

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	
)	Docket No. 15-0093
)	Docket No. 15-0094
)	(FMIA/PPIA)
Halal Meat Slaughter House, Inc.,)	
and Zafer R. Kafozi,)	
)	Consent Decision and Order
Respondents)	
)	

This is a proceeding under Title I of the Federal Meat Inspection Act, as amended (21 U.S.C. §§ 601 et. seq.) (FMIA), the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et. seq.) (PPIA), and the applicable rules of practice (7 C.F.R. §§ 1.130 – 1.151) to withdraw Federal inspection services from Halal Meat Slaughter House, Inc., and Zafer R. Kafozi, hereinafter referred to jointly as Respondents. This proceeding was commenced by a complaint filed on March 24, 2015, herein by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA), who is responsible for the administration of Federal meat and poultry inspection.

The parties have agreed that this proceeding should be terminated by entry of the Consent Decision set forth below and have agreed to the following stipulations:

1. For the purpose of this stipulation and the provisions of this Consent Decision only, Respondents admit all jurisdictional allegations of the complaint and waive:
 - (a) Any further procedural steps;
 - (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof; and

(c) All rights to seek judicial review or to otherwise challenge or contest the validity of this decision.

2. Respondents waive any action against the USDA under the Equal Access to Justice Act of 1980, as amended (5 U.S.C. § 504) for fees and other expenses incurred by Respondents in connection with this proceeding.

3. Respondents, their owners, officers, directors, partners, successors, assigns, and affiliates waive, in addition to the action waived in paragraph 1 and 2 above, any other action against USDA or its employees in connection with this proceeding.

4. Respondents consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision. Complainant agrees to the entry of this Consent decision and Order.

Findings of Fact

1. Halal Meat Slaughter House, Inc., herein referred to individually as Respondent Company, is now and at all times material herein was, a corporation organized and existing under the laws of the State of North Carolina, located at 36117 Rocky River Springs Road, Norwood, North Carolina 28128. Respondent Company has a mailing address of 3145 N. Sharon Amity, Charlotte, North Carolina 28205.

2. Respondent Kafozi, herein referred to individually as Respondent Kafozi, is and at all times material herein was, the President of Respondent Company and listed on the grant of inspection as the only person "responsibly connected" with Respondent Company. Respondent Kafozi is currently an inmate at D. Ray James Correctional Institution. Respondent's current mailing address is: Inmate Zafer R. Kafozi, Registration Number 26885-058, D. Ray James

Correctional Institution, P.O. Box 2000, Folkston, GA 31537. All mail sent to this mailing address should be marked "Special Mail - Open only in the presence of the inmate" on the front of the envelope.

3. Respondent Company was and has been granted Federal inspection services, pursuant to the FMIA and the PPIA, since August 18, 2004, at the above named establishment that was and has been designated as Official Establishment Number 31795 M /31795 P.

4. On November 21, 2013, in the United States District Court, Western District of North Carolina, the Judgment in a Criminal Case was entered against Respondent Kafozi, Owner of Respondent Company, for one felony count of conspiracy to commit interstate transportation of stolen goods, in violation of 18 U.S.C. § 371.

Conclusion

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this Consent Decision and Order, the following Order will be entered.

Order

Federal meat and poultry inspection services under Title I of the FMIA and the PPIA are withdrawn from Respondents, owners, officers, directors, partners, affiliates, successors and assigns, directly or through any business or other device, for a period of three (3) years beginning on the effective date of this Order; Provided, however, that said withdrawal of inspection services shall be held in abeyance, and a conditional grant for Federal meat and poultry inspection services shall be provided to Respondents, for so long as in addition to all other statutory and regulatory requirements for applicable inspection services, the conditions set forth below are met for the duration of this Order.

1. By the effective date of this Order, Halal Meat Slaughter House, Inc., shall submit a new FSIS Form 5200-2, Application for Federal Inspection (“Application”), to the FSIS Raleigh District Office.

(a) This application shall include all persons owning 10% or more voting stock, and any other responsibly connected individuals, such as partners, officers, directors, holders, plant managers, supervisors, or similar individuals as prescribed in 21 U.S.C. 671 and 21 U.S.C. 467(a).

(b) Respondent Company shall designate one person other than Respondent Kafozi to act as President. The President shall be responsible for making all major food safety decisions, overseeing all actions regulated by the FMIA and PPIA, effectuating the operation of Respondent Company’s federal establishment, and ensuring compliance with the Order.

(c) Respondent Company shall hire or designate a person for the role of Corporate Ethics and Compliance Officer (CECO). This person shall be listed on the application as a responsibly connected individual with their designated title, and must be someone other than Respondent Kafozi, the President, or the Plant Manager (in paragraph 1.d.). The CECO will be responsible, along with the President, for ensuring compliance with the Order. Any changes to the CECO shall be made with the concurrence of the Director, Enforcement and Litigation Division, Office of Investigation, Enforcement and Audit (OIEA), FSIS, USDA (hereinafter “Director”). The CECO may not hold any other managerial position in Respondent Company. The CECO shall have responsibility for: (a) supervising and monitoring Respondent Company’s compliance with this Order; (b) implementing the Business Code established under paragraph 10 of the Order; (c) assuring that all employees are trained in food safety principles and ethics in

accordance with this Order; (d) maintaining records and reports required by this Order; and (e) reporting to FSIS on Respondent Company's compliance with the Order.

(d) Respondent Company shall hire or designate a person for the role of Plant Manager. This person shall be listed on the application as a responsibly connected individual with their designated title, and must be someone other than Respondent Kafozi, the President, or the CECO (in paragraph 1.b.).

(e) The President and/or the Plant Manager is/are responsible for oversight of all day-to-day operations and authority regulated under the FMIA and PPIA. Either the President and/or the Plant Manager must be present during any operations requiring inspection.

(f) The President and/or the Plant Manager is/are to serve as the contact(s) with FSIS inspection program personnel for all matters related to the Respondent Company, including responding to written documentation from inspection program personnel.

2. Prior to submitting the Application in paragraph 1, and for the duration of this Order, Respond Kafozi shall not be an equal or majority stockholder in Respondent Company. Respondent Company shall demonstrate and submit to the Director, all records that substantiate that Respondent Kafozi holds less than an equal or majority stock holding of Respondent Company.

3. Respondent Kafozi, in his individual capacity, may remain employed by Respondent Company. Respondent Kafozi shall not exercise operational/managerial control of the Respondent Company. In his employment capacity with Respondent Company, Respondent Kafozi shall be under the supervision and direction of the President, the Corporate Ethics and Compliance Officer, and the Plant Manager, in accordance with the provisions of this Order. Respondent Kafozi shall be permitted to (a) slaughter livestock and poultry in accordance with

religious requirements, and to process the livestock and poultry; (b) conduct purchases and sales of livestock, poultry, and products for the Respondent Company; and (c) document findings and observations related to operations on Respondent Company forms.

4. As an employee without operational/managerial control of the Respondent Company, Respondent Kafozi is limited to his duties as described in this Order, for Respondent Company with respect to operations regulated by the FMIA and the PPIA. Respondent Kafozi's responsibilities shall not interfere with or circumvent the assigned responsibilities and authorities of the President, CECO, or Plant Manager.

5. Within thirty (30) days of the effective date of this Order, and subject to the concurrence of the Director, Respondent Company shall designate in writing an alternate responsible for conducting the functions and duties of the President in his/her absence.

6. Respondent Kafozi, Respondent Company, or any other responsibly connected individual, or any of its partners, employees, agents, or affiliates shall not:

(a) violate any section of the FMIA, PPIA, the Egg Products Inspection Act, or regulations promulgated there under, or state or local statute involving the preparation, sale, transportation, or attempted distribution of any adulterated, noninspected, misbranded, or deceptively packaged meat, poultry, egg products, or other foods or food products;

(b) commit any felony or fraudulent act or other criminal act involving fraud, conspiracy, bribery, or extortion;

(c) willfully make or cause to be made any false entry into any accounts, records, or memoranda kept by Respondents in compliance with Federal or state statutes or regulations; fail

to make true and correct entries in such accounts, records, or memoranda; or fail to keep such accounts that fully disclose all transactions in Respondents' business; or

(d) assault, intimidate, threaten, or interfere with any program employee in the performance of his or her official duties under the FMIA or PPIA.

(e) conduct any operation requiring Federal inspection outside the official hours of operations without first submitting a written request to, and receiving written approval from, inspection program officials.

7. For positions which would make an individual responsibly connected to Respondent Company as defined by 21 U.S.C. 671 and 467(a), Respondent Company shall not knowingly hire or add any new individual who has been convicted, in any Federal, State, or territorial court, of any felony, or more than one misdemeanor based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food, or based upon fraud in connection with transactions in food. To the extent permitted by state and federal law, Respondents shall immediately terminate their connection with such individual when that individual's conviction becomes known to Respondents.

8. Within sixty (60) days of the effective date of this Order, Respondent Kafozi, the CECO, and all responsibly connected individuals and managers of Respondent Company, shall participate in a training program or educational course encompassing ethics in business practices. Prior to participation in the course, Respondent Company shall submit a detailed description of the proposed training course for approval by the Director.

9. Upon completion of the course by each of the individuals specified in paragraph 8, Respondent Company shall provide proof of completion to the Director. Respondent Company

shall maintain records documenting the completion of such training and the records shall be made available upon request by an authorized representative of the Secretary of Agriculture.

10. Within thirty (30) calendar days of the effective date of this Order, Respondent Company shall develop and submit for review and concurrence of the Director a business code or policy statement of business conduct and ethics to ensure food safety and regulatory compliance in business practices (“Business Code”) applicable to all business entities and individuals within or employed by respondent. The Business Code, at minimum, shall include:

(a) a statement of company policy addressing business ethics and the public trust;

(b) a statement of respondents' commitment to comply with all applicable Federal and state food safety and other laws in the conduct of their business;

(c) guidelines for respondents' employees to follow with respect to food safety and ethics issues; and

(d) assurances to preclude any acts of intimidation, assault, or interference of USDA program employees.

11. The Business Code shall be permanently displayed in a prominent location in respondents' establishment, and shall be discussed with all current and new employees.

12. Respondent Company shall provide an annual report to the Director regarding Respondents' compliance with all the terms and conditions of this Order.

13. Respondent Company shall fully and completely cooperate with any inspection program personnel investigation inquiry, review, or examination of respondents' compliance with the FMIA, PPIA, or this Order.

14. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Administrator, or his or her designee, that one or more

conditions set forth in this Order have been violated. It is acknowledged that Respondents retain the right to request an expedited hearing pursuant to the rules of practice, 9 C.F.R. Part 500, concerning any violation alleged as the basis for a summary withdrawal of inspection services. This does not affect complainant's right to suspend official operations in accordance with Rules of Practice, 9 C.F.R. Part 500 or to take or initiate any other action authorized by statutes or regulation.


15. Nothing in this Order shall preclude the referral of any violation to the Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the FMIA, PPIA, and the regulations promulgated there under.

16. If any provision of this Order is declared invalid, such declaration shall not affect the validity of any other provision herein.


17. This Order shall become effective upon issuance by the Administrative Law Judge.




Zafer R. Kafozi
For himself and for Halal Meat Slaughter House, Inc.



Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement
and Audit




President
Halal Meat Slaughter House, Inc.
RACHA ALHAWACH



Attorney for Complainant
United States Department of Agriculture
Office of the General Counsel

Issued this 17th day of November, 2015,
in WASHINGTON, DC.



Jill S. Clifton
for Administrative Law Judge