

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

Pump-N-Munch on Lyndale,

Appellant,

v.

Case Number: C0208012

Retailer Operations Division,

Respondent.

FINAL AGENCY DECISION

It is the decision of the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) that there is sufficient evidence to support a finding that the permanent disqualification of Pump-N-Munch on Lyndale (Pump-N-Munch 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 May 24, 2018, 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 November 2017 through April 2018. 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 replied to the charges and indicated that they were the result of an employee allowing three customers to make repayments on credit accounts with SNAP benefits.

After considering the evidence and the retailer's reply, the Retailer Operations Division issued a determination letter dated July 10, 2018. 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 July 19, 2018, Appellant appealed the Retailer Operations Division's determination and requested an administrative review.

STANDARD OF REVIEW

In appeals of adverse actions, the Appellant bears the burden of proving by a clear 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(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(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 November 2017 through April 2018. This involved the following SNAP transaction patterns which are indicative of trafficking:

- There were an unusual number of transactions ending in a same cents value.
- There were multiple transactions made from individual benefit accounts in unusually short time frames.
- 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 July 19, 2018, administrative review request, and subsequent correspondence dated August 24, 2018, Appellant provided the following summarized contentions, in relevant part:

- Appellant relies on the integrity of its employees and their strict compliance with SNAP regulations.
- An employee extended credit to three SNAP recipients.
- All the products were for SNAP eligible food products.
- Any non-compliance with proper protocol was unauthorized and occurred in a series of acts not approved by management and were solely the independent actions of an employee.
- No criminal intent was present and no false or fraudulent transactions occurred.
- The employee has been admonished.
- Appellant requests that the sanction be commensurate with any actual infractions that may have occurred and consideration is given that this is the first notice of any alleged violations.
- Appellant is a small independently owned convenience store relying upon strict compliance by staff, who although were informed of the SNAP procedures and policies at the time of hire, cannot be constantly monitored and scrutinized by the employer.
- Appellant has participated since 2009 without any adverse incidents.

- Appellant requests that that warning as provided by 7 CFR 278.6(7) or a one year disqualification as provided in 7 CFR 278.6(4)(ii).
- Appellant is a small neighborhood convenience store with limited financial resources.
- All SNAP policies and compliance efforts are limited by the economic realities and the practical limitations of its monitoring employee misbehavior
- Employees are advised of existing SNAP regulations and instructed to comply with them.

Appellant submitted the following documents in support of its review request:

- Retailer Operations Division's May 24, 2018, charge letter;
- Appellant's June 1, 2018, reply to the Retailer Operations Division;
- Retailer Operations Division's July 10, 2018, determination letter;
- Appellant's July 19, 2018, administrative review request

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 Pump-N-Munch as a convenience store on February 3, 2012. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a March 22, 2018, 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:

- Pump-N-Munch is approximately 875 square feet, with a small storage area with some beverages and miscellaneous items outside of public view.
- The checkout area was small and limited in space surrounded by a Plexiglas wall.
- There was one shopping basket and no shopping carts for customer use.
- There was one cash register and one point-of-sale device.
- Meat items included a few packages of hot dogs, bacon, and smoked sausage.
- Fresh produce included some potatoes, onions, and lettuce.
- Dairy included milk, butter, cheese, and one container of sour cream.
- Frozen food included fried chicken, pizza, cheeseburgers, pot pie, burritos, dinners, sandwiches, and vegetables.
- Other staple foods available for purchase were eggs, cereal juice, rice, bread, beans, cereal, pasta, and canned goods.
- Much of the remaining stock consisted of accessory foods such as candy, spices, and carbonated and uncarbonated drinks.

- Ineligible items included gasoline, lottery tickets, tobacco products, alcohol, tobacco, health and beauty products, cleaning products, and paper products.

The available food was primarily of a low-dollar value. The four most expensive food items were frozen fried chicken (\$10.99); frozen corn dogs (\$8.99), jerky (\$7.99), and corn flakes (\$5.99). 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. 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, especially competitors that sell similar or identical food items.

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. There were an unusual number of transactions ending in a same cents value. During the review period, there were 339 transactions ending in a same cents value that meet the parameters of this attachment. When such patterns are unsupported by special pricing structures, they are an indicator of trafficking in SNAP benefits.

The store visit report that was completed with the cooperation of the store employee indicated that typically prices ended in 9 cents. It is possible that some of the smaller transactions are the result of purchasing some same cent items and this could explain some of the lower dollar same cent transactions. However, the larger transactions cited in the charge letter would most likely consist of the purchase of several relatively inexpensive items and it is unlikely that these purchases would routinely total to an amount ending in 00 cents. Consequently, when many transactions end in a same cents amount, it appears that these transaction amounts are contrived and in the absence of compelling evidence to the contrary, are suggestive of trafficking.

Appellant failed to provide a credible explanation for the same cent transactions listed on Charge Letter Attachment #1.

Charge Letter Attachment 2. Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment documents 23 sets of transactions **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.

Although it is not uncommon for customers to have more than one transaction per day, it is not common that such multiple transactions are for large dollar amounts. The SNAP transactions noted in the charge letter are questionable not because they exceed any limits for use, but rather

because they display characteristics of use inconsistent with the nature and extent of Appellant's stock and facilities and are therefore indicative of trafficking. The photographs from the store visit offer no explanation as to why SNAP customers would routinely shop at 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. The second and third transactions in each set are too large to consist of forgotten items.

Appellant informed the Retailer Operations Division that many of these transactions were due to repayments on credit accounts. When a retailer claims it maintains credit accounts to explain irregular SNAP transactions and data patterns, FNS requires a level of detail regarding the legitimacy of the claim. This is because retailers have often made false admissions of credit in an attempt to obtain a lesser penalty after committing more egregious violations such as trafficking. Credit transactions must be accounted for with substantive evidence such as the dates credit was extended, to whom, for what amount, and for what items. Appellant submitted documentation of some of the alleged credit accounts. The Retailer Operations Division determined that Appellant may have allowed some credit repayments; however credit repayment does not explain many of the listed SNAP transactions. It is unlikely that a household would pay off a credit transaction and then return again later that day or shortly after and conduct another large SNAP transaction. It is possible that a household with a credit debt may pay off the amount owed, and then make a subsequent purchase shortly afterward, typically during the same visit to the store. That might explain two transactions in quick succession. But two, three or four transactions spread out over several hours seem unlikely.

While there are legitimate reasons why a SNAP household may shop at a given store multiple times in a day, the repetitive transactions cited in Attachment 2 is not normal shopping behavior at a convenience store. In the absence of any other reasonable explanation, the irregular transaction patterns are more likely than not to be a result of trafficking in SNAP benefits.

Charge Letter Attachment 3: Excessively large purchase transactions were made from recipient accounts. This attachment lists 159 transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**. The photographs from the store visit indicate that the counter space was small and limited. These large transaction amounts are also not consistent with the store's inventory. The photographs from the store visit indicate that the counter space was small, and there was no fresh meat and limited fresh produce. **5 U.S.C. § 552 (b)(7)(E)**. There is no compelling reason for customers to consider Appellant as a first choice destination to fulfill large purchases of food.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). Appellant did not provide a credible explanation for the volume of high dollar transactions given the limited stock of staple foods, and the lack of specialty or ethnic foods that might sell for a high price. The Retailer Operations Division considered this a strong indicator of trafficking.

The Retailer Operations Division compared Appellant to two other nearby convenience stores. Each of the four transaction patterns of Appellant, described in each of the charge letter attachments, exceed the other two authorized stores, as seen on the table herein. The number of transactions meeting this pattern during the review period is irregular. There is no evidence that

the firm would be likely to have SNAP redemption patterns that differ considerably from similar-sized competitors.

5 U.S.C. § 552 (b)(7)(E)

Sometimes a firm may have higher than normal SNAP transactions amounts due to a recipient's lack of access to other SNAP authorized stores. However, the Retailer Operations Division determined that there are six comparably or better stocked retailers within a one-mile radius of Appellant including four other convenience stores, one medium grocery, and one supermarket. The Retailer Operations Division examined three households identified in the charge letter to analyze their shopping patterns at Pump-N-Munch compared to their shopping patterns at other SNAP authorized stores. Despite access to better stocked stores, each of the three households conducted excessively large transactions at Pump-N-Munch 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 fresh meat and produce and likely better prices.

Appellant contends that most of the large transactions are the result of the firm allowing a few of its SNAP customers to shop on credit and then pay the store back when the household's benefit allotment is replenished. As indicated previously, credit transactions must be accounted for with substantive evidence such as to the dates credit was extended, to whom, for what amount, and for what items. The evidence does not support that many, if any, of these large SNAP transactions are for the repayment of credit accounts. The transactions listed in this Attachment were conducted by 64 households and Appellant indicated it allegedly extended credit to three households. The evidence provided by the retailer did not identify the dates that credit was extended or the full name of the customer. The amounts in the alleged credit ledger matched 22 transactions cited in the charge letter. As a result, there is insufficient evidence to prove that credit account repayments explain all the irregular transactions cited in the charge letter. Thus, the Retailer Operations Division properly determined that the evidence submitted by the Appellant was insufficient to justify the irregular transactions cited in Charge Letter Attachment 3.

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. Government analyses of stores caught in trafficking violations during on-site investigations have found that transactions involving trafficking consistently display particular characteristics or patterns. These patterns include, in part, those cited in the letter of charges. Therefore, based on this empirical data, and 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.

Ownership not Involved

Appellant contends that it cannot be constantly monitored and scrutinized as to each and every transaction by the employer. Although ownership was allegedly not involved in the violations, it

cannot be accepted as a valid basis for dismissing any of the charges, or for mitigating the impact of those charges. Regardless of whom the ownership of a store may utilize to handle store business, the ownership is accountable for the proper training of staff and the monitoring and handling of SNAP benefit transactions. To allow store ownership to disclaim accountability for the acts of persons whom the ownership chooses to utilize to handle store business would render virtually meaningless the enforcement provisions of the Food and Nutrition Act of 2008 and the enforcement efforts of the USDA.

Ownership signed the FNS application to become a SNAP authorized retailer on March 3, 2017, which included a certification and confirmation that the owner would “accept responsibility on behalf of the firm for violations of the SNAP regulations, including those committed by any of the firm’s employees, paid or unpaid, new, full-time or part-time.” The violations listed on this certification include accepting SNAP benefits for cash and as payment for ineligible items, a violation of the SNAP rules and regulations. The regulations establish that an authorized food store may be disqualified from participating in the program when the store fails to comply with the Act or regulations. FNS sends all firms the SNAP Retailer Training Guide and instructional video in their approval package and requires ownership to share it with all employees to ensure compliance with rules and regulations. Firms are required to read the SNAP Retailer Training Guide and watch the instructional video. These training materials are available in other languages.

Corrective Action

Appellant contends that the employee has been admonished. It is important to clarify for the record that the purpose of this review is to either validate or to invalidate the earlier decision of the Retailer Operations Division. This review is limited to what circumstances were at the basis of the Retailer Operations Division action at the time such action was made. It is not within the authority of this review to consider what subsequent remedial actions may have been taken or will be taken in the future so that a store may begin to comply with program requirements. There is no provision in the SNAP regulations for waiver or reduction of an administrative penalty assessment on the basis of corrective actions implemented subsequent to investigative findings of program violations. Therefore, Appellant’s contention that it will take corrective action to prevent the violations does not provide any valid basis for dismissing the charges or for mitigating the penalty imposed.

Economic Hardship

Appellant explains that it has little economic resources. It is recognized that economic hardship is a likely consequence whenever a store is permanently disqualified from participation in SNAP. However, there is no provision in the SNAP regulations for a 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.

Warning Letter

Appellant requests that a warning letter be issued or a lesser penalty. 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 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.

No Previous Violations

Appellant contends that it has been in the program for a long time. A record of participation in the SNAP with no previously documented instance of violations does not constitute valid grounds for dismissal of the current charges of violations or for mitigating the impact of the violations upon which they are based. There is no provision in the Act or regulations that reverses or reduces a sanction based upon a lack of prior violations by a firm and its owners, managers, and/or employees.

Evidence

FNS utilizes 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.]

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 no relevant 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.

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.

The criteria for a trafficking CMP in lieu of disqualification as defined under 7 CFR § 278.6(i) reads, in part:

In determining the minimum standards of eligibility of a firm for a civil money penalty in lieu of a 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 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; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm [Emphasis added.]

The Retailer Operations Division determined that Appellant was not eligible for a CMP because there was insufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program prior to the SNAP violations in this case.

Appellant contends that it cannot constantly monitor and scrutinize each and every transaction. Appellant reports that SNAP policies and compliance efforts are limited by the economic realities and the practical limitations of its monitoring employee misbehavior. Employees are advised of existing SNAP regulations and instructed to comply with them.

By Appellant's own admission it did not implement an effective program as described by the regulations. Thus, the determination by the Retailer Operations Division that Appellant did not meet the standards for a trafficking CMP under 7 CFR §278.6(i) is sustained.

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 was deemed correct and proper.

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

November 20, 2018