

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

**Zaka Halal Market And Deli, LLC,**

**Appellant,**

**v.**

**Case Number: C0189084**

**Retailer Operations Division,**

**Respondent.**

**FINAL AGENCY DECISION**

The U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS) finds that there is sufficient evidence to support the determination by the Retailer Operations Division (“ROD”) to impose a permanent disqualification from participating as an authorized retailer in the Supplemental Nutrition Assistance Program (SNAP) against Zaka Halal Market And Deli, LLC (“Appellant”).

**ISSUE**

The purpose of this review is to determine whether the ROD took appropriate action, consistent with Title 7 of the Code of Federal Regulations (CFR) § 278.6(a), (c) and (e)(1)(i), when it imposed a Permanent Disqualification against Appellant on October 3, 2016.

**AUTHORITY**

According to 7 U.S.C. § 2023 and its implementing regulations at 7 CFR § 279.1, “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 September 9, 2016, the ROD charged Appellant with trafficking, as defined in Section 271.2 of the SNAP regulations. This charge was based on a series of SNAP transaction patterns that “establish clear and repetitive patterns of unusual, irregular, and inexplicable activity for your type of firm.” This letter of charges states: “As provided by Section 278.6(e)(1) of the SNAP regulations, the sanction for trafficking is permanent disqualification.” The letter also

states that “. . . under certain conditions, FNS may impose a civil money penalty (CMP) . . . in lieu of a permanent disqualification of a firm for trafficking.”

Although afforded the opportunity to respond, Appellant did not reply to the ROD’s charges. The owner stated he was out of town.

The ROD issued a determination letter dated October 3, 2016. This letter informed Appellant that it was permanently disqualified from participation as an authorized retailer in SNAP in accordance with Section 278.6 (c) and 278.6(e)(1) for trafficking violations. The letter also states the ROD considered Appellant’s eligibility for a trafficking civil money penalty (CMP) according to the terms of Section 278.6(i) of the SNAP regulations. The ROD determined that Appellant was not eligible for the CMP because Appellant had not submitted sufficient evidence to demonstrate that it had established and implemented an effective compliance policy and program to prevent SNAP violations.

On October 11, 2016, Appellant appealed the ROD’s determination and requested an administrative review of this action. The appeal was granted.

### **STANDARD OF REVIEW**

In an appeal of an adverse action, Appellant bears the burden of proving by a preponderance of evidence that the administrative action should be reversed. That means Appellant has the burden of providing relevant evidence that a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the argument asserted is more likely to be true than untrue.

### **CONTROLLING LAW**

The controlling law in this matter is contained in the Food and Nutrition Act of 2008, as amended (7 U.S.C. § 2021), and implemented 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 in the event that personnel of the firm engaged in trafficking of SNAP benefits.

7 CFR § 278.6(a) states, in part:

*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(a) states, in part:

*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) reads, in part:

*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(e)(1)(i) reads, in part:

*FNS shall . . . . [d]isqualify a firm permanently if . . . personnel of the firm have trafficked as defined in § 271.2.*

Trafficking is defined in 7 CFR § 271.2, 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 . . . .”*

Also at 7 CFR § 271.2, eligible food is defined as:

*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)(2)(ii) states, in part:

*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.*

## **SUMMARY OF CHARGES**

The charges under review were based on an analysis of SNAP Electronic Benefit Transfer (EBT) transaction data during the period from February 2016 through July 2016. This analysis identified the following patterns of SNAP transaction activity that indicate trafficking:

- Consecutive transactions made too rapidly to be credible;
- Multiple transactions made from the same accounts in unusually short time frames;
- Transactions that depleted the majority or all of a recipient's monthly SNAP benefits made in unusually short timeframes; and,
- Excessively large transactions.

The attachments enclosed with the charge letter specify the questionable and unusual SNAP transactions indicative of trafficking which were conducted at Appellant during the review period.

## **APPELLANT'S CONTENTIONS**

Appellant's responses regarding this matter are essentially as follows:

- Most of Appellant's customers do not have access to transportation;
- Most of Appellant's customers are from the African and Middle-East communities and buy mostly kosher and halal products. These products are expensive. Appellant provided ~22 pages of invoices, two price lists, and ~50 pictures;
- Exhaustion of benefits and large transactions are because most of Appellant's customers have large families and buy food in bundles;
- Rapid transactions are because Appellant pre-totals purchases before conducting transactions;
- Back-to-back transactions are because customers decide to purchase additional items after conducting transactions; and,
- Appellant has operated since 2009 without a problem.

These explanations may represent only a brief summary of Appellant's contentions. However, in reaching a decision, full consideration has been given to all contentions presented, including any others that have not been specifically listed here.

## **ANALYSIS AND FINDINGS**

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. Based on this empirical data, and in the absence of any reasonable explanations for such transaction patterns, a conclusion can be drawn by a preponderance of evidence that trafficking is the most likely explanation for “unusual, irregular, and inexplicable” transactions and patterns cited in the letter of charges is trafficking. Transactions with these patterns sometimes have valid explanations that support the idea that they were the result of legitimate purchases of eligible food items. This is why opportunities are given to charged retailers to explain the questionable transactions cited. In this case, the ROD determined that Appellant's responses did not outweigh the evidence. Evidence relied upon by the ROD was considered in this administrative review, including SNAP transaction data, store visit observations, location and characteristics of competitor firms, and household shopping patterns. The issue in this review is whether, through a preponderance of evidence, is it more likely true than not true that questionable transactions were the result of trafficking.

### **Store Characteristics**

In reaching a disqualification determination, the ROD considered information obtained during a March 10, 2016 store visit conducted by a USDA contractor to observe Appellant’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 documented the following store size, description, and characteristics:

- Store size is approximately 1,700 square feet with no food stored outside of public view. It is in an urban, residential area;
- Available inventory of SNAP-eligible food items showed stock composed predominantly of inexpensive items, which is typical of a combination grocery/other store;
- Only one cash register and one electronic SNAP terminal device;
- No shopping carts or hand baskets;
- No scanners or conveyor belts;
- No evidence of a wholesale business such as posted prices or separate entrances for wholesale customers; and,
- No meat or seafood specials or bundles.

Appellant contends rapid transactions are because Appellant pre-totals purchases before conducting transactions. The store's checkout counter space area was cluttered and small allowing very little surface area to place large purchases and making it impractical to process more than one customer at a time.

There was no indication that SNAP households were inclined to visit the store regularly to purchase large quantities of grocery items. The available food was primarily of a low-dollar value and there was no hint that the firm sold items in bulk. Given the available inventory, there was no sign that Appellant would be likely to have SNAP redemption patterns that differed significantly from those of similarly-sized competitors.

## Rapid Transactions

Attachment 1 to the charge letter documents back-to-back transactions made in rapid order at the same terminal. There are 22 sets of transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** included in this document.

These transactions were conducted with implausible speed. Frequent and large transactions conducted quickly to purchase eligible foods at Appellant are highly unlikely given Appellant's low-dollar inventory and limited counter space. The firm does not maintain the logistical wherewithal required to rapidly process these transactions. The steps required to process a legitimate SNAP purchase include the following:

- 1) Waiting for the customer to load the items onto the counter space near the cash register. (Due to the large dollar amounts of the transactions and considering how many low-priced items it would take to reach the amounts listed in this attachment, it is unclear how customers, without the use of shopping carts or baskets, were able transport their items to the register and then out the door to waiting transportation);
- 2) Separating eligible items from ineligible items;
- 3) Manually entering the cost of each item;
- 4) If applicable, weighing any individual items sold by weight, such as fresh meat or fruits and vegetables;
- 5) Inputting manufacturers cents-off coupons, if applicable;
- 6) Bagging the items for carry out;
- 7) Handing the customer bagged items to make room for more food items on the counter;
- 8) Informing the customer of the totals (one for eligible foods and one for non-eligible items, if applicable);
- 9) Pressing the "SNAP transaction key" on the point-of-sale device;
- 10) Swiping the card;
- 11) Entering of the required PIN by the customer;
- 12) Entering the purchase amount by the cashier;
- 13) Confirming that the customer has a sufficient benefit balance;
- 14) Processing and approval of the transaction by the system;
- 15) Printing out cash register and EBT receipts;
- 16) Accepting an alternate form of payment for nonfood items and possibly handling cash and change; and,
- 17) Removing products from the checkout area so the next customer in line can begin another transaction.

While such transactions may well be conducted in succession, performing these actions on large transactions cannot be done rapidly. The amount of time required is generally proportional to the dollar amount of the transaction; typically, the larger the dollar amount transacted the longer the time period between transactions. Limited counter space and a lack of shopping carts and baskets add additional time to transactions. Appellant processed very large orders considerably faster than supermarkets typically process them, yet it has only one small checkout counter, no optical

scanner, and none of the logistical tools (such as conveyor belts, rotating bagging platforms or order separators) routinely used in rapid throughput operations.

As described above, the rapid processing of large transactions of eligible food items at Appellant is improbable. Yet, the questionable transaction data cited in Attachment 2 reveals consecutive transactions involving large-dollar amounts occurring within a span of only a few minutes. It is highly unlikely that the rapid, multiple, large transactions described above involve solely the sale of eligible foods.

### **Repeat Transactions by the Same Household**

Attachment 2 to the charge letter documents the same household conducting back-to-back transactions in unusually short time frames. Violating stores may conduct multiple transactions from the same household account 5 U.S.C. § 552 (b)(6) & (b)(7)(C) to avoid the detection of single, high-dollar trafficking transactions. There are 105 repeat transactions 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Appellant asserts that most of its customers do not have access to transportation and that most of Appellant's customers are from the African and Middle-East communities and buy mostly kosher and halal products. The record reflects that customers conducting rapid, repetitive, and large transactions at Appellant frequently spent SNAP benefits at better-stocked and more competitively-priced grocery stores, sometimes on or about the same day they shopped at Appellant. These stores include stores that carry ethnic specialty foods similar to those carried by Appellant.

The Case Analysis Document identifies much larger stores with more reasonable prices located within one mile of Appellant. There is no basis for unusually high customer attraction to Appellant, there being no great price advantage, or special or custom services rendered. Oddly, some SNAP households spent considerably less at the larger stores than at Appellant.

Appellant is correct that customers sometimes forget an item or see something at the checkout and decide to purchase it after already having completed a transaction. In such instances, it is reasonable to expect the subsequent purchase would be for a nominal amount. This is because it is quite rare to find very expensive items positioned at the checkout area, especially in smaller stores. Also, forgotten goods purchased immediately after a prior transaction typically consist of only one or two items. However, the subsequent transactions exceeded any minor amount. In some cases, the amounts of subsequent transactions equaled or exceeded the preceding transaction total.

While there are legitimate reasons why a SNAP recipient might return to a combination grocery/other store in a short period of time, the examples in Attachment 2 indicate a series of purchases that total to large amounts. SNAP benefits are intended to supplement the food budget for households whose net income is near or below the Federal Poverty Level. It is difficult to believe customers who must rely on SNAP benefits to make ends meet prefer to pay higher prices and spend considerable amounts of their benefits at a combination grocery/other store.

Spending sizable portions of one's SNAP benefit allotment in a combination grocery/other store - when there are larger stores at which one also shops that carry more variety of foods at a lower cost - is unreasonable customer behavior. Moreover, households listed in this attachment conducted this strange shopping pattern of making substantial purchases at Appellant multiple times during the review period. Given the common practice of violating retailers breaking up large, suspicious transactions into multiple, smaller transactions to avoid detection, a firm's explanation and evidence for why these transactions are occurring **5 U.S.C. § 552 (b)(6) & (b)(7)(C)** in a combination grocery/other store should be both rational and compelling. Appellant's explanation is neither.

### **SNAP Benefit Depletions**

Attachment 3 to the charge letter documents the same household exhausting all or nearly all its benefits in rapid order. There are 26 transactions **5 U.S.C. § 552 (b)(6) & (b)(7)(C)**.

In some cases, SNAP customers depleted SNAP account balances to within pennies of a zero balance and/or depleted balances during the first week of the month. It is highly implausible that customers would desire, or be able, to regularly conduct large transactions that deplete balances to within pennies of a zero balance. The likelihood that these transactions were the result of the legitimate sale of only eligible foods only is extremely small.

A government report on SNAP shopping patterns<sup>1</sup> indicates that after the first day of benefit issuance, on average, 80 percent of a household's allotment remains unspent. Even after seven days, 40 percent of benefits still remain unspent. It typically takes 14 days to deplete 80 percent of one's benefits, and 21 days to deplete 90 percent. This report also revealed that households most often redeemed their benefits at supermarkets and supercenters, with only four percent of all households never shopping in a supermarket.

It is extremely doubtful that a SNAP household making a legitimate purchase would choose to spend a large portion of its monthly allotment at a combination grocery/other store with likely higher prices and substantially less inventory than what would be found at a supermarket or superstore. Although many SNAP households do shop early in the month as opposed to later in the month, most households do not spend all or a majority of their monthly benefits in only a few transactions or a single day. Depleting a large portion of one's SNAP balance early in the benefit month, leaving little to purchase food for the remainder of the month, is inconsistent with the normal shopping behavior of SNAP households.

### **Large Transactions**

The food stock and facilities of Appellant as reported in the store visit documentation do not appear sufficient to provide for all of one's food needs. People generally do not spend large sums

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<sup>1</sup> U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis, Benefit Redemption Patterns in the Supplemental Nutrition Assistance Program, by Laura Castner and Juliette Henke. Project officer: Anita Singh, Alexandria, VA: February 2011.



at such stores. They usually stop at combination grocery/other stores to pick up a few staple food items, such as bread, milk, or a can or two of food that they may consider are not worth a trip to the supermarket to purchase. It is rare for a combination grocery/other store such as Appellant's to have purchases like those included in Attachment 4 to the charge letter. This attachment cites 497 EBT transactions during the six-month period of investigation

5 U.S.C. § 552 (b)(6) & (b)(7)(C)

5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Additionally, many of the charge letter transactions arrive at, or cluster around, certain dollar amounts 5 U.S.C. § 552 (b)(6) & (b)(7)(C) (5 U.S.C. § 552 (b)(6) & (b)(7)(C)). Households typically shop to obtain a certain mix of food items, irrespective of the total cost (other than to remain within allotment balances), and do not strive to achieve a particular total. The purchase amount of eligible food items typically approximates a random total. In contrast, firms facilitating trafficking tend to concentrate transactions at particular dollar amounts. In the absence of any compelling rationale to the contrary, the pattern of clustering transactions around certain dollar levels is implausible and indicative of transaction structuring and SNAP-benefit trafficking.

These transactions significantly exceed Monroe County's average SNAP transaction, which was \$11.22 for this type of store during the six months of the review period.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). As previously stated, Appellant has a limited food stock typical of a combination grocery/other store and does not have any features that would induce people to spend substantially more than the typical combination grocery/other store purchase amount.

Its large transactions during the review period were also much more frequent than those of similar stores in the county. 5 U.S.C. § 552 (b)(6) & (b)(7)(C).

Additionally, the Case Analysis Document contains a comparison of Appellant's redemption activity during the analysis period to two SNAP-authorized medium grocery stores with a wider variety and quantity of ethnic goods, including halal products, located nearby.

5 U.S.C. § 552 (b)(6) & (b)(7)(C)s.

Based on the store layout, infrastructure, and available inventory, it is not credible that the Appellant would so frequently conduct large transactions closely resembling those typically found at a supermarket or superstore. It is not plausible that the firm's customers would regularly carry very large amounts of merchandise around the store without the benefit of shopping carts or shopping baskets, especially since larger, better stocked stores are readily available and in the vicinity of the Appellant firm. Appellant is not set up to process high-dollar transactions, as indicated by its lack of equipment to facilitate large transactions and limited counter space. There are no legitimate bases for SNAP customers' unusual attraction to the firm such as a superior selection of staple foods, price advantages, package specials, bulk or promotional items, an extensive variety of otherwise unavailable ethnic food items, or special services rendered. Appellant failed to provide convincing evidence to establish the legitimacy of these excessively large transactions, such as itemized cash register receipts. Based on all of these factors discussed

in this section, the large volume of transactions for high-dollar amounts is unlikely to indicate a pattern of legitimate food purchases.

## **Bundles**

Appellant asserts it sells bundles of food. Appellant did not provide any evidence in support of this contention. The evidence from the store visit does not support that the firm sold bundles. The store visit questionnaire stated no “meat/seafood specials or bundles” were sold at Appellant. The store visit did show that Appellant carried 50 lb. bags of rice. The store photos also show one box of frozen meat, however there is no evidence that this box was available for sale in bulk. Appellant provided invoices to support it purchased ethnic specialty foods. For example, Appellant purchased dates in one kilogram packages which may have been available to customers. Appellant provided photos of bulk items such as cases of infant formula, goat meat, tilapia and halal chicken wings. While Appellant may have purchased these items in bulk, there is no evidence they were available to customers for purchase in bulk at the time of the store visit.

While there may have been occasions when Appellant sold bundles or bulk items, based on evidence from the store visit and lack of corroborating evidence provided by Appellant, it is more likely true than not true that bundles do not explain the large SNAP transactions that occurred at Appellant. Trafficking is a more likely explanation for the unusual and irregular pattern of high-dollar transactions.

## **No Applicable Mitigating Factors**

Appellant asserts that it has operated since 2009 and this is the first time there has been an issue related to SNAP and that it did not receive prior warnings. A record of program participation with no documented previous violations, however, does not constitute valid grounds for mitigating the impact of the present serious determination of trafficking.

Neither the Food and Nutrition Act of 2008, as amended, nor the accompanying regulations cite any minimum dollar amount of cash or SNAP benefits, or number of occurrences, for such exchanges to be defined as trafficking. Nor do they cite any degrees of seriousness pertaining to trafficking of SNAP benefits. Trafficking is always considered to be extremely serious, even when the exchange of SNAP benefits for cash is dollar-for-dollar or is conducted by a non-managerial store clerk. This is reflected in the Food and Nutrition Act, which reads, in part, that disqualification “shall be permanent upon . . . the first occasion of a disqualification based on . . . trafficking . . . by a retail food store.” In keeping with this legislative mandate, Section 278.6(e)(1)(i) of the SNAP regulations states that FNS must disqualify a firm permanently if personnel of the firm have trafficked. There is no agency discretion in the matter of what sanction is to be imposed when trafficking is involved.

## **Invoices**

Appellant submitted approximately 22 pages of invoices to establish that the store purchased enough inventory to support the total of its SNAP sales. However, the invoices are insufficient to demonstrate this. Many of the invoices provided did not include Appellant's name or the supplier's name, were outside of the review period, did not include a list of items purchased or included items that are not eligible for purchase with SNAP benefits.

5 U.S.C. § 552 (b)(6) & (b)(7)(C). However, this represents only a small fraction of the total of SNAP transactions during the review period. This also does not account for any non-SNAP purchases of food items at Appellant. In sum, the invoices do not explain the questionable transactions at Appellant.

There are a number of possible explanations for this perplexing data. For example, the submitted information could be faulty. Alternatively, trafficking at Appellant may have resulted in inflating the SNAP transactions to amounts that exceed Appellant's documented, legitimate non-taxable sales. Regardless, the evidence is ambiguous and insufficient to explain the questionable transactions at Appellant.

## **Summary**

The ROD determined that Appellant likely trafficked in SNAP benefits. The charges of violations were based on the ROD's assessment that substantial evidence exists that the questionable transactions occurring during the review period displayed patterns inconsistent with legitimate sales of eligible food to SNAP participants. The evidence the ROD considered in support of its determination included:

- The irregular SNAP transaction data of Appellant as compared to similar stores;
- Observations made during an store visit by a USDA contractor, including the inadequacy of the firm's staple food stock to support such large transactions;
- The availability of other SNAP-authorized stores located close to Appellant; and,
- Shopping behaviors of Appellant's customers.

The transaction data and overall firm record demonstrate the patterns of unusual, irregular, and inexplicable SNAP activity for this firm is likely the result of trafficking.

Upon review, Appellant failed to prove by a preponderance of the evidence that the administrative action should be reversed. Appellant provided inadequate explanations for the suspicious transactions and insufficient evidence to legitimize its transaction data. It has not convincingly rebutted the ROD's determination that Appellant most likely trafficked in SNAP benefits. The SNAP regulations are specific with regard to the action that must be taken if personnel of the firm have trafficked, which is that FNS must disqualify the firm permanently.

## **CIVIL MONEY PENALTY**

For a firm to have the opportunity to be considered for a civil money penalty (CMP), it must request that FNS consider a CMP in lieu of permanent disqualification and submit supporting documentation within ten days of receipt of the charge letter. Appellant was advised of these

provisions in the charge letter of September 9, 2016. The regulations specify that such supporting documentation must demonstrate that the firm had established and implemented an effective SNAP compliance policy and training program prior to the occurrence of violations. A review of the administrative record indicates Appellant did not, at any time, request a CMP. Appellant also did not submit any documentation to support its eligibility for this alternative sanction, before or after the deadline.

In the absence of a request for a CMP and any supporting documentation, a CMP was not assessed by the ROD. According to the requirements stated in 7 CFR § 278.6(b)(1), § 278.6(b)(2)(ii and iii), and § 278.6(i), Appellant is not eligible for a CMP in lieu of a permanent disqualification from participation as an authorized retailer in SNAP. The determination by the Retailer Operations Division to deny Appellant a civil money penalty is sustained.

### **CONCLUSION**

The record has yielded no indication of error in the finding by the Retailer Operations Division that Appellant trafficked in SNAP benefits. A review of the evidence supports that it is more likely true than not true that program violations occurred as charged. Based on the discussion above, the determination by the Retailer Operations Division to impose a permanent disqualification against Zaka Halal Market And Deli, LLC from participating as an authorized retailer in SNAP is sustained.

### **RIGHTS AND REMEDIES**

Applicable rights to a judicial review of this decision are set forth in 7 U.S.C. § 2023 and 7 CFR § 279.7. If Appellant desires a judicial review, the complaint must be filed in the U.S. District Court for the district in which Appellant's owner resides, is engaged in business, or in any court of record of the State having competent jurisdiction. This complaint, naming the United States as the defendant, 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.

RICH PROULX  
Administrative Review Officer

December 5, 2017