide itemized cash register tapes to support what items it sold. Each tape simply lists “GROCERY” for each item, therefore it is not possible to know if eligible items, ineligible items, or if any items at all were sold for each “GROCERY” listed. The HH did not provide an affidavit attesting to its purchases at Appellant, and Appellant’s vendor invoice documentation did not support its SNAP redemption volume.

7 U.S.C. 2018 (b)(6) & (b)(7)(c) conducted 117 SNAP transactions during the review months, nine of which were flagged, seven on this Attachment. The HH transacted benefits at super stores, supermarkets, combination stores, a large grocery, and a convenience store. It transacted benefits for more \$100 on: 8/1, 9/1, 9/5, 10/1, 10/4, 11/1, and 11/5. On review, it is noted that based on the benefit balance amounts, this is a large household. It is possible that it acquired halal meats and other eligible foods at Appellant. However, Appellant did not provide itemized cash register tapes to support what items it sold to this household. This HH provided no affidavit as to what it acquired at Appellant in exchange for large benefit amounts.

The record confirms that the majority of Appellant’s SNAP customers shopped at large groceries, supermarkets and super stores on the same day, or within a few days of shopping at Appellant. Retailer Operations determined that the store visit report did not indicate any compelling reason for customers to make high dollar purchases at Appellant. Retailer Operations noted that during the review period several households that transacted benefits at Appellant also shopped at other stores that stocked halal meats and Middle Eastern food products. Retailer Operations found it irregular that some of these households spent fewer benefits at apparently better stocked halal stores. For example, on 9/5/15, **7 U.S.C. 2018 (b)(6) & (b)(7)(c)** transacted \$210.33 at Appellant, and less than an hour later it transacted \$145.55 at a large ethnic market. The same HH transacted \$280.23 at Appellant on 10/5/15 at 09:54:37 AM, and at 01:17:59 PM at a large market it transacted \$163.67. **7 U.S.C. 2018 (b)(6) & (b)(7)(c)** also had a similar pattern whereby larger transactions were conducted at Appellant than at other well-stocked Middle Eastern markets.

Retailer Operations noted that in addition to not being itemized to show which items were purchased, the receipts submitted do not show any identifiable information pertaining to Appellant, i.e. there is no store name or address listed on the receipts. **7 USC 2018 (b)(7)(e)**. The lack of sufficient inventory documentation to support the SNAP redemptions further contributes to the conclusion that trafficking is occurring at Appellant. Cash receipts for large dollar amounts for example \$951.50 and \$3,028.97 are not exculpatory in that cash sales can be for anything including non-food items.

The evidence that Appellant violated the SNAP regulations was furnished in the Charge letter Attachments. Government analyses of stores caught in trafficking violations during on-site investigations have found that transactions involving trafficking consistently display particular characteristics or patterns. SNAP transaction data is provided to FNS via each State’s EBT processor on a daily basis in a single layout and format that is standardized nationwide. The EBT transactions are validated and loaded into a database for subsequent analysis. USDA has a system that scans all retailer transactions at the beginning of each

month for the prior month. The system uses pre-defined criteria or patterns for potential fraud detection. Pre-formatted reports provide information on those stores and transactions meeting the pre-established criteria.

The system provides a series of spread sheets and graphs that compare a specific store's data to the average for its firm type or to user-selected comparison stores. In addition, the system utilizes mapping software which translates the location address information into geo codes and enables the user to map the locations of selected authorized stores and track recipient transaction locations. The system identifies a retailer for further investigation, and the actual case of trafficking is made by retailer compliance staff on the basis that the transaction patterns cannot be explained based on the store size, layout, inventory, and other factors. The computer system is an analysis tool of SNAP transaction data and is used by Retailer Operations staff to evaluate the type and extent of potential program violations. Users are also able to supplement and/or confirm their analytic documentation by accessing the applicable State's EBT Processors' Administrative systems through web access to the applicable State system. The state system, not the federal system, is the repository for recipient information and race and ethnic information is not captured.

Regarding ownership's denial of the trafficking allegations, this review encompasses and documents the examination of the primary and relevant information in this case, the purpose of which is, as noted herein, to determine whether Appellant demonstrates by a preponderance of the evidence that the permanent disqualification should be reversed. Assertions that the firm has not violated program rules, by themselves and without sufficient supporting evidence, do not constitute valid grounds for dismissal of the current charges of violations or for mitigating their impact.

Ownership contends that a SNAP disqualification will have a negative financial impact on the store. It is recognized that some degree of economic 7 USC 2018 (b)(7)(e). 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. Therefore, Appellant's contention that the firm may 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 imposed.

CIVIL MONEY PENALTY

7 CFR § 278.6(i) specifies the criteria that must be met for a store's eligibility for a civil money penalty in lieu of permanent disqualification for trafficking. The owners did not provide CMP documentation as required and clearly stated in the Charge letter for consideration of a CMP. Accordingly, Retailer Operations correctly determined that Appellant did not qualify for a civil money penalty in lieu of a permanent disqualification.

CONCLUSION

Retailer Operations’ analysis of Appellant’s EBT transaction record was the primary basis for its determination to permanently disqualify the retailer. This data provided substantial evidence that the questionable transactions during the review period had characteristics that are consistent with trafficking violations in SNAP benefits. Based on this empirical data, and in the absence of compelling evidence for 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. In this case, Retailer Operations determined that Appellant’s contentions did not outweigh the evidence in the record that trafficking was the most probable explanation for the questionable transactions listed in the Charge letter Attachments, and it acted on its case to permanently disqualify Appellant.

Sufficient evidence was advanced to explain Attachment 1. Nevertheless, based on a review of all of the evidence in this case, the other three Attachments did support that it is more likely true than not true that program violations did occur at Appellant as charged by Retailer Operations. Therefore, based on the discussion herein, the decision to impose a permanent disqualification against Appellant is sustained.

RIGHTS AND REMEDIES

Your attention is called to Section 14 of the Food and Nutrition Act of 2008 and to Section §279.7 of the Regulations (7 CFR § 279.7) with respect to applicable rights 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 the Appellant’s owners 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 (FOIA), it may be necessary to release this document and related correspondence and records upon request. If we receive such a request, we will seek to protect, to the extent provided by law, personal information that if released, could constitute an unwarranted invasion of privacy.

MADELINE VIENS
ADMINISTRATIVE REVIEW OFFICER

November 10, 2016
DATE