

proceeding and for such purpose only, to the entry of this decision.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Corporation Brandy Meats, Inc., is now, and at all times material herein was a corporation existing under the laws of Ohio that operates a meat and poultry plant at its establishment identified as 4245/P-4245 located at 2853 Sidney Avenue, Cincinnati, Ohio 45225
2. On October 10, 1989, Respondent was issued a Federal Grant of Inspection for Federal inspection services under the FMIA and PPIA at its place of business in Cincinnati, Ohio.
3. On June 1, 2006, in the United States District Court, Southern District of Ohio, Robert W. Baldhoff, Respondent herein, was convicted and sentenced on one felony count of selling misbranded meat with intent to defraud, in violation of 21 U.S.C. 610 (c) and 676 (a).
4. Respondent Robert W. Baldhoff was at all times material herein, the President of Respondent Corporation and is an individual responsibly connected thereto.
5. On or about October 4, 2006, Respondent was issued a revised Federal Grant of Inspection for Federal inspection services under the FMIA and PPIA at its place of business in Cincinnati, Ohio

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Federal meat inspection services under the FMIA and Federal poultry inspection services under the PPIA are withdrawn from Respondent Corporation Brandy Meats, Inc., its owners, officers, directors, partners, affiliates, successors, and assigns, including Robert W. Baldhoff, for

a period of five (5) years beginning on the effective date of this Order; Provided, however, the withdrawal of inspection services shall be held in abeyance, and inspection services shall continue to be provided to Respondents, for so long as in addition to all other requirements for applicable inspection services, the conditions set forth below, are met.

1. By the effective date of this Order, Ms. Louise M. Baldhoff, Robert W. Baldhoff's wife, shall be appointed the President of Brandy Meats, Inc. Ms. Baldhoff will be a signatory to this Order and will ensure oversight of all major decisions regulated by the FMIA and PPIA affecting the operation of Respondent Corporation's Federal establishment.

2. Prior to the effective date of this Order, Robert W. Baldhoff, in his individual capacity, shall:

(a) shall be indefinitely and permanently divested of any financial relationship with Respondent Corporation Brandy Meats, Inc., its owners, officers, partners, successors, affiliates, and assigns directly or indirectly through any corporate device. As such, Mr. Baldhoff cannot: i) hold any stock or stock options of Brandy Meats, Inc.; or ii) receive any compensation as a full time employee. Provided, however, that Mr. Baldhoff is not precluded from receiving limited periodic compensation for any duty performed under the "Permitted Services" responsibilities listed in paragraph 5 below. The parties acknowledge that Mr. Baldhoff's current compensation for performing the "Permitted Services" responsibilities listed in paragraph 5 below is six hundred and 00/100 dollars (\$600.00) per week. Accordingly, the term "limited periodic compensation" as set forth in this Consent Decision and Order shall mean monetary compensation that does not exceed six hundred and 00/100 dollars (\$600.00) for any weekly work period. The parties acknowledge and agree that nothing in this Consent Decision and Order

shall prohibit Ms. Louise M. Baldhoff from receiving any compensation or other economic benefit in her capacity as an owner and officer of Respondent Corporation Brandy Meats, Inc.

(b) shall be indefinitely and permanently divested of any operational relationship with Respondent Corporation Brandy Meats, Inc., its owners, officers, partners, successors, affiliates, and assigns directly or indirectly through any corporate device. As such, Mr. Baldhoff cannot: i) hold any full-time position within the corporation; ii) hold any position on the Board of Directors; iii) hold any managerial or responsibly connected position within the corporation; iv) oversee or direct any plant functions (e.g., unloading trucks, labeling/packaging product, cutting meat); and v) direct or perform plant management functions including implementation of Respondent's food safety programs. Provided, however, that Mr. Baldhoff is not precluded from performing any duties on behalf of the Respondent Corporation set forth under the "Permitted Services" responsibilities listed in paragraph 5 below.

3. Respondent Corporation shall ensure that by the effective date of effective date of this Consent Decision and Order, respondent Robert W. Baldhoff, in his individual capacity:

(a) has been completely divested of any financial relationship, as specified in paragraph 2 of this Order, with respondent corporation Brandy Meats, Inc., its owners, officers, partners, successors, affiliates, and assigns directly or indirectly through any corporate device;

(b) has been completely operationally divested of any operational relationship, as specified in paragraph 2 of this Order, with respondent corporation Brandy Meats, Inc., its owners, officers, partners, successors, affiliates, and assigns directly or indirectly through any corporate device.

4. Respondent Corporation shall take actions as necessary to ensure the provisions set forth in paragraphs 1-3 are met.

5. Notwithstanding the restrictions set forth in paragraphs 2 through 4 of this Order, the parties agree that Mr. Baldhoff is only permitted to perform periodic services explicitly set forth in this paragraph ("Permitted Services") for Respondent Corporation. Mr. Baldhoff is not precluded from receiving periodic compensation for his performance of the Permitted Services listed below. The Permitted Services are limited to the following:

(a) negotiate with Respondent Corporation's suppliers of beef, veal, lamb, and pork products, and to purchase such products from such suppliers, on behalf of Respondent Corporation;

(b) negotiate with Tumbleweed Restaurants and Queensgate Food Services concerning Respondent corporation's customer accounts;

(c) assist Respondent Corporation in its marketing efforts concerning the development of new customers and new product lines; and

(d) perform such tasks as are necessary and incidental to Mr. Baldhoff's performance of the Permitted Services listed in subsections (a) through (c) of this paragraph 5.

6. Within twenty (20) days of the effective date of this Order, respondent Brandy Meats, Inc. shall submit to the Director, Evaluation and Enforcement Division, Office of Program Evaluation, Enforcement and Review (OPEER) (hereinafter "Director"), FSIS, USDA, written documentation verifying compliance with all the provisions and terms of paragraphs 1 through 3 of this Order.

7. Respondent Corporation shall not:

(a) violate any section of the FMIA, PPIA, or the regulations promulgated thereunder, or any state or local statutes involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated, uninspected or misbranded meat and/or poultry products;

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

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

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

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

8. 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.

9. Respondents shall comply with the Sanitation Performance Standards (SPS) and shall establish and maintain a Sanitation Standard Operating Procedure (SSOP) and a Hazard Analysis and Critical Control Point (HACCP) system in compliance with regulatory requirements specified in Title 9, Code of Federal Regulations, Parts 416 and 417.

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

11. Within ninety days (90) of the effective date of this Order, Louise M. Baldhoff shall participate in and successfully complete a training program or educational course encompassing ethical business practices which has received the prior approval of the Director, Evaluation and Enforcement Division (EED) of OPEER, FSIS (hereinafter, the Director). Respondent 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.

12. Within thirty (30) days of the effective date of this Order, Respondent Corporation 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 respondent. The Corporate 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 Corporate Code shall be submitted to the Director, EED 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.

13. Respondent Corporation shall provide an annual report to the Director regarding Respondents' compliance with all the terms and conditions of this Order, and FSIS statutory and regulatory requirements, including 9 C.F.R. Parts 416, 417, and 310.25.

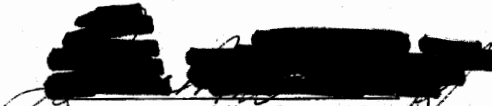
14. Respondents shall fully and completely cooperate with any FSIS investigation, inquiry, review or examination of Respondents' compliance with the FMIA, PPIA or this Order.


15. The provisions set forth in paragraphs 2 through 4 shall be applicable for an indefinite period of time. The provisions set forth in paragraphs 1 and 5 through 14 of this Order shall be effective for a period of five (5) years.

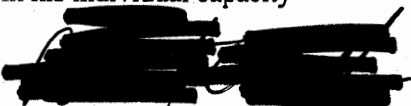
16. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Administrator, or his or her designee, that one or more conditions set forth in paragraphs 1 through 14 of this Order have been violated. It is acknowledged that respondents retain the right to request an expedited hearing pursuant to the rules of practice concerning any violation alleged as the basis for a summary withdrawal of inspection services. 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 thereunder.


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


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


Louise M. Baldhoff, President
for Brandy Meats, Inc.
Respondent

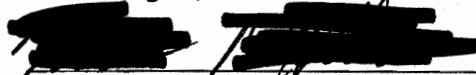

Robert W. Baldhoff, Respondent
in his individual capacity


Robert C. Webb Esq. for
Frost Brown Todd LLC
Attorneys for Respondents

for 
Scott C. Safian
Director, Evaluation and
Enforcement Division, OPEER, FSIS
For the Complainant


Krishna Ramaraju, Esq.
Attorney for Complainant
Office of the General Counsel

Issued this 29th day of December, 2006
at Washington, D.C.


Administrative Law Judge