

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

Ossun Market Vill,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0198839

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 that a permanent disqualification of Ossun Market Villa (hereinafter “Appellant”) from participation as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) was properly imposed by the Retailer Operations Division.

ISSUE

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

AUTHORITY

7 U.S.C. § 2023 and its implementing regulations at 7 CFR § 279.1 provide that “[A] food retailer or wholesale food concern aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 . . . may file a written request for review of the administrative action with FNS.”

SUMMARY OF CHARGES

The Appellant was charged with trafficking and subsequently permanently disqualified based on an analysis of EBT transaction data from August 2016 through October 2016. This involved the following transaction patterns which are common trafficking indicators:

- There were multiple transactions made from individual household benefit accounts within

- unusually short timeframes.
- Excessively large purchase transactions were made from recipient accounts.

CASE CHRONOLOGY

The agency's record shows that FNS initially authorized Ossun Market Villa for SNAP participation as a convenience store on April 30, 1998. In a letter dated April 11, 2017, the Retailer Operations Division charged the Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations, based on a series of irregular SNAP transaction patterns that occurred between the months of August 2016 and October 2016. The letter noted that the penalty for trafficking is permanent disqualification as provided by 7 CFR § 278.6(e)(1). The letter also stated that the Appellant could request a civil money penalty (CMP) in lieu of permanent disqualification for trafficking, but noted that such a request must be made within 10 days of receipt of the charge letter under the conditions specified in 7 CFR § 278.6(i).

In correspondence between April 12, 2017 and April 20, 2017, the Appellant responded to the charge letter, generally stating that trafficking violations did not occur at the store. The owner contended that she interviewed all of her employees separately and that all claimed to have not committed violations of any kind. She further argued that she was an "absent owner," only going into the store a few times a week. The Appellant claimed that the transactions in question occurred during a period of time in which a Federal disaster had been declared. During this period, the firm was permitted to accept SNAP benefits in exchange for hot food items. As such, some customers made large purchases.

The Appellant did not submit any evidence or documentation beyond its one-page explanation to support its response to the charge letter.

After reviewing the Appellant's response and further considering the evidence in the case, the Retailer Operations Division concluded that trafficking had occurred as charged and issued a determination letter dated April 28, 2017. This determination letter informed the Appellant that it would be permanently disqualified from SNAP upon receipt of the letter in accordance with 7 CFR § 278.6(c) and § 278.6(e)(1). The letter also stated that the Retailer Operations Division considered the Appellant's eligibility for a trafficking CMP according to the terms of Section 278.6(i) of the SNAP regulations, but that a CMP was not appropriate in this case because the Appellant failed to submit sufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program to prevent SNAP violations.

In a letter postmarked May 10, 2017, the Appellant appealed the Retailer Operations Division's determination by requesting an administrative review. The request was granted.

STANDARD OF REVIEW

In an appeal of adverse action, such as disqualification from SNAP participation, an appellant bears the burden of proving by a preponderance of the evidence that the administrative action

should be reversed. This means that an appellant has the burden of providing relevant evidence which a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

CONTROLLING LAW AND REGULATIONS

The controlling law in this matter is found in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and promulgated through regulation under Title 7 CFR Part 278. In particular, 7 CFR § 278.6(a) and (e)(1)(i) establish the authority upon which a permanent disqualification may be imposed against a retail food store or wholesale food concern.

7 U.S.C. § 2021(b)(3)(B) states, *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, [or] evidence obtained through a transaction report under an electronic benefit transfer system....** [Emphasis added.]*

7 CFR § 278.6(e)(1)(i) states:

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

7 CFR § 271.2 states, *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 § 271.2 states, *inter alia*:

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

7 CFR § 278.6(b)(1) states, *inter alia*:

Any firm considered for disqualification ... under paragraph (a) of this section... shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before FNS makes a final administrative determination. The FNS regional office shall send the firm a letter of charges before making such determination. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification.... The letter shall inform the firm that it may respond either orally or in writing to the charges contained in the letter within 10 days of receiving the letter...

7 CFR § 278.6(c) states, *inter alia*:

The letter of charges, the response, and any other information available to FNS shall be reviewed and considered by the appropriate FNS regional office, which shall then issue the determination. In the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section, the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS, regardless of whether a request for review is filed in accordance with part 279 of this chapter.

7 CFR § 278.6(b)(2)(ii) states, *inter alia*:

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

7 CFR § 278.6(b)(2)(iii) states:

If a firm fails to request consideration for a civil money penalty in lieu of a permanent disqualification for trafficking and submit documentation and evidence of its eligibility within the 10 days specified in § 278.6(b)(1), the firm shall not be eligible for such a penalty.

7 CFR § 278.6(i) states, *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... In determining the minimum standards of eligibility of a firm for a civil money penalty in lieu of permanent disqualification for trafficking, the firm shall, at a minimum, establish by substantial evidence its fulfillment of each of the following criteria:

Criterion 1. The firm shall have developed an effective compliance policy as specified in § 278.6(i)(1); and

Criterion 2. The firm shall establish that both its compliance policy and program were in operation at the location where the violation(s) occurred prior to the occurrence of the violations cited in the charge letter sent to the firm; and

Criterion 3. The firm had developed and instituted an effective personnel training program as specified in § 278.6(i)(2); and

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations...

APPELLANT'S CONTENTIONS

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

- Appellant does not agree with the disqualification determination. Owner firmly believes that none of her employees did anything wrong when it came to SNAP benefits.
- Appellant has two employees who are no longer working at the store. Owner had to let them go because business at the Appellant firm was slow due to another convenience store opening in the area.
- Appellant needs further proof of who committed the violations so that it can further research the matter.
- Appellant thinks it is unfair that FNS takes away use of the EBT machine without giving it a chance to see if anything wrong was ever done.
- Appellant has been in business for 18 years and has never had an issue like this.
- During the three month review period, the area was in a flood disaster, and households were allowed to purchase hot foods with SNAP benefits.

In support of its contentions, the Appellant submitted two handwritten letters: one from a store manager, and another from a store employee. The authors of these letters contend that they have never committed any SNAP violations and have never seen other employees commit any violations.

In a fax dated May 24, 2017, the Appellant owner submitted one additional letter of explanation. She stated that one of her employees had two families living with her temporarily as a result of the floods in the area. The employee admitted that she would purchase large quantities of food and hot food for these families. This was apparently done using her own EBT card. The employee refused to write a letter of explanation to this effect. The Appellant owner said that these transactions were done without her knowledge and assures FNS that she will keep a better eye on what her employees are doing.

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

ANALYSIS AND FINDINGS

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

Contractor Store Visit

The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered not only the Appellant firm's EBT transactions, but also information obtained from a January 12, 2017 store visit which was conducted by an FNS contractor to observe the nature and scope of the firm's operation, stock, and facilities. This store visit information was used to ascertain if there were justifiable explanations for the firm's irregular SNAP transaction patterns. The store visit report and photographs documented the following store size, description, and characteristics:

- Ossun Market Villa is a standard convenience store/gas station, approximately 1,530 square feet in size, operating in a residential area of Lafayette, Louisiana.
- At the time of the visit, the firm had no shopping carts or shopping baskets for customer use.
- The store visit photographs show two cash registers and one EBT point-of-sale device.
- The store does not appear to use optical scanners to process transactions.
- The store's staple food stock is sufficient in each of the four staple food categories. The store also sells SNAP-eligible, non-staple accessory food items, such as carbonated and uncarbonated drinks, snacks, candy, and condiments. Additionally, the store sells ineligible nonfood items, such as gasoline, alcohol, tobacco products, and other miscellaneous household merchandise.
- The firm also offers a selection of hot meals which are generally not eligible for purchase with SNAP benefits, but may be available for purchase during an official disaster declaration. Prices for these items are typically 5 U.S.C. § 552 (b)(6) & (b)(7)(C) \$1.99 for two buffalo wings; \$3.49 for a hamburger, or \$4.39 for a four-piece meal of chicken tenders and fries. The most expensive item on the menu appears to be 12 chicken tenders and an order of fries for \$11.99. Other items on the menu include, but are not limited to, corn dogs, po-boy sandwiches, catfish, shrimp, and crab.
- The checkout area consists of a typical convenience store countertop where items can be placed to be rung up. The checkout area is not very suitable for conducting large or rapid transactions as there is no conveyor belt to expedite the purchase and not enough space to place more than a few items at one time.
- There is no indication from the store visit report that the firm has a special pricing

structure, although the photographs appear to suggest that virtually all eligible food items end in 9, such \$1.19, \$1.39, etc.

The available inventory of SNAP-eligible food items at the time of the visit showed stock that would be typical of a convenience store/gas station. There was no indication that SNAP households would be inclined to regularly visit the store to purchase large quantities of grocery items, especially considering the absence of shopping carts and baskets. The available food was primarily of a low-dollar value and there was no hint that the firm sold any high-priced meat or seafood bundles or other bulk or specialty items.

Given the available inventory, there was very little sign that the firm would be likely to have SNAP redemption patterns that differed significantly from those of similar-sized competitors.

SNAP Transaction Analysis

Charge Letter Attachment 1: Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment lists 13 sets of transactions (34 transactions in all) 5 U.S.C. § 552 (b)(6) & (b)(7)(C). 5 U.S.C. § 552 (b)(6) & (b)(7)(C)

The transactions cited in Attachment 1 are noteworthy because they are highly irregular and stand out significantly from normal shopping patterns at convenience stores such as Ossun Market Villa. As noted earlier, the store visit photographs show a stereotypical convenience store/gas station with a moderate amount of staple food inventory, most of which is low-priced or single-serving items, and most of which has a pricing structure ending in 9. The photos offer no legitimate explanation for why SNAP customers would shop at the store on multiple occasions within narrow windows of time while spending very large dollar amounts, 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

5 U.S.C. § 552 (b)(6) & (b)(7)(C) It is perplexing that an individual household would spend even a fraction of these amounts at a moderately stocked convenience store with no shopping carts or baskets, particularly when these same households regularly shopped at much larger stores nearby, such as supermarkets and superstores.

The Appellant has argued that during the review period, there was a disaster declaration in the area and stores were granted an exception to sell hot food items to SNAP recipients who were victims of the disaster. The Appellant claims that during this time, some household made large purchases.

While it is true that there was an exception to the hot food rule during the review period, the transactions listed in Attachment 1 do not appear to be such purchases. As noted earlier, most of the inventory in the store is of a low-dollar value, and nearly everything in the store ends in 9. 5 U.S.C. § 552 (b)(6) & (b)(7)(C) Such irregular transactions are found throughout Attachment 1.

Unfortunately, the Appellant has offered no evidence, such as cash register receipts or other documentation to prove that the transactions cited in Attachment 1 were legitimate purchases of

eligible food. As noted earlier in this review, in an appeal of an administrative action, the onus is on the Appellant to prove by a preponderance of the evidence that the administrative action should be reversed. In this case, the Appellant has submitted no documentation to counter the Retailer Operations Division's position.

Given the common practice of violating retailers breaking up large, suspicious transactions from the same household into multiple, somewhat smaller transactions to avoid detection, a firm's explanation for why these repetitive transactions are occurring in a convenience store should be both rational and compelling. The Appellant's contentions in this regard are neither.

Charge Letter Attachment 2: Excessively large purchase transactions were made from recipient accounts. This attachment lists 84 SNAP transactions

5 U.S.C. § 552 (b)(6) & (b)(7)(C). These large transactions are not consistent with a convenience store in the state of Louisiana. The Retailer Operations Division has determined that during the review period, the average SNAP transaction amount for a convenience store in Louisiana was \$8.28. This includes other stores who were also permitted to sell hot food items during the disaster declaration. **5 U.S.C. § 552 (b)(6) & (b)(7)(C).**

Given that the Appellant firm does sell a variety of staple foods as well as some eligible accessory foods, such as soft drinks and snacks, and considering that some purchases were likely to be higher during the disaster declaration period, it is probable that there would be an occasional purchase where the transaction amount is high, **5 U.S.C. § 552 (b)(6) & (b)(7)(C).** So there are possibly some legitimate SNAP purchases listed among the transactions in Attachment 2. However, as noted earlier, there is no evidence that the firm would be likely to have SNAP redemption patterns that differ considerably from similar-sized competitors, especially considering the absence of shopping carts and shopping baskets and the store's constricted checkout area. If the Appellant was legitimately conducting a very high number of large transactions, it stands to reason that the store would offer its customers shopping carts or baskets to help transport large amounts of food. In short, the substantial number of high-dollar purchases in a three-month period in the Appellant store calls into question the legitimacy of these transactions.

5 U.S.C. § 552 (b)(6) & (b)(7)(C) Based on the characteristics of the store it is simply not credible that the Appellant would so frequently conduct transactions that more closely resemble those of a supermarket or superstore. It is not plausible that the firm's customers would carry large amounts of merchandise around the store without the benefit of shopping carts or baskets, especially since larger, better stocked stores are in the vicinity of the Appellant firm.

In reviewing the contractor's store visit photos and report, it is difficult to comprehend what, other than trafficking, would lure a household to spend large amounts of SNAP benefits in a convenience store rather than going to a nearby supermarket or superstore where prices are likely lower, where inventory is significantly larger, and where shopping carts or baskets would help facilitate the purchase of large numbers of items.

The Appellant has argued that large transactions are the result of households spending more money than usual due to the disaster declaration, which allowed SNAP households to make

purchases of hot food. Unfortunately, the evidence does not support the Appellant's claim. It is true that the area in which Ossun Market Villa is located was under a disaster declaration in the period in question. During that time, SNAP households were permitted to use their SNAP benefits to not only buy eligible food items, but also hot foods prepared at SNAP authorized retail firms.

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

There are other similar examples, where SNAP households would bypass (by many miles) larger supermarkets or superstores in order to shop at Ossun Market Villa. These larger stores were also permitted to sell hot foods, as they were also in the disaster declaration zone. But the households still elected to travel great distances to spend large amounts of SNAP benefits at Ossun Market Villa, which is nothing more than a standard convenience store. Such shopping behavior is not typical or even rational. This review cannot comprehend what would be available at Ossun Market Villa that would not be available at a supermarket or superstore located much nearer to the customers' homes.

Because the Appellant has not provided a single piece of evidence to counter the Retailer Operations Division's position, it is reasonable to conclude that trafficking was likely occurring.

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

In comparison with other area stores, the patterns of spending that took place at the Appellant firm are highly irregular. It is noted that stores caught in trafficking violations, both during onsite investigations and in EBT analysis cases, consistently display particular characteristics or patterns. These patterns often include frequent, large transactions that cannot be supported by the retailer's inventory, store type, and structure. It is the conclusion of this review that Ossun Market Villa, with its somewhat limited and primarily low-dollar inventory, lack of shopping carts and baskets, and its constricted checkout area cannot support the large numbers of high-dollar transactions identified in Attachment 2. Therefore, the most logical explanation for such repetitive transactions is trafficking.

Based on the above analysis, it is the determination of this review that the Retailer Operations Division has satisfactorily demonstrated that Ossun Market Villa likely trafficked in SNAP benefits. Similarly, the Appellant has failed to sufficiently rebut such a claim. The attachments furnished with the charge letter adequately identify the irregular patterns of SNAP transactions which indicate that trafficking was likely taking place at the firm during the review period. Conversely, the Appellant has failed to provide a rational explanation as to why such patterns might exist. As there are multiple unexplained patterns of irregular transactions, the case of trafficking is convincing.

No Prior Violations

The Appellant contends that it has been in business for 18 years and has never had an issue like this. The Appellant also submitted two handwritten statements from employees stating that they have been with the firm for many years and have never been involved in SNAP violations, and have never seen another employee commit a SNAP violation. This contention implies that because the firm has been compliant with SNAP rules and regulations in the past or has not been charged with any previous violations, that the charges should be dismissed or reduced.

However, the law requires that when serious violations, such as trafficking, occur, permanent disqualification is the required penalty, even on the first occasion, as noted in 7 U.S.C. § 2021(b)(3)(B). As described earlier, this review has determined that the Retailer Operations Division adequately demonstrated that the Appellant firm was likely trafficking in SNAP benefits. Similarly, the Appellant has failed to sufficiently rebut the agency's position. In accordance with existing statute and regulation, permanent disqualification is the appropriate penalty.

Therefore, the Appellant's contention that it has been compliant with SNAP regulations in the past does not provide a valid basis for dismissing the charges or for mitigating the penalty imposed.

Trafficking Case based on EBT Data

The Appellant has argued that it is unfair for FNS to take away the firm's use of its EBT machine without giving it a chance to see if any wrongdoing was ever committed. The Appellant claims that it needs additional proof of who committed the violations so that it can further research the matter.

With regard to these contentions, this review acknowledges that it cannot be determined which of the firm's employees committed the SNAP violations. In other words, a conclusion of trafficking cannot be drawn from EBT data alone, nor would it be possible to do so in a case based primarily on inconsistent redemption data or transaction data under an EBT system. It is noted that FNS employs a computerized fraud detection tool to identify EBT 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 analyze the transaction data and patterns with other factors, such as observations from a store visit, an analysis of customer shopping behavior, and a comparison with similar stores in the area, and then render a determination as to whether or not the questionable transactions were, more likely than not, the result of trafficking.

The legality of this method is identified in 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, [or] evidence obtained through a transaction report under an electronic benefit transfer system" [Emphasis added.]

Prior to a disqualification determination, the accused firm is given an opportunity to reply to the charges and provide any information it deems appropriate in justifying as legitimate the transaction activity detailed in the charge letter.

It should be noted that this reviewer has thoroughly examined the documentation and information provided by the Retailer Operations Division and found no evidence to suggest that the agency simply churned out numerical data and declared it to be trafficking. From all indications, the Retailer Operations Division obtained the EBT data, 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.

It is worthwhile to state here that SNAP regulations do not govern or mandate how a SNAP household spends its benefit allotment, including how many times or how frequently a household may use its EBT card at a particular store or how large a transaction can be. However, the transactions noted in the charge letter attachments are questionable not because they exceed any limits for use, but because they display patterns of use that are inconsistent with the store's documented physical characteristics and food inventory. It should be further noted that the transactions identified in the charge letter are not marginally abnormal, but decidedly so, especially in comparison with other nearby SNAP-authorized stores. This review does not contend that repetitive or large EBT transactions are overtly suspicious when they occur on an occasional or intermittent basis, but when such transactions form questionable patterns on a consistent basis over a substantial period of time, such activity is considered highly irregular, and a firm's intent to comply with program regulations is called into question.

It is important to restate that the Appellant has offered no evidence, such as itemized cash register receipts, to prove that the transactions identified in the charge letter attachments were legitimate purchases of eligible food. Assertions of innocence, 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.

Civil Money Penalty

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

In accordance with regulations at 7 CFR § 278.6(b)(2), in order for a civil money penalty to be considered, a firm must not only notify FNS that it desires the agency to consider a CMP in lieu of permanent disqualification, but it must also submit appropriate documentation within designated timeframes. Based on a review of the case record, there is no evidence that the Appellant requested a CMP in lieu of disqualification when it responded to the charge letter. The Appellant also made no mention of a trafficking CMP nor submitted any documentation to support its eligibility of a CMP in its request for administrative review.

Therefore, in accordance with 7 CFR § 278.6(b)(2)(iii), the Appellant is not eligible for a civil money penalty in lieu of permanent disqualification for trafficking.

CONCLUSION

The Retailer Operations Division's analysis of the Appellant's EBT transaction record was the primary basis for its determination to permanently disqualify Ossun Market Villa from SNAP participation. This data provided sufficient evidence that the questionable transactions during the review period had characteristics that were consistent with trafficking in SNAP benefits. 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 those cited in the letter of charges.

In the absence of any reasonable explanations for such transaction patterns, a conclusion can be drawn through a preponderance of the evidence that the "unusual, irregular, and inexplicable" transactions and patterns cited in the charge letter point to trafficking as the most likely explanation. 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 determined by the Retailer Operations Division. As such, the decision to impose a permanent disqualification against the Appellant, Ossun Market Villa, under the ownership of Loan Doan, is sustained.

RIGHTS AND REMEDIES

Applicable rights to a judicial review of this decision are set forth in Section 14 of the Food and Nutrition Act of 2008 (7 U.S.C. § 2023) and in Section 279.7 of the SNAP regulations. If a judicial review is desired, the complaint, naming the United States as the defendant, must be filed in the U.S. District Court for the district in which the Appellant owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. If a complaint is filed, it must be filed within 30 days of receipt of this decision.

Under the Freedom of Information Act, we are releasing this information in a redacted format as appropriate. FNS will protect, to the extent provided by law, personal information that could constitute an unwarranted invasion of privacy.

JON YORGASON
Administrative Review Officer

December 4, 2017