

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

17:05

In re:	}	FMIA Docket No. 09- 0186
	}	PPIA Docket No. 09- 0186
	}	
G & G Enterprises, Inc.,	}	
d/b/a Sturgis Meat Service	}	
and Ronald Gapp,	}	
	}	
	}	
	}	
	}	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 et seq.), to withdraw Federal inspection services from G & G Enterprises, Inc., and Mr. Ronald Gapp, hereinafter referred to collectively as respondents. This proceeding was commenced by a complaint filed herein by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA). The parties have agreed that this proceeding should be terminated by entry of the consent decision set forth below pursuant to the consent decision provisions of the rules of practice (7 C.F.R. § 1.138).

Respondents admit the allegations in paragraphs I and II of the complaint and specifically admit that the Secretary has jurisdiction in this matter. Respondents neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and waive any action against the complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. section 504 et seq.), and waive any other action against the USDA and its employees in connection with the facts and

events that gave rise to these proceedings. 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 decision.

Findings of Fact

1. G & G Enterprises, Inc. d/b/a Sturgis Meat Service, respondent corporation, is incorporated under the laws of the State of South Dakota, a recipient of Federal Meat and Poultry inspection services under the FMIA and PPIA, Establishment Numbers 9041/P-9041, and located at 2250 Park Avenue, Sturgis, South Dakota, 57785.

2. Respondent Ronald Gapp is Manager of, and a responsibly connected individual to, respondent G & G Enterprises.

3. Respondent G & G Enterprises has been a recipient of a Federal Meat and Poultry inspection services under the FMIA and PPIA, Establishment Numbers 9041/P-9041, since 2002.

4. On September 29, 2003, in the 4th Judicial Circuit, Meade County, South Dakota, respondent Ronald Gapp was adjudicated guilty on one felony count for the sale of unregistered securities (SDCL 47-31A-301, 47-31A-409). He was formally sentenced on January 29, 2007. The imposition of sentence against respondent Ronald Gapp was suspended provided that he serve 10 days in the Meade County Jail, remain on probation for 20 years, pay restitution, perform 500 hours of community service, write a letter of apology to all his victims, remain gainfully employed during his period of probation, and serve his jail time within 180 days.

Conclusion

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, this decision will be entered.

Order

Federal meat and poultry inspection services under Title I of the FMIA and under 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 two (2) years beginning on the effective date of this order; Provided, however, said withdrawal of inspection services shall be held in abeyance, and conditional Federal meat and poultry inspection services shall be provided to respondents for so long as the conditions set forth herein below, in addition to all other statutory and regulatory requirements for applicable inspection services, are met:

1. Respondent corporation, Ronald Gapp, 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, or regulations promulgated there under, or state or local statute involving the preparation, sale, transportation, or attempted distribution of any adulterated or misbranded meat or poultry product;

(b) commit any felony or other criminal act involving the sale and distribution of unwholesome, adulterated or misbranded products;

(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.

2. Respondents 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.

3. Respondents shall implement and maintain Sanitation Standard Operating Procedures (SSOP) and a Hazard Analysis and Critical Control Point (HACCP) system in accordance with regulatory requirements specified in Title 9, Code of Federal Regulations, Part 416 and 417, respectively.

4. Respondents shall maintain full, complete and accurate written records of all business activities applicable to the FMIA and the PPIA, including but not limited to SSOP and HACCP records, and will make these records available for review and copying upon request of any authorized representative of the Secretary of Agriculture of the United States (Secretary).

5. Within ninety (90) calendar days from the issuance of this Order, respondent Ronald Gapp shall participate in and successfully complete a training program or educational course encompassing ethical business practices that has received prior concurrence from the Director, Evaluation and Enforcement Division (EED) of OPEER, FSIS (hereinafter, the Director). Respondent Ronald Gapp shall maintain for the duration of the Order records documenting the completion of such training and shall make these records available upon request to any authorized representative of the Secretary.

6. Within sixty (60) calendar days from the issuance of this Order, respondents shall develop and submit for review and concurrence of the Director, EED 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.

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

7. Respondents shall fully and completely cooperate with any FSIS investigation inquiry, review, or examination of respondents' compliance with the FMIA, PPIA or this Order.

8. Respondents shall provide a report annually to the Director, EED, regarding respondents' compliance with all terms and conditions of this Order, and FSIS statutory and regulatory requirements, including 9 C.F.R. Parts 416 and 417.

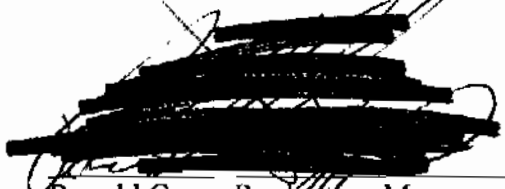
9. The provisions set forth in this Order shall be applicable for a period of two years, commencing on the date of issuance of this Order.

10. 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 withdrawal of inspection services. This does

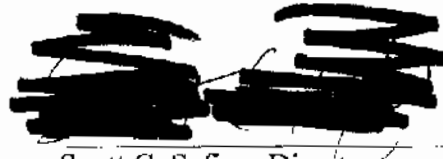
not affect complainant's right to suspend official operations in accordance with Rules of Practice, 9 C.F.R. Part 500. Nothing in this Order shall preclude the referral of any such violation to the Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the FMIA, PPIA, and the regulations promulgated there under.

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

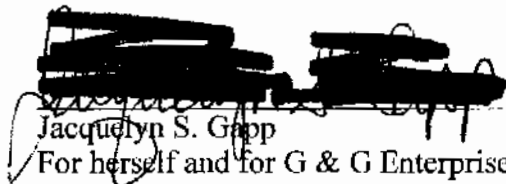
12. This Order shall become effective upon issuance by the Administrative Law Judge.



Ronald Gapp, Production Manager
For himself and for G & G Enterprises, Inc.



Scott C. Safian, Director
Evaluation and Enforcement Division
Office of Program Evaluation,
Enforcement and Review



Jacquelyn S. Gapp
For herself and for G & G Enterprises, Inc.



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

Issued this 2nd day of September 2009

in Washington, D.C.


ADMINISTRATIVE LAW JUDGE