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**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

In re:) FMIA Docket No. 07 - 0027
) PPIA Docket No. 07 - 0027
Coo Coo Rico Off Hook)
and Javid F. Naghani,)
) CONSENT DECISION
Respondents) AND ORDER

This proceeding was instituted under 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. and 9 C.F.R. § 500.1 et seq.) to refuse to provide Federal inspection services to Coo Coo Rico Off Hook and Javid Naghani, hereinafter referred to jointly as respondents. This proceeding was commenced by a complaint filed on November 17, 2006, by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA), which is responsible for the administration of Federal inspection services under the FMIA and the PPIA. The parties have agreed that this proceeding should be terminated by entry of the Consent Decision and Order set forth herein below pursuant to the provisions of the rules of practice (7 C.F.R. 1.138).

Respondents admit the allegations in the complaint filed in this action and the findings of fact, as set forth herein below, and specifically admit that the Secretary has jurisdiction in this matter. Respondents neither admit nor deny the remaining allegations, and waive oral hearing and any further procedure in this matter. Respondents waive any claim or action against the complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.), and waive any other action against USDA or its employees in connection with this proceeding and the facts

and events that gave rise to this proceeding. Respondents consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision.

The complainant agrees to the entry of this Consent decision and Order.

FINDINGS OF FACT

1. Coo Coo Rico Off Hook, respondent herein, operated as a sole proprietorship, is a business solely owned and managed by respondent Javid F. Naghani, is located at 21610 Lassen Street, Number 3/4, Chatsworth, California, 91311, and is an applicant for Federal Meat and Poultry Inspection services under the FMIA and PPIA.
2. Respondent Javid F. Naghani, who resides at 3201 Rindge Lane, Redondo Beach, California, 90278, is an applicant for Federal meat and poultry inspection services under the FMIA and PPIA, and is the owner and manager of Coo Coo Rico Off Hook. Respondent Javid F. Naghani is the sole party authorized and required to enter into this Consent Decision and Order on behalf of respondent Coo Coo Rico Off Hook.
3. On September 18, 2006, respondents submitted an application for Federal meat and poultry inspection services under the FMIA and PPIA.
4. On August 16, 1995, in the Municipal Court of Van Nuys Courthouse Judicial District, County of Los Angeles, California, respondent Javid F. Naghani was adjudicated guilty on one misdemeanor count of driving a vehicle on a highway in willful or wanton disregard for the safety of persons or property, in violation of the California Vehicular Code § 23103(a).
5. On January 22, 1996, in the Municipal Court of Van Nuys Courthouse Judicial District, County of Los Angeles, California, respondent Javid F. Naghani was adjudicated guilty on

one misdemeanor count of possession of a dangerous weapon, in violation of the California Penal Code § 12020(a), and on one misdemeanor count of driving a vehicle without a valid driver's license, in violation of the California Vehicular Code § 12500(a).

6. On June 7, 1999, in the Municipal Court of Metropolitan Courthouse Judicial District, County of Los Angeles, California, respondent Javid F. Naghani was adjudicated guilty on one misdemeanor count of knowingly and maliciously interfering with a police radio transmission, in violation of the California Penal Code § 148(a)(2).
7. On December 6, 2001, in Federal District Court in the Central District of California, respondent Javid F. Naghani was found guilty by a jury on one felony count of interference with flight attendants' duties by an act of intimidation, in violation of 49 U.S.C. § 46504. On March 18, 2002 respondent Naghani was sentenced therefore to thirty-three months imprisonment; additionally, respondent Naghani was ordered to pay a special assessment of one hundred dollars, and a total fine of six thousand dollars.

CONCLUSIONS

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

1. Federal meat and poultry inspection services under the FMIA and under the PPIA are denied to respondents, their owners, officers, directors, partners, affiliates, successors, and assigns, directly or through any corporate or other device, for a period of five (5) years beginning on the effective date of this order. Provided, however, that said denial 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 applicable statutory and regulatory requirements for inspection services, are met.

Food Safety Compliance Provisions

2. Prior to inauguration of conditional inspection services under this Order and subject to verification by FSIS, respondents shall meet all applicable requirements for inspection service as provided for by 9 C.F.R. Part 304 and demonstrate compliance with FSIS statutory and regulatory requirements, including, but not limited to, 9 C.F.R. Parts 305, 307, 310, 381, 416, 417 and 430, upon a review and examination of (1) respondent's written sanitation plans, hazard analysis, process controls, and other plans or documents required by FSIS regulations or by this order and (2) of the physical and sanitary conditions of the establishment.
3. Respondents shall comply with the Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedure (SSOP), Hazard Analysis and Critical Control Point (HACCP), and *Listeria Monoctyogenes (Lm)* sampling and testing regulatory requirements specified in Title 9, Code of Federal Regulations, Parts 416, 417 and 430, as applicable.
4. Prior to the effective date of this order, respondents shall notify the FSIS, Alameda District Office and shall designate in writing, one full-time person and one alternate who shall be responsible for overall implementation, coordination, monitoring, recordkeeping, review and maintenance of the facility's food safety and sanitation programs and regulatory requirements. The designee shall be present when the facility is in operation, and any change in the designees must be approved, in advance, by FSIS. Further, the designees shall, within sixty (60) days of the inauguration of conditional inspection services, complete a course of

instruction and receive certification in HACCP consistent with FSIS regulations, 9 C.F.R. 417.7.

Intimidation and Interference Provisions

5. Prior to the inauguration of conditional inspection services, and subject to verification by FSIS, respondents shall:
 - (a) develop a written company policy and action plan to address measures that will be taken by plant management on a daily and on-going basis, to ensure that Respondents, its officers, employees, or agents do not intimidate, interfere with, assault, impede, or threaten FSIS personnel;
 - (b) said policy and action plan shall, at a minimum, include: (i) a statement of respondents' commitment to ensure the safety and non-intimidation and non-interference with FSIS personnel; (ii) written guidelines prohibiting assaults, threats of assault, intimidation or interference with FSIS personnel; (iii) corrective actions, preventive measures and assurances to be implemented by respondents if instances are reported; (iv) disciplinary actions and sanctions against individuals involved in reported incidents; and, (v) training for all current and future owners, managers and employees in the company policy and action plan; and,
 - (c) provide a copy of its written company policy or action plan to the FSIS Alameda District Manager and/or designees.
6. Upon inauguration of conditional inspection services, and subject to verification by FSIS, respondents shall:

- (a) implement the company policy and action plan, as provided in paragraph 5 of this Order;
- (b) ensure that the company policy is permanently displayed in a prominent location;
- (c) require strict adherence to the company policy on the part of all current and future managers and employees and take and document corrective action, including disciplinary action, when necessary;
- (d) document and maintain written records of the implementation of the company policy and action plan for the duration of the order; and,
- (e) make these records available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Management and Employee Training

7. Within sixty days (60) days of the effective date of this order, and subject to verification by FSIS, respondent Javid F. Naghani shall participate in a training program or educational course encompassing food safety, sanitation, HACCP, and compliance with applicable Federal and state statutes and regulations related to the production and distribution of meat and poultry products, which has received the prior approval of the Director, Evaluation and Enforcement Division, Office of Program Evaluation, Enforcement and Review (OPEER) (hereinafter "EED Director"), FSIS, USDA. Respondent shall provide the EED Director with documentation regarding the completion of such training, maintain records documenting the completion of such training for the duration of this Order, and make these records available upon request to any authorized representative of the Secretary.
8. Within sixty days (60) of the effective date of this Order, and subject to verification by FSIS,

respondent Javid F. Naghani shall participate in and successfully complete a training program or educational course encompassing ethical business practices which has received the prior approval of the EED Director. Respondent shall provide the EED Director with documentation regarding the completion of such training for the duration of this Order, maintain records documenting the completion of such training, and make these records available upon request to any authorized representative of the Secretary.

9. Respondents shall train all current and future employees in food safety, sanitation, HACCP, applicable Federal and State statutes and regulations related to the production and distribution of meat and poultry products, and ethical business practices within thirty (30) days of their employment and conduct annual training for all employees, current and new, consistent with the requirements of this paragraph. Respondents shall document and maintain written records of the implementation and completions of the training required by this paragraph and the training materials for the duration of this order and make these records available to FSIS personnel for review and/or copying immediately upon such request.

Compliance Code

10. Prior to the inauguration of conditional inspection services, and subject to verification by FSIS, respondents shall develop and implement a company compliance code or policy statement of business conduct, ethics and food safety and regulatory compliance (hereinafter "Corporate Compliance Code"). The Compliance Code shall be submitted to the EED Director 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 within thirty (30) days of their employment. The Compliance 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.

Compliance Reporting.

11. Respondents shall provide a periodic compliance report to the EED Director regarding respondents' compliance with all the terms and conditions of this order and FSIS statutory and regulatory requirements. The report shall provide information on any relevant compliance issues. During the first two years of this order, respondents shall submit the report on a quarterly basis. Thereafter, respondents shall submit the report on a yearly basis.

Food Defense Provisions

12. Prior to the inauguration of conditional inspection services, continuing thereafter for the period of this order, and subject to verification by FSIS, respondents shall develop, write, implement, test, assess and maintain a written, functional food defense plan. The food defense plan shall consist of control measures or standard operating procedures respondents will apply to prevent intentional product tampering or adulteration, and contact information to be used by respondents in emergency situations or if product is tampered with or intentionally adulterated. The food defense plan shall address, as applicable, water systems,

processing and/or manufacturing, product storage areas, shipping and receiving, facility security, and employee identification and security.

Recordkeeping Provisions

13. Respondents shall maintain full, complete and accurate written records of all business activities involved in their operations under the FMIA and PPIA, and under State and local statute, including, but not limited to, SSOP and HACCP records, product specification worksheets, and invoices. Respondents shall make these records available to FSIS for review and copying upon request of any authorized representative of the Secretary.

General Provisions

14. Respondents, respondents' businesses, or any of its officers, partners, employees, agents, affiliates, or assigns shall not:

(a) violate any section of the FMIA, PPIA, the Egg Products Inspection Act (21 U.S.C. § 1031 et seq.) ("EPIA"), or the regulations promulgated under these statutes

(b) violate any State or local statute involving the preparation, sale, transportation, distribution, attempted distribution, acquiring or handling of any adulterated, non-inspected, misbranded or deceptively packaged meat, poultry, egg products or other foods or food products;

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

(d) 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, State or local 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;

(e) assault, intimidate, impede, threaten or interfere with, or threaten to assault, intimidate, impede or interfere with any USDA or FSIS employee in the performance of his or her official duties under the FMIA, PPIA, EPIA or regulations promulgated thereunder; or,

(f) 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.

15. 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.

16. Prior to the effective date of this Order, respondents shall submit to the EED Director, written documentation required by paragraphs 4, 5, 10 and 12 of this order. Within sixty (60) days of the effective date of this order, respondents shall submit to the EED Director written documentation required by paragraphs 7 and 8 of this order. Compliance with paragraphs 4, 5, 7, 8, 10 and 12 is subject to verification by the EED Director, the FSIS Alameda District Manager, or their authorized designee(s).

17. Respondents shall fully and completely cooperate with any FSIS investigation, inquiry, review or examination of respondents' establishment, business records and/or compliance

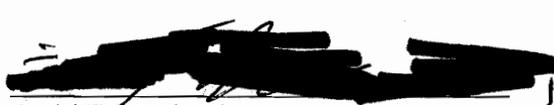
with the FMIA, PPIA or this Order.

Enforcement Provisions

18. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the EED Director 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 concerning any violation alleged as the basis for a summary withdrawal of inspection services.
19. 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.
20. If any provision of this order is declared invalid, such declaration shall not affect the validity of any other provision herein.
21. This order shall become effective on the date the conditional Federal grant of inspection services is issued to respondents' establishment.
22. The order shall expire five (5) years from the date the conditional Federal grant of inspection is issued to respondents.

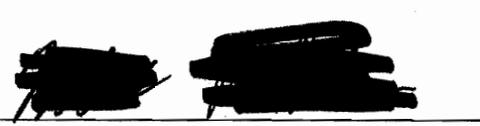

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 11/27/06
Javid F. Naghani
Respondent
On behalf of himself and on behalf of Coo Coo Rico Off Hook

Issued this 28th day of November 2006

at Washington, D.C.


ADMINISTRATIVE LAW JUDGE