

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: ) FMIA Docket No. 04-0005  
          ) PPIA Docket No. 04-0006  
Crescent Custom Slaughtering, Inc., )  
d/b/a Crescent Custom Meats, )  
  )  
Respondent. )

This is a proceeding under the Federal Meat Inspection Act, as amended (21 U.S.C. § 601 et seq.) ("FMIA") and 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 withdraw Federal inspection services from Crescent Custom Slaughtering, Inc., d/b/a/ Crescent Custom Meats, hereinafter referred to as Respondent. This proceeding was commenced by a complaint filed on January 28, 2004 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 for both meat and poultry. The parties have agreed that this proceeding should be terminated by entry of the Consent Decision set forth below and have agreed to the following stipulations:

1. For the purpose of this stipulation and the provisions of this Consent Decision only, Respondent admits all jurisdictional allegations of the complaint and waives:

(a) Any further procedural steps except as specified herein;

(b) Any requirement that the final decision in this proceeding contain any findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof; and

(c) Except as set forth herein, rights to seek judicial review or to otherwise challenge or contest the validity of this decision.

2. This Stipulation and Consent Decision is for settlement purposes only and does not otherwise constitute an admission or denial by Respondent that Respondent violated the regulations or statutes involved.

3. Respondent waives any action against the USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by Respondent in connection with this proceeding.

#### Findings of Fact

1. Crescent Custom Slaughtering, Inc., d/b/a/ Crescent Custom Meats, Respondent, is now, and was at all times material herein, a Washington corporation having a principal place of business located

at 5221 160<sup>th</sup> Avenue East, Sumner, Washington 98390.

2. Respondent has at all times material herein been granted Federal inspection services under the FMIA and PPIA under Establishment number 6041.

3. Mohamed M. Aden, at all times material herein, is the President of Crescent Custom Slaughtering, Inc.

4. Mohamed Moalim, at all times material herein, is the Vice-President of Crescent Custom Slaughtering, Inc.

5. On October 10, 2003, FSIS reinstated the suspension of federal inspection services issued to Respondent on August 21, 2003, based on Respondent's repetitive failures to meet Sanitation Standard Operating Procedures (SSOP), Sanitation Performance Standards, (SPS), and Pathogen Reduction/Hazard Analysis Critical Control Point (HACCP) regulatory requirements of 9 C.F.R. Parts 416 and 417 as documented from September, 2002 to October, 2003.

#### Conclusion

Because the parties have agreed to the provisions set forth in the following Stipulation and Consent Decision in disposition of this proceeding, the following Order will be issued.

#### Order

Inspection services under Title I of the FMIA and under the PPIA are withdrawn from Respondent Crescent Custom Slaughtering, Inc., d/b/a Crescent Custom Meats, and its successors, affiliates,

and assigns, directly or through any corporate or business device, for a period of three (3) years commencing on November 24, 2003 and ending on November 24, 2006. The withdrawal shall be held in abeyance and inspection services shall be provided to Respondent for so long as, in addition to all other requirements of inspection, the conditions set forth in paragraphs A through M of this Order are met. If any of the conditions that are set forth in paragraphs A through M are not met during the three year duration of this Consent Decision then the sanctions specified in paragraph N shall apply.

A. Respondent or any of its owners, officers, partners, employees, agents, affiliates, or assigns shall not:

1. violate any section of the FMIA, PPIA, State or local statutes involving the preparation, sale, transportation or attempted distribution of any adulterated or misbranded meat or poultry products;

2. willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by Respondent in compliance with applicable federal or state statutes or regulations; or willfully neglect or fail or cause 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 Respondent's business;

3. commit any felony or fraudulent criminal act that results in a conviction; or

4. assault, intimidate, or interfere or threaten to assault, intimidate, or interfere with any program employee in the performance of his or her official duties under the FMIA or PPIA.

5. 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 distributing of unwholesome, mislabeled or deceptively packaged food, or fraud in connection with transaction in food; and (b) shall immediately terminate its connection with any such individual when that individual's conviction becomes known to Respondent.

B. Respondent shall:

(a) develop and implement sanitation performance standards ("SPS") in accordance with 9 C.F.R. §§ 416.1 to 416.6;

(b) maintain the facility and continue to make facility repairs and/or improvements when necessary to ensure sanitary conditions are met, in accordance with 9 C.F.R. §§ 416.1 to 416.6;

(c) document findings and corrective actions to address structural and/or mechanical repairs and/or improvements to its facility under a "Planned Improvement Program" ("PIP") form.

C. Respondent shall 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, ("C.F.R.") Parts 416 and 417, respectively.

D. Respondent shall develop and implement an *Escherichia coli* Biotype I (E. coli) sampling and testing program and describe the procedures, sampling methodology, frequency, analyses and recording the Respondent will conduct and maintain in order to ensure daily and ongoing compliance with 9 C.F.R. § 310.25(a).

E. Respondent shall develop and implement a rodent and pest control program to include internal written pest control procedures for in-plant and outside premises, and maintain a pest management program conducted by an independent pest control service in accordance with 9 C.F.R. §§ 416.2(a) and (b).

F. Respondent shall develop and implement a hazard control program for Bovine Spongiform Encephelopathy (BSE), including receiving and holding controls, removing Specified Risk Materials (SRM) from cattle slaughtered at the facility and determining age of cattle in accordance with 9 C.F.R. Parts 309, 310, 311, 313 and current FSIS Notice(s).

G. Respondent shall develop, implement and maintain an effective compliance program to ensure that all inspected meat and/or poultry products do not become adulterated, contaminated, or misbranded.

1. This compliance program, which may be incorporated into Respondent's HACCP or SSOP plan, shall include provisions to

ensure:

(a) carcasses of livestock slaughtered are wholesome, free of any contamination, not adulterated, and bear legible marks of Federal inspection;

(b) all meat and/or poultry products are processed in accordance with product specifications and formulations;

(c) all meat and/or poultry products produced at Respondent's establishment do not have any undeclared substance of any kind; and are correctly labeled, bearing full and accurate labeling;

(d) appropriate record keeping of any known instances of adulterated, contaminated and/or misbranded meat and/or poultry products at Respondent's establishment.

2. Respondent shall designate an employee or employees to monitor the compliance program and grant such employees authority to stop production or take positive control of any products manufactured or stored at the facility which are, or are believed to be, adulterated, contaminated, or misbranded.

H. Respondent shall, on or before the expiration of sixty (60) calendar days from the issuance of this Order, implement and submit to the Director, Evaluation and Enforcement Division (hereinafter "Director") of OPEER, FSIS, USDA, or his or her designee, Respondent's proposed compliance program for review. The parties shall make every effort to ensure that Respondent's

compliance program is reviewed and implemented in an expeditious manner.

I. Respondent shall comply with all Respondent's pre-requisite programs and its record-keeping requirements, which are incorporated by reference herein. Pre-requisite programs include: Good Manufacturing Practices, Cattle and Livestock Receiving and Holding and Other Food and Non-Food Products, Preventing Cross Contamination during Slaughter and Processing Operations, Hazard Controls for Bovine Spongiform Encephelopathy, Rodent and Pest Control, Controlling Chemical Contaminants, Preventing Physical Contamination and Thermometer Calibration.

J. Respondent shall not conduct any operation requiring Federal inspection services outside the official hours of operation without obtaining prior approval from FSIS.

K. Respondent shall maintain full, complete and accurate written records of all business activities applicable to the FMIA, PPIA, Packers and Stockyard Act, State and local laws. Such records shall include, but are not limited to, bid solicitations, government contracts, product specification work sheets, pre-requisite programs, BSE, SSOP and HACCP records. Respondent shall make these records available upon request to any authorized representative of the Secretary.

L. Prior to the effective date of this Order, Respondent shall notify the FSIS District Manager 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 the requirements of this Consent Decision and Order.

M. Respondent shall, on or before the expiration of sixty (60) calendar days from the issuance of the Order, develop, implement and maintain written training programs for management officers and all employees in food safety control systems and regulatory requirements of 9 C.F.R. Parts 416 and 417, and BSE hazard controls.

N. 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 A through M of this Order have been violated. It is acknowledged that Respondent retains 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 contained in these provisions prevents the right of Respondent to appeal the decision of an FSIS employee to his/her immediate supervisor pursuant to 9 C.F.R. § 306.5.

O. Nothing in this Consent Decision and Order shall preclude the referral of any violation of this Consent Decision and Order to

any agency for possible criminal, civil, or administrative proceedings.

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

Q. This agreement may be executed in counterparts and by facsimile, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

This Consent Decision and Order shall become effective for a period of three (3) years upon issuance by the Administrative Law Judge.

  
Mohamed M. Aden for  
Crescent Custom Slaughtering,  
Inc.

  
Mohamed M. Aden, President  
Crescent Custom Slaughtering,  
Inc.

  
Mohamed Moalim, Vice-President  
Crescent Custom Slaughtering, Inc.

  
Yasmeen Aidinejad, Esq. (WSBA # 28904)  
Attorney for Respondent

  
Scott C. Safian, Director  
Evaluation and Enforcement Division  
Office of Program Evaluation,  
Enforcement and Review  
Food Safety and Inspection Service

[REDACTED]

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Tracey Manoff, Esq.  
United States Department of Agriculture  
Office of the General Counsel  
Attorney for Complainant

[REDACTED]

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

Issued this 15th day of September 2004  
at Washington, D.C.

[REDACTED]

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ADMINISTRATIVE LAW JUDGE