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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	}	FMIA Docket No. 15-0127 15-0128
Zabiha Halal Meats Inc. and Daniel W. Ault	}	
Respondents	}	Consent Decision and Order

This proceeding was instituted under the Federal Meat Inspection Act ("FMIA"), as amended (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. § 500.1 et seq.), to withdraw Federal inspection services from Zabiha Halal Meats Inc. and Daniel W. Ault (hereinafter referred to as the Respondents). This proceeding was commenced by a complaint filed 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 this Consent Decision and Order (Order) set forth below, pursuant to the consent decision provisions of the Rules of Practice (7 C.F.R. § 1.138).

For the purposes of this Consent Decision, Respondents admit the findings of jurisdictional fact as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter. The Respondents neither admit nor deny the remaining allegations and waive oral hearing and further procedure. The Respondents, officers, directors, partners, successors, assigns, and affiliates waive any claim against the Complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.). The 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. Zabiha Halal Meats Inc., herein referred to individually as Respondent Corporation, is now and at all times material herein was a corporation located at 10811 SE 00 West, Fairmount, Indiana, 46928.

2. Respondent Corporation was and has been granted federal inspection services, pursuant to the FMIA, since July 1, 2013, at the above named establishment that was and has been designated as Official Establishment Number M45105.

3. Respondent Daniel W. Ault is and at all times material herein was the Owner and holder of ten percent or more voting stock of Respondent Corporation. Mr. Ault's business address is 10811 S.E. 00 West, Fairmont, Indiana 46928.

4. On January 26, 2015, in the Madison Circuit Court, Anderson, Madison County, Indiana, Respondent Ault, Owner and stock holder in Respondent Corporation, pled guilty to four class D felony charges for the improper disposal of a dead animal.

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 inspection services under Title I of the FMIA is withdrawn from the Respondent and Respondent Corporation's owners, officers, directors, partners, successors, affiliates 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, said withdrawal of

inspection services shall be held in abeyance, and Federal meat inspection services shall be provided to the Respondents, pursuant to a conditional grant of inspection, for so long as the statutory and regulatory requirements for applicable inspection services are met, in addition to all terms and conditions of this Order set forth below.

Establishment Management and Personnel

1. Prior to the effective date of this Order, and subject to verification by FSIS, Respondents shall submit to the Chicago District Manager an application for Federal Inspection with a request to change and update the ownership and management information to reflect the current individuals responsibly connected to the Respondent Corporation. FSIS must review the application and verify that the responsibly connected individuals can receive federal meat inspection services. Throughout the duration of this Order, Respondents shall update and submit the application for Federal Inspection as needed to accurately reflect the establishment, operational, and ownership/management information.

2. Prior to the effective date of this Order, Respondents shall appoint or hire, with concurrence of the Director, Evaluation and Litigation Division (ELD) of the Office of Investigation, Enforcement, and Audit, FSIS (hereinafter, the Director, ELD), an individual to the position of Corporate Ethics and Compliance Officer (hereinafter "CECO"). The CECO will be responsible, along with the Corporate President, for ensuring compliance with the Order. Any changes to the CECO shall be made with the concurrence of the ELD Director. The CECO shall have the responsibility for: (a) supervising and monitoring Respondents compliance with this Order; (b) implementing the Corporate Code of Conduct and Ethics established under paragraph 4 of the Order; (c) maintaining records and reports required by this Order; and (d) reporting to FSIS, in accordance with paragraph 12, on Respondents' compliance with the Order.

Ethics Training and Corporate Code of Conduct and Ethics

3. Within ninety (90) days of the effective date of this Order, Respondent Ault shall participate in and successfully complete a training program or educational course encompassing ethical business practices which has received prior approval by the Director, ELD. Respondents 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.

4. Within sixty (60) days of the effective date of this Order, Respondents shall develop and implement a corporate code or policy statement of business conduct and ethics to ensure food safety and regulatory compliance in business practices (hereinafter "Corporate Code") applicable to all business entities and individuals within or employed by Respondents. The Corporate Code, at minimum, shall include:

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

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

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

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

The Corporate Code shall be submitted to the Director, ELD for review and approval prior to implementation, shall be permanently displayed in a prominent location in Respondents' establishment, and shall be discussed with all current and new employees.

Food Safety and Compliance Provisions

5. Respondents shall maintain compliance with statutory and regulatory requirements for sanitation, food safety programs, process controls, and all other applicable requirements, including, but not limited to, Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP), Hazard Analysis and Critical Control Point (HACCP), and product Recall Procedure, as specified in 9 C.F.R. Parts 416, 417, and 418.

6. Respondents shall comply with statutory and regulatory requirements for humane handling as prescribed in 21 U.S.C. 610(b), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. § 1901 et. seq.), and 9 C.F.R. Part 313.

Recordkeeping Provisions

7. Respondents shall maintain full, complete, and accurate written records of all business activities involved in their operations under the FMIA, including the SSOP, and HACCP records requirements. Respondents shall make these records available for review and copying upon request of any authorized representative of the Secretary.

8. Respondents shall make all records regarding its federally inspected establishment or other regulated business or business activities at said establishment available to FSIS personnel for review and/or copying immediately upon request by FSIS.

General Provisions

9. Respondents and their officers, directors, partners, employees, agents, affiliates, successors, and assigns shall not:

(a) violate any section of the FMIA or any regulations promulgated thereunder, or state or local statutes involving the preparation, sale, transportation, distribution or attempted distribution of any meat products;

(b) commit any felony or fraudulent act or other criminal act involving fraud, conspiracy, bribery, or any other act or circumstances indicating a lack of integrity needed for the conduct of operations affecting public health;

(c) willfully make or cause to be made any false entry into any accounts, records, reports, or memoranda kept by the Respondents in compliance with Federal, State or local statutes or regulations or this Order; neglect or fail to make full, true, and correct entries in such accounts, records, reports or memoranda; and fail to keep such accounts, records, reports, or memoranda that fully and correctly disclose all transactions in the Respondents' business;

(d) assault, intimidate, impede, threaten or interfere with any program employee in the performance of his or her official duties under the FMIA, or regulations promulgated thereunder; and

(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 FSIS.

10. Respondents shall not knowingly hire or add any new individual who has been convicted, in any Federal or State court, of any felony or more than one misdemeanor based upon the acquiring, handling, or distribution of unwholesome, mislabeled or deceptively packaged food, or based upon fraud in connection with transactions in food. Respondents shall immediately terminate their connection with any such individual when that individual's conviction becomes known to Respondents.

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

Corporate Reporting to FSIS

12. Respondents shall provide an annual report to the Director, ELD regarding Respondents' compliance with all terms and conditions of this Order and FSIS statutory and regulatory requirements, including 9 C.F.R. Parts 416, 417, and 418.

Implementation

13. Respondents shall implement the company policies and programs required by this Order, require strict adherence to the company policies and programs on the part of all current and future officers, managers, and employees, and take and document corrective action, including disciplinary action, when necessary.

Enforcement Provisions

14. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Director, ELD, or his or her designee, that one or more conditions set forth in paragraphs 1 through 13 of 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 the 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, and the regulations promulgated thereunder.

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

16. This Order shall be considered issued on the date that an Administrative Law Judge signs it but shall become effective on the date that the conditional grant of Federal inspection services is issued to Respondents.

17. This Order shall expire three (3) years from the date on which the Respondent's Federal inspection services resume.

[redacted]

Daniel W. Ault, Owner
Zabiha Halal Meats Inc.

[redacted]

Scott C. Safian, Director
Enforcement and Litigation Division
for Food Safety and Inspection Service
U.S. Department of Agriculture

[redacted]

for Tracey Manoff
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel

Issued this 29th day of December 2015

at Washington, D.C.

[redacted]

Administrative Law Judge
JANICE K. BULLARD