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

14th Street Grocery, **Appellant,** **v.** **Retailer Operations Division,** **Respondent.**	**Case Number: C0195617**

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 14th Street Grocery (14th Street 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 December15, 2016, 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 May 2016 through October 2016. The letter noted that the penalty for trafficking is permanent disqualification as provided by

7 CFR § 278.6(e)(1). The letter also 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 December 21, 2016. Appellant denied trafficking and explained that the transactions were normal based on the unique circumstances of the store. After considering the evidence and the retailer's reply, the Retailer Operations Division issued a determination letter dated January 6, 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 letter postmarked January 16, 2017, ownership 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 May 2016 through October 2016. This involved the following SNAP transaction patterns which are indicative of trafficking:

- There were multiple transactions made too rapidly to be credible.
- There were multiple transactions made from individual benefit accounts in unusually short time frames.
- The majority or all of individual recipient benefits were exhausted in unusually short periods of time.
- 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 January 16, 2017, and subsequent correspondence dated January 27, 2017, Appellant provided the following summarized contentions, in relevant part:

- Ownership works hard to do the right thing.
- The business is its bread and butter.
- Appellant never had this issue before.
- Appellant is a meat market that carries many of the popular items.
- Appellant has multiple credit card transactions also.

- Many customers order over the phone and can pick up their groceries rapidly.
- Appellant also has regular customers who do not use EBT and come in the store multiple times per day.
- Some customers look at the transaction total and then add more items.
- There are credit transactions larger than the SNAP transactions.
- Appellant has a lot of large purchase transactions made by credit card and debit card.
- Eight-seven percent of sales is from food items.

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

- Four pages of paid checks from its Bank of America bank statement;
- A handwritten list of large credit card transactions listed by date for each month of the review period; and
- Invoices and receipts of stock purchased during each month of the review period.

Included with its reply to the Retailer Operations Division, Appellant submitted the following:

- Monthly Sales and Use Tax returns for each month of the review period;
- Card processing statements for July, August, September, and October with large transactions highlighted in green and rapid transactions highlighted in yellow; and
- Cash register Z-Tapes.

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 14th Street Grocery as a medium grocery on October 31, 2011. The case file indicates that in reaching a disqualification determination, the Retailer Operations Division considered information obtained during a September 19, 2016, 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:

- 14th Street Grocery is approximately 1300 square feet, with no additional food storage outside of public view.
- There were some shopping baskets but no shopping carts for customer use.
- There was one cash register and one point-of-sale device.
- There was no optical scanner for the speedy processing of transactions.
- There were no meat/seafood specials or bundles that might sell for high prices.

- The check-out area measures approximately 4 feet wide by 2 feet deep of clear space upon which to place items for purchase.
- The store sells halal and ethnic products including several different meats and large bags of rice.
- There was frozen fish, hot dogs, sausage, turkey bacon, ground beef, and unmarked packages that appear to be chicken, and/or goat.
- There were frozen vegetables but limited fresh produce including okra, onions, tomatoes, potatoes, garlic, ginger, bananas, and lemons.
- Dairy included milk, butter, cheese, yogurt, and individual size ice cream.
- Other staple food available for purchase were eggs, juice, bread, cereal, pasta, rice, canned goods, and snack foods.
- Much of the remaining stock consisted of accessory foods such as candy, spices, and carbonated and uncarbonated drinks.
- Ineligible items included tobacco products, health and beauty supplies, and household items.

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 Attachments

Charge Letter Attachment 1. Multiple purchase transactions were made too rapidly to be credible. This attachment lists 27 sets of transactions totaling $5,720.58 in SNAP benefits that met the parameters of this scan. These types of rapid transactions in a store without the technology or infrastructure to support such transactions are indicative of trafficking in EBT benefits.

As documented by the store visit report, Appellant does not have an optical scanner and the checkout area space was limited. Despite these limitations, Appellant was rapidly processing consecutive SNAP transactions many of which were high dollar transactions. The steps required to process a legitimate SNAP purchase include the following:

1. unloading items from a cart or basket;
2. separating eligible items and ineligible items;
3. handling by the cashier of individual items to determine the price, which in this case involved manual keying of amounts;
4. entering prices into a register or adding machine both for eligible foods and for ineligible items, which are typical in larger purchases;
5. bagging the items for carry out;
6. handing the customer bagged items to make room for more food items the customer is bringing to the counter;
7. informing the customer of the total;
8. pressing the “SNAP transaction key” on the point-of-sale device;
9. swiping the card;

10. entering by the customer of the required PIN;
11. cashier entry of the purchase amount;
12. confirming customer has a sufficient benefit balance;
13. processing and approval of the transaction by the system;
14. printing out register and EBT receipts;
15. accepting an alternate form of payment for nonfood items and possibly handling cash change; and
16. 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 adds additional time to transactions. Appellant processed 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) that are routinely used in rapid operations. It is therefore unlikely that these multiple large transactions occurring within only a few minutes could involve solely the sale of eligible foods.

Appellant explains that it has multiple credit card transactions in short time frames implying that the SNAP transactions are therefore not unusual. As proof of these credit card transactions, Appellant provided details report from July, August, September, and October. Each of the credit card transactions that Appellant highlighted were reviewed. These transactions were not as large as the transactions listed on the charge letter or as rapid. For example, the smallest secondary transactions listed on the scan happened to be $96.43, with most of the transactions much larger. There was only one transaction set on the credit card transaction report where the second transaction was as large as these transactions. Thus, it is not convincing that these SNAP transactions are normal.

Appellant contends that it accepts phone orders and that this can explain some of the rapid transactions. Appellant did not submit any documentation to show that it took phone orders. There was no evidence documented at the store visit, such as orders waiting to be picked up, to support that Appellant accepted phone orders.

Thus, Appellant did not provide any compelling justification or evidence that all the irregular transactions cited in Charge Letter Attachment 1 were for eligible food items only. Based on the analysis herein, it is more likely true than not true that these patterns are a result of the firm trafficking in SNAP benefits.

Charge Letter Attachment 2. Multiple transactions were made from individual benefit accounts in unusually short time frames. This attachment documents 23 sets of transactions ranging from $108.40 to $718.15. These transactions were conducted by 23 different households. Multiple transactions conducted by the same household account within 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.

Appellant explains that many of its customers make multiple purchases per day. 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 because they display characteristics of use inconsistent with the nature and extent of the store's stock and facilities. It is irregular for a medium grocery to have purchases such as those cited. For example, one household transacted more than $700.00 ($396.41 and $321.74) in SNAP benefits in two separate transactions at Appellant. It is curious as to what this household is purchasing at Appellant, a moderately stocked medium grocery with no grocery carts, which can total these amounts.

The photographs from the store visit offer no legitimate explanation as to why SNAP customers would routinely shop at the store multiple times during a single 24-hour period. Appellant offers no great variety of products, price advantage, profusion of large packages, or significant bulk items for sale. Appellant does offer ethnic products, frozen meats, and bulk bags of rice. However, the stock does not appear to justify these multiple high dollar SNAP transactions. Moreover, the Retailer Operations Division determined that many of these households are making what would appear to be normal food purchases at supermarkets or super stores on the same day, day prior, or day after conducting transactions at Appellant.

The transactions amounts are often similar among each household and appear to be contrived. For example, one household conducted two transactions eight minutes apart in exactly the same amount, $100.94. This is highly unlikely. Some of the other transactions sets were also close to the same amount including $94.94 and $95.43; $294.27 and $298.86; $200.52 and $199.92; and $102.41 and $202.41. When transactions amounts appear to be contrived, it is an indicator of trafficking.

Appellant did not provide any compelling justification as to why households are conducting multiple transactions at 14th Street Grocery or evidence that all the irregular transactions cited in the charge letter were for eligible food items only. Multiple transactions over a short period of time, especially of high dollar value, are indicative of attempts to diminish attention to signs of trafficking.

Charge Letter Attachment 3. The majority or all of individual recipient benefits were exhausted in unusually short periods of time. The charge letter attachment lists 147 transaction sets conducted by 98 different households totaling $25,283.45 in SNAP benefits. SNAP recipients do not normally exhaust their benefits in multiple transactions on the same day.

Appellant explains that often customers will purchase more items at the register when they see the total and have additional funds to spend. However, a government report on SNAP shopping patterns[1] indicates that on average, SNAP households have less than one-quarter of their benefits left by the middle of the month. On the day the issuance is distributed, the average household redeemed more than a fifth of its benefits. By the first week, the average household had redeemed over half of its benefits, and by the second week, over three-quarters of it. Households redeemed about an additional 10 percent of benefits by the end of the third week (exhausting 90 percent of benefits) and ultimately redeemed 97 percent of their monthly benefits by the end of

the day before receiving their next issuance. Households spent slightly 22 percent of their benefits on the first day of issuance. By day 7, the average household had redeemed 60 percent of its monthly benefit; by Day 14, it had redeemed 80 percent, and by month's end the household redeemed 97 percent of its benefit. Thus, it is unusual for SNAP recipients to exhaust their SNAP benefits in one or two transactions.

Appellant did not present any valid explanations or documentation that would legitimize these transactions.

Charge Letter Attachment 4: Excessively large purchase transactions were made from recipient accounts. This attachment lists 504 transactions ranging from $118.91 to $507.23, amounts which are at least three times larger than the average transaction made at a medium grocery in the State during the review period. These large transaction amounts are not consistent with the store's inventory. Therefore, the substantial number of high dollar purchases calls into question the legitimacy of these transactions.

In its reply to the charges, Appellant stated that it had no knowledge of screening people or watching for excessive transactions. These transactions in and of themselves are not violations simply because they are large. The SNAP transactions noted in the charge letter are questionable because they display characteristics of use inconsistent with the nature and extent of the store's stock and facilities. Appellant is not set up to process high-dollar transactions, as indicated by its lack of equipment, such as shopping carts, 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, or special services rendered.

Appellant alleges that it also has many large credit and debit card transactions. Appellant submitted reports that list all of its credit and debit transactions for July, August, September, and October. Appellant highlighted what it considered large transactions. However, a review of these transactions does not support that Appellants credit card transactions follow a similar pattern. For example, Appellant had 356 SNAP transactions during the review period greater than $150.00. In contrast, there were only 11 credit/debit transactions greater than $150.00 during the review period.

The Retailer Operations Division compared Appellant to a nearby similarly stocked medium grocery that specializes in ethnic halal food products. Appellant's average SNAP transaction amount during the review period was greater than the average SNAP transaction amount of the other comparable store. In addition, Appellant's total SNAP transaction dollar volume was five times more than that of the nearby comparable store and its total SNAP transactions was over four times that of the comparable ethnic store.

Each of the four transaction patterns of Appellant, described in each of the charge letter attachments, exceed the other authorized store, as seen on the table herein. Thus, the number of

[1] Benefit Redemption Patterns in the Supplemental Nutrition Assistance Program, Mathematica Policy Research, by Laura Castner and Juliette Henke, for the U.S. Department of Agriculture, Food and Nutrition Service, Office of Research and Analysis, February 2011.

transactions meeting this pattern during the review period at Appellant is irregular.

Store	Attachment 1 Pattern	Attachment 2 Pattern	Attachment 3 Pattern	Attachment 4 Pattern
Appellant	27	46	148	504
Store #1	6	11	51	80

The Retailer Operations Division also determined that Appellant's average SNAP transaction amount was four times greater than the state average for medium groceries in Georgia during the review period. Appellant's average SNAP transaction during the review period was also three times that of super stores in the State during the same time period. In addition, Appellant's total SNAP transaction dollar amount during the review period was 50 percent higher than the average for medium groceries in the State during the same period. Yet, Appellant conducted 30 percent less transactions than the average for medium groceries in Georgia during the review period. The Retailer Operations considered this indicative of trafficking.

The Retailer Operations Division determined that Appellant also had a higher number of SNAP transactions in amounts greater than $79.99 as compared to the average for medium groceries in Georgia during the review period. There was a notable spike in the $190.00-199.99 range, where Appellant conducted 76 transactions in this range during the review period whereas the average for medium groceries in Georgia was 6. There was another spike in transactions in the $290.00 - $299.99 range, where Appellant conducted 37 transactions and the average for medium groceries was 1.28.

Sometimes a firm may have higher than average SNAP transactions amounts due to the lack of access to other SNAP authorized stores. However, the Retailer Operations Division determined that within a two-mile radius of 14th Street Grocery, there are at 51 authorized stores, including 26 convenience stores, nine combination stores, four small groceries, one medium grocery, seven supermarkets, and four super stores. It is not plausible that the firm's customers would regularly purchase large amounts of merchandise at Appellant when larger, better stocked stores are readily available and in the vicinity of the Appellant firm.

The Retailer Operations Division also determined that after a nearby authorized store was disqualified, there were 72 households who had previously conducted transactions at this store who were later conducting SNAP transactions at Appellant during the review period. The other disqualified store does not have ethnic products, thus these new customers are not seeking ethnic products. The other store is located more than one mile and a half away so they increased business is not due to Appellant being the closest alternative for those in the neighborhood. The Retailer Operations Division determined that it is likely that these households were trafficking at the other store and then moved their trafficking transactions to Appellant.

The Retailer Operations Division determined that 29 households conducting SNAP transactions at 14th Street Grocery also traveled to at least 108 full-line large grocery stores, supermarkets and/or super stores in and around the Atlanta area of Georgia during the review period. These households are making what would appear to be normal food purchases at supermarkets on the same day, day prior or day after making transactions at Appellant. Households shopping at 14th Street Grocery have access to transportation as they are travelling up to 35.62 miles to shop at

larger nationwide chain super stores and supermarkets. Appellant is not the only store these households are shopping at; however the Retailer Operations Division determined that the transaction patterns are only exhibited at 14th Street Grocery.

More specifically, the Retailer Operations Division determined that 164 households conducted a SNAP transaction at a super store, supermarket or large grocery store the day of or within one day of their suspicious transaction(s) at Appellant. The Retailer Operations Division conducted a detailed shopping analysis of four of the households with transactions identified in the charge letter. It is interesting to note that not one of the households examined shopped at any other ethnic store during the months they were shopping at Appellant. Typically, households will shop in at least one other ethnic store when others are available. Many households travelled a long distance to get Appellant as each household's reported address is between two and four miles from Appellant. One wonders what the attraction is to this particular store. There is no compelling reason why any household would conduct high dollar SNAP transactions at Appellant while shopping at stores that carries a much larger quantity and variety of eligible food items.

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.

Receipt Analysis

Appellant submitted a box full of invoices and receipts for its stock purchased during each month of the review period. The eligible foods purchases during the review period total $161,491.97. Appellant's total SNAP redemptions for the review period were slightly less than this amount. However, Appellant submitted copies of its Sales and Use Return for each month of the review period to the Retailer Operations Division with its reply to the charges. The Retailer Operations Division analyzed these forms and determined that SNAP benefits comprise 43% of Appellant's total food sales during the review period. Even with a generous 50% mark-up, the invoices do not support Appellant's SNAP and its credit, debit, and cash sales, which are reported to be greater than SNAP sales.

Specifically, Appellant's reported total food sales during the review period were $345,338.07. This would require a 113% mark-up of the food purchased, which is highly unlikely. Thus, the submitted invoices do not support Appellant's SNAP redemptions during the review period.

Corrective Action

Appellant informed the Retailer Operations Division in its reply to the charges that it has taken measures to resolve these issues including retraining all the staff, keeping an eye out for multiple transactions, and verifying each transaction.

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 or internal agency policy directives 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 has taken corrective action to prevent the violations does not provide any valid basis for dismissing the charges or for mitigating the penalty imposed.

Z Tape

Appellant submitted a cash register Z-tapes to the Retailer Operations Division. The Daily Report, or Z-Tape Report, is a summary of sales from the most recent register opening until the closing. The Retail Operations Division thoroughly analyzed each of the submittals. It appears that only purchases using cash or credit/debit cards show up under the various departments such as beef, chicken, lamb, veggies, fish, non-food, milk, spices. SNAP purchases are listed and/or programmed as a separate department in and of itself, and these purchases are not separated by food type. Therefore, it is not possible to determine what was purchased during the SNAP transactions. Since these Z-tapes do not provide any information about what was purchased, they do not show that the SNAP transactions were for eligible food items only.

Economic Hardship

Appellant explains that the business is its bread and butter. It is recognized that economic hardship is a likely consequence whenever a store is permanently disqualified from participation in SNAP. 7 USC 2018 (b)(7)(e)

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 is incurring 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.

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. Appellant did not request consideration for a trafficking CMP in lieu of a permanent disqualification under 7 CFR § 278.6(i), even though it was informed of the right to do so in the charge letter.

Even if a timely request had been submitted, Appellant would likely not have been eligible for a trafficking CMP in lieu of disqualification because there is insufficient evidence to demonstrate that the firm had established and implemented an effective compliance policy to prevent SNAP violations. Therefore, the Retailer Operations Division's decision not to impose a trafficking CMP in lieu of disqualification is sustained as appropriate pursuant to 7 CFR § 278.6(i).

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.

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 March 30, 2017
ADMINISTRATIVE REVIEW OFFICER