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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	FMIA Docket Nos. 21-J-0007
	)	21-J-0008
Hamzah Slaughter House, LLC,	)	
Imad Rababe,	)	
	)	
Respondents.	)	CONSENT DECISION AND ORDER

This proceeding was instituted under the Federal Meat Inspection Act (FMIA) (21 U.S.C. § 601 *et seq.*) and the applicable Rules of Practice (7 C.F.R. § 1.130 *et seq.* and 9 C.F.R. Part 500) to withdraw federal inspection services indefinitely from Respondent Hamzah Slaughter House, LLC (Hamzah). This proceeding was commenced by a Complaint filed by the Administrator of the United States Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), on December 8, 2020. The parties have agreed that this proceeding should be terminated by issuance of the Consent Decision and Order set forth below pursuant to the consent decision provisions of the Rules of Practice (7 C.F.R. § 1.138).

The Respondents admit the Findings of Fact, as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter. The Respondents waive oral hearing and further procedure, and waive any rights to seek judicial review or otherwise challenge or contest the validity of this Consent Decision and Order, including waiving any challenges to the Administrative Law Judge's authority to enter this Consent Decision and Order under the Administrative Procedure Act and the Constitution of the United States. The Respondents waive any action under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) and waive any other action against USDA or any USDA employees in connection with this proceeding and the

facts and events that gave rise to this proceeding. The Respondents agree to the issuance of this Consent Decision and Order.

Complainant agrees to the issuance of this Consent Decision and Order.

FINDINGS OF FACT

1. Respondent Hamzah is, and at all times material herein was, a limited liability company operating a meat slaughter and processing facility located at 15680 Clear Spring Road, Williamsport, Maryland 21795.

2. Respondent Hamzah received a grant of federal inspection services on or about June 9, 2004, and was designated Official Establishment No. 10805-M. At all times material herein, Respondent Hamzah received federal inspection services at its facility in Williamsport, Maryland. Respondent Hamzah also conducts custom exempt slaughter and processing services for livestock owners at its facility in Williamsport, Maryland.

3. Respondent Imad Rababe is an individual, who at all times material herein was responsibly connected to Respondent Hamzah as its General Manager and majority Owner. As of the filing of this Consent Decision and Order, Respondent Imad Rababe has transferred all operational involvement and financial interest in Respondent Hamzah to his wife, Souha Sidani, his daughter, Suzan Rababe, and his son, Hamzah Rababeh.

4. Souha Sidani is an individual and the wife of Respondent Imad Rababe, who is now and at all times material herein was, responsibly connected to Respondent Hamzah as the Owner of at least 10% of Respondent Hamzah.

5. Suzan Rababe is an individual and the daughter of Respondent Imad Rababe. As of the filing of this Consent Decision and Order, Suzan Rababe is responsibly connected to Respondent Hamzah as the Owner of at least 10% of Respondent Hamzah.

6. Hamzah Rababeh is an individual and the son of Respondent Imad Rababe. As of the filing of this Consent Decision and Order, Hamzah Rababeh is responsibly connected to Respondent Hamzah as the Owner of at least 10% of Respondent Hamzah.

7. On various dates between June 12, 2020 and November 19, 2020, FSIS inspection program personnel documented multiple incidents involving alleged assault, intimidation, interference, and/or harassment of FSIS employees by management officials and employees of Respondent Hamzah.

8. On or about November 19, 2020, the FSIS Raleigh District Office withheld the marks of inspection and reinstated the suspension of federal inspection services at Respondent Hamzah's facility following incidents involving alleged assault, intimidation, interference, and/or harassment of an FSIS inspector by Respondent Imad Rababe. The suspension of federal inspection services remains in effect as of the date of the filing of this Consent Decision and Order.

CONCLUSION

9. Respondents having admitted jurisdiction and the Findings of Facts herein, and the parties having agreed to the issuance of this Consent Decision and Order, the Consent Decision and Order will be issued.

ORDER

10. Federal inspection services under the FMIA are withdrawn from Respondent Hamzah and its owners, officers, directors, partners, affiliates, successors, and/or assigns, directly or indirectly or through any business or other device, beginning on the effective date of this Consent Decision and Order. Provided, however, that the withdrawal of federal inspection services will be held in abeyance, and federal inspection services will be provided to Respondent

Hamzah pursuant to a conditional grant of inspection, for so long as Respondent Hamzah complies with the statutory and regulatory requirements for inspection services under the FMIA and complies with the terms and conditions of this Consent Decision and Order.

11. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent Hamzah shall demonstrate that: (1) all conditions for the resumption of inspection services set forth in this Consent Decision and Order, including the submission of any required documentation, are met; and (2) the structural, physical, and sanitary conditions at Respondent Hamzah's establishment comply with applicable statutory and regulatory requirements under the FMIA.

Changes to Limited Liability Company

12. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent Hamzah shall implement the following changes to its limited liability company (LLC):

a. Respondent Imad Rababe shall be divested, both financially and operationally as defined herein, from Respondent Hamzah, its affiliates, successors, and/or assigns;

b. Respondent Hamzah shall modify its LLC documents to remove Respondent Imad Rababe from any ownership, financial, management, fiduciary, or other role in the LLC; and

c. Respondent Imad Rababe's ownership interest in Respondent Hamzah shall have been sold, transferred, or otherwise assigned to Souha Sidani, Suzan Rababe, and Hamzah Rababeh. Upon such transfer of ownership, Souha Sidani, Suzan Rababe, and Hamzah Rababeh shall each hold at least 10% ownership interest in Respondent Hamzah and be responsibly connected with Respondent Hamzah.

Divestment of Imad Rababe

13. Upon issuance of this Consent Decision and Order, Respondent Imad Rababe:

a. shall not exercise any operational control over, provide direction to, or have any financial interest in, directly or indirectly, Respondent Hamzah, its affiliates, successors, and/or assigns;

b. shall not be present at Respondent Hamzah's establishment located at 15680 Clear Spring Road, Williamsport, Maryland, 21795, either inside the facility or on the grounds, when any activities subject to the jurisdiction or regulation of FSIS are occurring, including, but not limited to, federal inspection of slaughter or processing operations, custom exempt slaughter or processing operations, and/or retail exempt operations;

c. shall not serve as an owner, shareholder, partner, officer, director, or in any other managerial or executive capacity, or in any responsibly connected position (as defined in 21 U.S.C. § 671), at any establishment receiving federal inspection services under the FMIA, Poultry Products Inspection Act (PPIA) (21 U.S.C. § 451 *et seq.*), or Egg Products Inspection Act (EPIA) (21 U.S.C. § 1031 *et seq.*); and

d. shall not, directly or indirectly, interact with or communicate with any personnel of the FSIS Raleigh District Office regarding official duties performed with respect to Respondent Hamzah or any other matter associated with Respondent Hamzah subject to the jurisdiction of FSIS.

14. Notwithstanding the provisions of Paragraph 13 of this Consent Decision and Order, Respondent Imad Rababe shall not be precluded from communicating with current or former customers, suppliers, or other business, familial, or personal contacts of Respondent

Hamzah, provided that any such communications are otherwise in compliance with Paragraph 13.

15. Notwithstanding the provisions of Paragraph 13 of this Consent Decision and Order, Respondent Imad Rababe shall not be precluded from attending or participating in limited corporate, religious, or familial event(s) on the premises of Respondent Hamzah, provided that such events do not involve any activities requiring inspection under the FMIA and that any attendance or participation by Respondent Imad Rababe in such event(s) is otherwise in compliance with Paragraph 13. To the extent such event(s) involve the custom slaughter or processing of livestock, Respondent Hamzah recognizes the Complainant's authority and jurisdiction under the FMIA over such activities. Respondent Hamzah shall provide at least thirty (30) days advance written notice, by correspondence or email, to the Chief, Enforcement Operations Branch (Chief, EOB), and to the District Manager for the FSIS Raleigh District Office with respect to such event(s) and the attendance or participation of Respondent Imad Rababe.

Compliance Officer

16. Prior to the resumption of inspection services, and subject to the concurrence of the Chief, EOB, Respondent Hamzah shall appoint, retain, or otherwise designate an independent third-party to serve as Compliance Officer (CO). The CO:

a. shall exercise independent oversight of Respondent Hamzah's compliance with the terms and conditions of this Consent Decision and Order, and shall have the authority to conduct inquiries into alleged compliance issues and make recommendations to Respondent Hamzah's ownership and management in response to compliance concerns;

b. shall not be a current or former owner, manager, or employee of Respondent Hamzah or serve in any other position or role (except as HACCP Consultant) required by this Consent Decision and Order; and

c. shall prepare and furnish to the Chief, EOB, a bi-annual report regarding Respondent Hamzah's compliance with the terms and conditions of this Consent Decision and Order.

Plant Manager and General Manager

17. Prior to the resumption of inspection services, and subject to the concurrence of the Chief, EOB, Respondent Hamzah shall appoint, hire, or otherwise designate one or more individuals to serve as Plant Manager and General Manager.

18. The Plant Manager shall:

a. serve as the primary day-to-day contact with FSIS personnel;

b. have overall responsibility for managing day-to-day activities regulated under the FMIA, including, but not limited to, monitoring, validation, reassessment, recordkeeping, sampling, testing, maintenance of sanitary conditions, the establishment's Hazard and Critical Control Point (HACCP) system, Sanitation Standard Operating Procedures (SSOP), and other food safety systems; providing oral and written responses to noncompliance records documented by FSIS personnel; and submitting any appeals of findings of FSIS personnel;

c. designate another person to perform the duties of Plant Manager whenever the Plant Manager is not on Respondent Hamzah's premises and any operations subject to the jurisdiction or regulation of FSIS are occurring; and

d. carry out other duties as defined by Respondent Hamzah.

19. The General Manager shall:

a. have overall decision-making authority for Respondent Hamzah with respect to activities regulated by and under the jurisdiction of FSIS;

b. provide supervision and oversight over the Plant Manager and other plant personnel;

c. have responsibility, generally, for ensuring compliance with FSIS statutes, regulations, and the terms of this Consent Decision and Order;

d. serve as the primary contact for communications with the Chief, EOB, and communicate, as necessary, with the FSIS Raleigh District office management and inspection personnel; and

e. carry out other duties as defined by Respondent Hamzah.

20. The individuals appointed, hired, or named to the Plant Manager and General Manager positions shall be identified by Respondent Hamzah on its application for federal inspection services required by Paragraph 24 of this Consent Decision and Order.

21. Should the Plant Manager or General Manager vacate their position during the period of this Consent Decision and Order, Respondent Hamzah shall immediately notify the FSIS Raleigh District Office and shall appoint, hire, or otherwise designate another person to fill the vacated position within fifteen (15) business days, subject to the concurrence of the Chief, EOB. If Respondent Hamzah is unable to fill the vacated position within the allotted time, it may designate an individual to serve in an acting capacity and submit a request to the Chief, EOB, for additional time to fill the position.

Other Personnel

22. Respondent Hamzah shall take action to ensure that the person known as Melvin, the former slaughter floor employee who was involved in the alleged shoving incident

documented on or about September 28, 2020, is not present at Respondent Hamzah's establishment, either in the facility or on the grounds, when any operations subject to the jurisdiction or regulation of FSIS are occurring, including, but not limited to, during federally inspected slaughter or processing operations, custom exempt slaughter or processing operations, or retail exempt operations.

23. Respondent Hamzah may continue to employ Mohamed Fahs at its establishment. Provided, however, that Mohamed Fahs may not have an ownership interest in Respondent Hamzah or serve in any other responsibly connected position (as defined in 21 U.S.C. § 671) with Respondent Hamzah, including, but not limited to, the position of Plant Manager or General Manager.

Documentation

24. Prior to the resumption of inspection services, Respondent Hamzah shall submit to the Chief, EOB, a revised application for federal inspection services under the FMIA, in accordance with FSIS regulations (9 C.F.R. § 304.1) and consistent with the requirements of Paragraphs 12-23 of this Consent Decision and Order.

25. Prior to the resumption of inspection services, Respondent Hamzah shall submit to the Chief, EOB, a document that identifies Respondent Hamzah's organizational and management structure, including the names and titles of all owners, management officials, and supervisors, required by this Consent Decision and Order or otherwise, and their attendant roles, duties, and responsibilities. Respondent Hamzah may revise its organizational and management structure document to reflect changes during the period of this Consent Decision and Order and shall promptly provide such revision(s) to the Chief, EOB.

26. Prior to the resumption of inspection services, Respondents shall submit to the Chief, EOB, documentation that demonstrates compliance with Paragraphs 12-25 of this Consent Decision and Order.

Non-Assault, Intimidation, and Interference Program

27. Prior to the resumption of inspection services, Respondent Hamzah shall develop, and submit for review and concurrence by the Chief, EOB, a written program for non-assault, intimidation, and interference with FSIS program personnel, which shall include:

a. measures to ensure, on a daily and on-going basis, that Respondent Hamzah and its owners, managers, and employees do not assault, resist, harass, threaten, impede, intimidate, or interfere with FSIS personnel carrying out their official duties;

b. corrective actions to be implemented by Respondent Hamzah and its owners or managers for reported instances of noncompliance, including disciplinary actions and employment termination, when appropriate; and

c. a policy statement reflecting (1) Respondents' commitment to ensure the safety of, non-intimidation of, and non-interference with FSIS personnel; (2) that FSIS personnel will not be assaulted, threatened, harassed, intimidated, resisted, or interfered with in the performance of their official duties; and (3) Respondents' commitment to promote productive communications between its owners, managers, and employees, and FSIS personnel.

28. Respondent Hamzah shall train its current and future owners, managers, and employees regarding its Non-Assault, Intimidation, and Interference Program and policies, as required by Paragraphs 38-43 of this Consent Decision and Order.

29. Respondent Hamzah shall require written acknowledgement by each of its current and future owners, managers, and employees of their receipt, understanding, and adherence to the Non-Assault, Intimidation, and interference Program and policies.

30. Respondent Hamzah shall permanently display, in a prominent location in Respondent Hamzah's establishment, the policy statement required by Paragraph 27 of this Consent Decision and Order.

Firearm and Security Program

31. Prior to the resumption of inspection services, Respondent Hamzah shall develop and submit, for review and concurrence by the Chief, EOB, a written program to ensure the safety and security of its establishment and of FSIS personnel executing responsibilities within the establishment, which shall include:

a. measures to (1) ensure that only authorized persons have access to the establishment; and (2) address the presence of unauthorized persons on the establishment's premises; and

b. measures to (1) restrict the presence of firearms and weapons in the establishment, except as required and authorized by Respondent Hamzah to perform slaughter and processing activities; (2) properly store and secure authorized firearms and weapons within the establishment; and (3) train appropriate personnel in the proper use of authorized firearms and weapons.

32. Respondent Hamzah shall train its current and future owners, managers, and employees regarding its Firearm and Security Program and policies, as required by Paragraphs 38–43 of this Consent Decision and Order.

33. Respondent Hamzah shall require written acknowledgement by each of its current and future owners, managers, and employees of their receipt, understanding, and adherence to the establishment's Firearm and Security Program and policies.

Food Safety and Regulatory Compliance

34. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent Hamzah shall maintain compliance with the Sanitation Performance Standards (SPS) and SSOP requirements of the FMIA and 9 C.F.R. Part 416.

35. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent Hamzah shall maintain compliance with the HACCP system requirements of the FMIA and 9 C.F.R. Part 417.

36. Upon the resumption of inspection services, Respondent Hamzah's custom exempt slaughter and processing operations shall comply with the FMIA and its implementing regulations, including but not limited to, maintaining sanitary conditions, keeping uninspected products separate from inspected products, properly marking, labeling, and packaging custom slaughtered carcasses and products as "Not for Sale" and continuing to so identify them until delivery to the owner(s), preventing custom slaughtered and prepared carcasses and products from becoming adulterated, and otherwise maintaining compliance with the requirements of 9 C.F.R. Part 303.

37. Upon the resumption of inspection services, Respondent Hamzah shall keep and maintain full, complete, and accurate copies of all written records required by the FMIA and the regulations promulgated thereunder. Respondent Hamzah shall make all such records available to FSIS personnel for review and/or copying upon request, in a timeframe consistent with FSIS requirements.

Training and Certification

38. Within thirty (30) days of issuance of this Consent Decision and Order, Respondent Hamzah shall cause to be developed and delivered, by a qualified independent third-party, a training program, in all applicable languages specific to Respondent Hamzah's workforce, to all current owners, managers, and employees, as set forth herein.

39. Within fourteen (14) days of issuance of this Consent Decision and Order, Respondent Hamzah shall identify by written submission to the Chief, EOB, the name of the third-party that will provide the training.

40. The training shall, at a minimum, cover and address the following:

a. FSIS statutes and regulations regarding assault, intimidation, and interference;

b. the programs and policies required by this Consent Decision and Order; and

c. the roles and responsibilities of each owner, manager, and employee under this Consent Decision and Order.

41. Within forty-five (45) days of issuance of this Consent Decision and Order, Respondent Hamzah shall submit to the Chief, EOB, a copy of the training materials developed and delivered under this Consent Decision and Order and of the documentation certifying completion of the training and specifying the individuals trained.

42. Respondent Hamzah shall train and educate any new owners, managers, or employees, consistent with the requirements of this Consent Decision and Order, within thirty (30) days of their becoming an owner, manager, or employee. The training of any owners, managers, or employees hired by Respondent Hamzah after delivery of the initial training may be delivered by Respondent Hamzah's owners or managers, if it so chooses.

43. Respondent Hamzah shall keep a written record of all training and certifications required by this Consent Decision and Order, maintain all records relative to the training and certification for the duration of this Consent Decision and Order, and make those records available for review and/or copying upon request by FSIS personnel.

Management Meetings

44. Prior to the resumption of inspection services, Respondent Hamzah's owners and managers shall participate in a meeting with the District Manager for the FSIS Raleigh District Office or their designee, the Chief, EOB, or their designee, and any other personnel designated to attend the meeting by FSIS, to review the terms and conditions of the Consent Decision and Order and the compliance responsibilities of Respondent Hamzah and its owners, managers, and employees.

45. Upon the resumption of inspection services, Respondent Hamzah's owners and managers shall participate in quarterly meetings with personnel designated by the FSIS Raleigh District Office regarding the issues addressed by this Consent Decision and Order.

46. The meetings identified herein shall emphasize maintaining professionalism and safety; preventing assault, intimidation, harassment, interference, or threats; and compliance with the terms and conditions of the Consent Decision and Order. The meetings may cover inspection, compliance, regulatory issues, or other matters, as determined by FSIS or Respondent Hamzah.

47. FSIS may, in its discretion, determine the Agency attendees for the meetings identified herein and waive attendance by any specific owner or manager of Respondent Hamzah.

48. The meetings identified herein may be conducted in person at Respondent Hamzah's establishment, at the FSIS Raleigh District Office, at another USDA facility, or remotely, such as by teleconference, or otherwise, as agreed to by the FSIS Raleigh District Office and Respondent Hamzah.

49. Respondent Hamzah and FSIS agree to cooperate in scheduling the meetings identified herein.

50. The meetings identified herein shall not limit, in any way, any other meetings (*e.g.,* weekly in-plant meetings) or other activities between FSIS employees and Respondent Hamzah and its owners, managers, or employees.

General Provisions

51. Respondent Hamzah shall ensure a working environment free from assault, threats of assault, intimidation, resistance, or interference with FSIS personnel while they are engaged in or on account of the performance of their official duties in connection with Respondent Hamzah's establishment.

52. Respondent Hamzah shall implement the company policies and programs required by this Consent Decision and Order and shall require strict adherence to the policies and programs by all current and future owners, managers, and employees.

53. Respondent Hamzah, its owners, managers, and employees shall not:

a. assault, intimidate, impede, threaten, or interfere with any FSIS employee while engaged in or on account of the performance of their official duties;

b. commit any felony, or commit more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon fraud in connection with transactions in food; or

c. knowingly employ any individual, in a managerial or other responsibly connected position (as defined in 21 U.S.C. § 671) to Respondent Hamzah, who has been convicted, in any federal or state court, of any felony, or of more than one violation of any law, other than a felony, based upon the acquiring, handling, or distributing of unwholesome, mislabeled or deceptively packaged food, or upon fraud in connection with transactions in food.

54. Respondent Hamzah and its owners, managers, and employees shall fully cooperate with any investigation, inquiry, review, or examination of Respondent Hamzah's compliance with the FMIA and regulations promulgated thereunder, and/or compliance with the terms and conditions of this Consent Decision and Order.

Enforcement Provisions

55. FSIS shall have the right to summarily withdraw inspection services from Respondent Hamzah upon a determination by the Chief, EOB, or their designee that one or more of the terms of this Consent Decision and Order have been violated. Respondent Hamzah retains the right, after any summary withdrawal of inspection services, to request an expedited hearing, pursuant to the applicable Rules of Practice (7 C.F.R. Part 1, subpart H and 9 C.F.R. Part 500). These rights do not affect FSIS's right to suspend operations for any other reason in accordance with the FMIA, the regulations promulgated thereunder, and the applicable Rules of Practice.

56. Nothing in this Consent Decision and Order will preclude FSIS from taking any administrative enforcement action against Respondent Hamzah, its owners, managers, other responsibly connected persons, affiliates, successors and/or assigns, in accordance with the FMIA, the regulations promulgated thereunder, and the applicable Rules of Practice. Nothing in this Consent Decision and Order will preclude the referral of any violation of law by Respondent

Hamzah, its owners, managers, other responsibly connected persons, affiliates, successors and/or assigns to the U.S. Department of Justice for possible criminal or civil proceedings.

Miscellaneous Provisions

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

58. This Consent Decision and Order shall become effective upon issuance by the Administrative Law Judge.

59. The provisions of this Consent Decision and Order shall remain in effect for a period of three (3) years from the date of issuance by the Administrative Law Judge.

Copies of this Consent Decision and Order shall be served upon the parties.

[redacted]

Hamzah Slaughter House, LLC
By: Suzan Rababe

[redacted]

Scott Safian
Chief, Enforcement Operations Branch, FSIS

[redacted]

Imad Rababe
By: Suzan Rababe, Attorney-in-Fact

TRACY MCGOWAN Digitally signed by TRACY MCGOWAN Date: 2020.12.29 15:14:23 -05'00'

Gant Redmon
Attorney for Suzan Rababe

Tracy McGowan
Attorney for Complainant

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By: Suzan Rababe

[redacted]

Scott Safian
Chief, Enforcement Operations Branch, FSIS

[redacted]

Imad Rababe
By: Suzan Rababe, Attorney-in-Fact

[redacted]

Gant Redmon
Attorney for Suzan Rababe

Tracy McGowan
Attorney for Complainant

Issued this 29th day of December, 2020

Chief Administrative Law Judge

Channing D. Strother