

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

Raslin Grocery Corp,

Appellant,

v.

Retailer Operations Division,

Respondent.

Case Number: C0201947

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 Raslin Grocery Corp. (Raslin Grocery 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 August 28, 2017, 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 February 2017 through July 2017. 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 by letter dated September 5, 2017. Appellant explained that the transactions were normal based on the unique circumstances of the store. Appellant requested a trafficking CMP in lieu of a permanent disqualification. After considering the retailer's reply and the evidence, the Retailer Operations Division issued a determination letter dated September 26, 2017. 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.

In a postmarked October 2, 2017, Appellant appealed the Retailer Operations Division's determination and requested an administrative review. The appeal was granted.

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 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 as: "(1) 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, 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)

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.”

SUMMARY OF THE CHARGES

Appellant was charged and determined to be trafficking based on an analysis of EBT transaction data from February 2017 through July 2017. This involved the following SNAP transaction patterns which are indicative of trafficking:

- 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 appeal request postmarked October 2, 2017, Appellant provided the following summarized contentions, in relevant part:

- SNAP benefits the business and also the community.
- Appellant complies with all training and policies.
- This is the first notification of violations and the regulations state that on the third violation of trafficking the firm is not eligible for civil money penalty.
- Ownership was not aware of the violations that were made by its employee.

- Many customers come and purchase different products sold three or four times a day because it is located close to Section 8 apartments.
- Appellant was never given a limit to how many times a customer can purchase necessary food items.
- Appellant is the only SNAP authorized store within a two to three block area.
- Supermarkets are not open late.
- Customers live nearby and it is troublesome to travel to a supermarket.
- Appellant sells rice - \$4.99; Fideos Goya - \$2.29; olive oil- \$6.99; milk - \$3.49; cargo corn - \$2.49; café bustelo - \$4.00; Goya sauce - \$1.49; and cereal - \$4.99.
- A regular customer can purchase 5 U.S.C. § 552 (b)(6) & (b)(7)(C) in one transaction.
- Store owners are not made aware of the necessary regulations.
- Appellant has taken all measures necessary to assure that store is following SNAP regulations.
- Appellant request a CMP in lieu of a permanent disqualification.

In support of its contentions, Appellant submitted the following documents:

- Signed statement from an employee dated October 27, 2017, indicating that it was trained;
- Training Action Plan signed by the trainee and trainer on October 23, 2017;
- Photocopy of the regulations at 278.6;
- Four pages from the USDA website
- Statement with the names of seven customers stating that the disqualification would greatly affect families in the neighborhood;
- Eight photographs of food in stock at Appellant;
- Photographs of the posters hanging in store; and
- Five notarized affidavits from customers.

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 Raslin Grocery as a convenience store on July 31, 2015. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a July 8, 2017, 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:

- Raslin Grocery is approximately 450 square feet, with no additional food storage.
- There were no shopping baskets or shopping carts for customer use.
- There was one cash register and one point-of-sale device.
- The available checkout area space was limited and surrounded by a Plexiglas display case with an ice cream cooler in front.
- There were no meat/seafood specials or bundles that might sell for high prices.
- There was no fresh unprocessed meat, chicken, or fish.
- There was a deli area with deli meats and cheese as well as prepared food.
- The only frozen food was ice cream.
- There was a selection of fresh produce with limited quantities including lettuce and peppers in the cooler likely used for the prepared food; and onions, potatoes, bananas, and avocados.
- Dairy included milk, butter, cheese, ice cream, and yogurt.
- Other staple food items included eggs, juice, cereal, rice, pasta, bread, and a selection of canned goods.
- Much of the remaining stock consisted of accessory foods such as candy, spices, and carbonated and uncarbonated drinks.
- Ineligible items included alcohol, tobacco, hot food, paper goods, automobile products, cleaning products, and health and beauty aids.

The SNAP eligible food stocked by the store was generally of a low dollar value consisting mainly of inexpensive canned and packaged goods, snack foods, single-serving food items and accessory food items. The most expensive items noted were vegetable oil - \$13.99; corn oil - \$10.49; olive oil - \$8.79, and a cracked pepper mill - \$8.99. Given the available inventory as noted above, there is no indication from the store visit report that the store would be likely to have SNAP redemption patterns significantly different from similar-sized competitors.

Charge Letter Attachments

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

Charge Letter Attachment 1. Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment documents 21 sets of transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** in SNAP benefits. **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

Appellant explains that it did not know there was a limit on how many times a household can make purchases. SNAP households do not have limits on the number of times they may use their SNAP cards or how much eligible food they may purchase. The SNAP transactions noted in the charge letter are questionable not because they exceed any limits for use, but rather because they display characteristics of use inconsistent with the nature and extent of Appellant's stock and facilities and are therefore indicative of trafficking. Although it is not uncommon for customers to have more than one transaction per day, it is not common that such multiple transactions are

for large dollar amounts. Each of the transactions listed is much larger than the average SNAP transaction amount for a convenience store in the county and the State. The photographs from the store visit offer no legitimate 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 Retailer Operations Division determined that clients shopping at Raslin Grocery are also shopping at area supermarkets and super stores that offer a larger quantity and variety of eligible food items for better prices. Based on these shopping patterns, transportation to other stores is not an issue for these EBT customers.

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 2: Excessively large purchase transactions were made from recipient accounts. This attachment lists 370 SNAP transactions, 5 U.S.C. § 552 (b)(6) & (b)(7)(C). These large transaction amounts are not consistent with the store's inventory with no fresh meat and limited fresh produce. As noted previously, there is no indication from the store visit report that the store would be likely to have SNAP redemption patterns significantly different from similar-sized competitors offering similar food items. Appellant did not have any shopping carts or shopping baskets and checkout occurred on a small cluttered counter space. Therefore, the substantial number of high dollar purchases calls into question the legitimacy of these transactions.

5 U.S.C. § 552 (b)(7)(E).

5 U.S.C. § 552 (b)(6) & (b)(7)(C). There were no special packages or promotions that would result in a significant number of transactions in this dollar range. Considering Appellant's eligible food stock, infrastructure, and proximity to larger, better stocked stores, the Retailer Operations Division determined that this is highly unlikely and likely indicative of trafficking.

The Retailer Operations Division compared Appellant to two similar nearby convenience stores and determined that the transaction pattern of Appellant exceeded the other two authorized stores, as seen on the table. The Retailer Operations Division considered this an indicator of trafficking.

5 U.S.C. § 552 (b)(7)(E)

Appellant reports that a customer can buy 5 U.S.C. § 552 (b)(6) & (b)(7)(C) the following products that it stocks: rice - \$4.99; Fideos Goya - \$2.29; olive oil - \$6.99; milk - \$3.49; Cargo Corn - \$2.49; Cafe Bustelo - \$4.00; Goya sauce - \$1.49; and cereal - \$4.99. This could explain some of the transactions listed. 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Appellant explained that the large transactions are due to customers who are unable to travel to a supermarket. The Retailer Operations Division examined three households identified in the

charge letter to analyze their shopping patterns at Raslin Grocery compared to their shopping patterns at other SNAP authorized stores. All of these households had access to, and shopped at supermarkets and super stores. 5 U.S.C. § 552 (b)(6) & (b)(7)(C). This is unusual. Despite this access to better stocked stores, each of the three households conducted excessively large transactions at Raslin Grocery 5 U.S.C. § 552 (b)(6) & (b)(7)(C) of shopping at a supermarket or super store. There is no legitimate reason why households would conduct large transactions at Appellant when these households had just visited or planned to visit larger stores with a better selection of staple foods including fresh meat and produce and likely better prices.

Appellant explains that it is open late and that is why households conduct large transactions. Appellant may be open late but these households are still shopping at these other stores. Households would likely purchase a forgotten item or two at Appellant while it is also shopping at a super store or supermarket 5 U.S.C. § 552 (b)(6) & (b)(7)(C). That Appellant is open later than the supermarkets and super stores is not a convincing explanation for these unusually large dollar transactions.

Appellant provided a list of seven names of customers who shopped at Appellant because it is open late and is conveniently located. The Retailer Operations Division searched the State system in an attempt to review the shopping history of these customers. One of the seven listed households could not be found. The other six customers did conduct multiple large dollar SNAP transactions at Appellant during the review period. However, each of these households also shopped at other larger stores during the review period. This list of customer names is not sufficient evidence to show that the transactions were for eligible food items only.

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. In addition to the irregularity of such high dollar transactions in comparison to similar stores, the limited availability of counter space for checking out and the lack of shopping carts and baskets support the Retailer Operations Division determination. It is not plausible that the store's customers are carrying large amounts of food around the store without the benefit of shopping carts or shopping baskets. Customers purchasing such large quantities of food items would have to hold them in their arms, or enlist the help of others while shopping.

Based on a preponderance of the evidence, the irregular transaction patterns cited in Charge Letter Attachment 2 are more likely than not the result of trafficking in SNAP benefits.

Household Affidavits

In support of its administrative review request, Appellant submitted five notarized affidavits from customers mostly stating that they conducted large transactions at Appellant because there were no grocery stores nearby.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). This household only conducted three SNAP transactions at Appellant during the review period. Each of the three transactions is listed on Charge Letter Attachment #2. This household conducted SNAP transactions at 16 other stores during the

review period. The evidence is not convincing that this household conducted large transactions at Appellant because there are no supermarkets nearby.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). The available evidence shows that this household conducted 16 SNAP transactions at Appellant during the review period. Eight of these 16 transactions were listed on Charge Letter Attachment 2. This household also shopped at eight other stores during the review period, while doing most of its shopping at a small grocery located .20 miles from Appellant, where it conducted 58 SNAP transactions. This household does not appear to rely on Appellant for all of its grocery needs.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). The available evidence shows that this household shopped at 16 other stores in addition to Appellant during the review period, including a supermarket located .3 miles from Appellant. This household conducted 20 SNAP transactions at Appellant, of which ten were listed on Charge Letter Attachment 2.

The card number of Household **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** was not legible and therefore its transaction history could not be reviewed.

Household **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** did not conduct any SNAP transactions at Appellant during the review period and therefore his affidavit does not explain any of the transactions listed on the Charge Letter Attachments

In summary, that three of the five households conducted some of the transactions listed on the Charge Letter Attachments is not convincing evidence that each of the transactions were for eligible food items only, given each household's SNAP transaction history.

Corrective Action

Appellant explained that it provided training after it received the charge letter. It is important to clarify for the record that the purpose of this review is to either validate or to invalidate the earlier determination of Retailer Operations. This review is limited to what circumstances existed at the time that was the basis of the of the Retailer Operations Division's action. It is not the authority of this review to consider what subsequent remedial actions may have occurred or be planned so that a store may begin to comply with program requirements. In addition, there are no provisions in the SNAP regulations for a waiver or reduction of an administrative penalty assessment on the basis of alleged or planned after-the-fact corrective actions implemented subsequent to investigative findings of program violations. Therefore, Appellant's contention that corrective action has taken place or that further remedial actions are planned does not provide any valid basis for dismissing the charges or for mitigating the penalty imposed.

Ownership Involvement

Appellant contends it was unaware of the violations conducted by its employee. Ownership also claims that business owners are not made aware of certain regulations. The record shows that on

May 1, 2015, ownership signed the application for SNAP authorization and agreed to the following:

“I will receive Supplemental Nutrition Assistance Program training materials upon authorization. It is my responsibility to ensure that the training materials are reviewed by all firm’s owners and all employees (whether paid or unpaid, new, full-time or part-time); and that all employees will follow Supplemental Nutrition Assistance Program regulations. If I do not receive these materials I must contact the Food and Nutrition Service to request them;”

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 as owner stating that ownership was aware of his responsibility to ensure that all employees follow the SNAP regulations. Ownership also accepted 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. Thus, that ownership did not conduct the SNAP transactions and or was not aware of the violations does not provide any valid basis for dismissing the charges or for mitigating the penalty imposed.

Household Hardship

Appellant indicated that is the only SNAP authorized store within a two to three block area. Where there is a hardship to SNAP households, FNS may impose a hardship CMP on a firm in lieu of a disqualification where there is a lack of authorized stores in the area. However, the regulations at 7 CFR § 278.6(f)(1) clearly state that “a civil money penalty for hardship to [SNAP] households may not be imposed in lieu of a permanent disqualification.” Because the Retailer Operations Division has taken action to permanently disqualify Appellant’s firm, a hardship CMP in lieu of disqualification cannot be granted.

CIVIL MONEY PENALTY

In the charge letter, 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. It is important to clarify for the record that the purpose of this review is to either validate or to invalidate the earlier determination of Retailer Operations Division. This

review is limited to what circumstances existed at the time that was the basis of the Retailer Operations Division's action.

Appellant requested a trafficking CMP in lieu of a permanent disqualification. Appellant states that it has taken all of the steps to assure that the store is following SNAP regulations and it trained new employees to not commit SNAP violations. In support of this claim, Appellant submitted a signed document entitled Training Action Plan that was signed by the owner and one store employee on March 17, 2017, March 18, 2016, August 30, 2017, and August 31, 2017. Appellant also submitted an application for employment for the employee dated March 15, 2016 to show that the employee was trained when it began employment.

With its administrative review request, Appellant also provided photos of the SNAP EBT posters that are hanging in its store; a notarized statement dated October 26, 2017 that it trained its employee on the SNAP regulations signed by both the employee and the store owner; and a document entitled Training Action Plan signed by the store owner and the employee acknowledging SNAP training was conducted on October 25, 26, and 27, 2017.

The Retailer Operations Division denied a trafficking CMP in lieu of a permanent disqualification under 7 CFR § 278.6(i) because there was insufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy and program to prevent SNAP violations. The criteria for a trafficking CMP in lieu of disqualification is defined under 7 CFR § 278.6(i) which 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.]”

Regarding standards for an effective compliance policy, 7 CFR 278.6(i)(1) further states, in part:

“As specified in Criterion 1 above, in determining whether a firm has established an effective policy to prevent violations, FNS shall consider written and dated statements of firm policy which reflect a commitment to ensure that the firm is operated in a manner consistent with this part 278 of current [SNAP] regulations. . . . As required by Criterion 2, such policy statements shall be considered only if documentation is supplied which establishes that the policy statements were provided to the violating employee(s) prior to the commission of the violation. In addition, in evaluating the effectiveness of the firm’s policy and program to ensure FSP compliance and to prevent FSP violations, FNS may consider the following:

- 1) Documentation reflecting the development and/or operation of a policy to terminate the employment of any firm employee found violating FSP regulations;
- 2) Documentation of the development and/or continued operation of firm policy and procedures resulting in appropriate corrective action following complaints of FSP violations or irregularities committed by firm personnel;
- 3) Documentation of the development and/or continued operation of procedures for internal review of firm employees’ compliance with FSP regulations”

Regarding training program standards, 7 CFR 278.6(i)(2) further states, in part:

“A firm which seeks a civil money penalty in lieu of a permanent disqualification shall document its training activity by submitting to FNS its **dated training curricula** and records of dates training sessions were conducted; a record of dates of employment of firm personnel; and contemporaneous documentation of the participation of the violating employee(s) in initial and any follow-up training held prior to the violation(s).” [Emphasis added.]

The Retailer Operations Division determined some of the evidence submitted was questionable. The Training Action Plan template submitted by Appellant appears to have been uploaded to the peerpex.com website in November 2016. The Retailer Operations Division questioned how the store owner could use this document to document training that was conducted in March 2016 prior to the document becoming available.

Regardless of the credibility of the Training Action Plan document, a review of the case record establishes that the Retailer Operations Division properly determined that the documentation submitted by the Appellant did not rise to the level of substantial evidence for an effective compliance policy and effective training program as required under 7 CFR § 278.6(i)(1) and (2). For example, Appellant did not provide any of the following:

- Appellant provided no prior written documentation of a termination policy or that employees were informed of such a policy prior to the violations in this case.
- Appellant provided no written documentation of a policy for corrective action following complaints of SNAP violations or irregularities.
- Appellant provided no documentation of any internal review procedures. If Appellant had developed and implemented an effective internal review process, it would have likely discovered the more egregious transactions cited in the charge letter and could have taken corrective action well before it came to the attention of the Retailer Operations Division.

Appellant also provided no evidence that this fund settlement did not go to the owner's bank account or that the owner did not benefit from the violative transactions.

Appellant states that this is its first trafficking violation and the regulations prohibit a CMP upon a firm's third trafficking violation. However, upon the first violation, the retailer still needs to meet the criteria established above in order to be granted the CMP in lieu of the permanent disqualification. Appellant did not meet the criteria necessary.

In conclusion, the Retailer Operation Division's denial of a trafficking CMP in lieu of a permanent disqualification is sustained as appropriate.

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

January 26, 2018