

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) FMIA Docket No. 06-0006
)
Crescent Slaughterhouse)
Corporation a/k/a Al Badr)
Slaughterhouse and)
)
Nassar Saad, Nazem Saad,)
)
Respondents) CONSENT DECISION

RECEIVED

This proceeding was instituted under the Federal Meat Inspection Act (FMIA), as amended (21 U.S.C. §§ 601 *et seq.*) to withdraw federal inspection services from respondents. This proceeding was commenced by a complaint filed by the Administrator, Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA). This decision is entered pursuant to the consent decision provisions of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit the allegations in paragraphs I, II and III of the complaint and specifically admit that the Secretary has jurisdiction in this matter. The respondents neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and waive any claim against complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*). 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 decision.

Findings of Fact

1. Respondent Crescent Slaughterhouse Corporation, a/k/a Al Badr Slaughterhouse (“Crescent Slaughterhouse”) is, and at all times material herein was, a corporation organized and existing under the laws of Michigan and operating a meat slaughter and processing plant located at 1826 Adelaide Street, Detroit, Michigan 48207.

2. Respondent Nassar Saad, who resides at 7319 Oakman Boulevard, Dearborn, Michigan 48126, is, and at all times material herein was, an officer of and a responsibly connected individual to Crescent Slaughterhouse.

3. Respondent Nazem Saad, who resides at 47231 Glenhurst Drive, Canton, Michigan 48187, is, and at all times material herein was, an officer of and a responsibly connected individual to Crescent Slaughterhouse.

4. On August 18, 2003, respondents were granted federal inspection services pursuant to the FMIA at the above-named establishment.

5. On November 21 and 22, 2005, FSIS issued Notice of Suspension letters to respondents and suspended federal inspection services at its facility for reasons as follows:

(a) Respondents failed to operate and maintain its facility in a manner sufficient to prevent the creation of insanitary conditions and to ensure that product was not adulterated. For example, the facility had repeated fecal zero tolerance failures and failed to provide corrective actions to prevent its reoccurrence.

(b) Respondents failed to maintain Sanitation Standard Operating Procedures (SSOPs) in accordance with Part 416 of Title 9 of the Code of Federal Regulations (9 C.F.R. Part 416).

(c) Respondents failed to maintain Hazard Analysis and Critical Control Point (HACCP) plans in accordance with Part 417 of Title 9 of the Code of Federal Regulations (9 C.F.R. Part 417).

(d) Respondents repeatedly failed to identify products at its facility in accordance with 9 C.F.R. § 316.9.

6. Crescent Slaughterhouse's federal inspection services were suspended on two other occasions in 2005. On June 29, 2005, FSIS suspended federal inspection services at respondents' facility for failing to effectively implement humane methods of slaughtering and handling livestock. Two weeks later, on July 15, 2005, FSIS again suspended federal inspection services because Crescent Slaughterhouse employees intimidated and/or interfered with the assigned duties and responsibilities of FSIS employees.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, this decision will be entered.

Order

1. Federal meat inspection services under the FMLA are withdrawn from respondents, and respondent Crescent Slaughterhouse's owners, officers, directors, successors and assigns for a period of three (3) years beginning on the effective date of this Order; Provided, however, the withdrawal of inspection shall be held in abeyance, and inspection services shall be provided to respondents for so long as the conditions set forth below, in addition to all other requirements for

applicable inspection services, are met.

2. Prior to the resumption of inspection services, and subject to verification by FSIS, respondents shall demonstrate compliance with FSIS statutory and regulatory requirements, including, but not limited to 9 C.F.R. Parts 310, 316, 416 and 417, upon a review and examination of (a) respondents SSOP, HACCP, specified risk material, *Escherichia coli*, and other written sanitation, process controls, corrective actions, and sampling and testing programs and (b) of the physical and sanitary conditions of the establishment.

Sanitation Performance Standards

3. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) develop written procedures, including monitoring, corrective action, and recordkeeping procedures that the establishment will implement to operate and maintain its establishment, including its premises, facilities, equipment and outside premises in a manner sufficient to prevent the creation of insanitary conditions and practices, comply with the requirements of the Sanitation Performance Standards (SPS) regulations (9 C.F.R §§ 416.1 to 416.6), and to ensure that meat products prepared, stored and packed are not contaminated or adulterated; and (b) address and repair, prior to resumption of inspection services, any premises, facility and/or equipment issues identified by FSIS at the time of the physical plant review conducted, that do not comply with FSIS regulatory requirements.

4. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) operate and maintain at all times its establishment, including its premises,

facilities, equipment and outside premises, in a manner sufficient to prevent the creation of insanitary conditions and practices, comply with the requirements of the SPS regulations to ensure that meat and meat food products are not adulterated; and

(b) document and maintain records of the implementation and monitoring of its written SPS and of any corrective actions.

Sanitation Standard Operating Procedures

5. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall develop revised written sanitation standard operating procedures (SSOP) to describe the procedures, monitoring activities, and recordkeeping respondents will conduct, implement and maintain, on a daily and ongoing basis, before, during, and after operations, in accordance with 9 C.F.R. §§ 416.11 to 416.16, to ensure sanitary conditions and prevent product adulteration.

6. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall: (a) implement and maintain, on a daily and ongoing basis, its SSOP system as provided in paragraph 5 of this Order and regulatory requirements of 9 C.F.R. Part 416 to ensure sanitary conditions and prevent product adulteration;

(b) implement corrective and preventative actions, as required by 9 C.F.R. § 416.15 and routinely evaluate the effectiveness of its SSOP and implement necessary modifications as required by 9 C.F.R. § 416.14 as necessary to ensure that regulatory requirements for the maintenance of sanitary conditions and the production and distribution of safe, wholesome, not adulterated and properly labeled products in commerce are met; and,

(c) document and maintain records regarding the implementation and monitoring

of the SSOP procedures, corrective and preventive actions, and any decision-making documents regarding SSOPs evaluation and review.

Hazard Analysis and Critical Control Point (HACCP)

7. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) develop HACCP Plans to describe the process controls and procedures respondents will conduct, implement and maintain on a daily and on-going basis to control and prevent the introduction of food safety hazards in meat and meat food products; and

(b) address specific process controls and procedures within its HACCP system (i.e. zero tolerance fecal failures), including, but not limited to the following: (i) address biological, chemical, and physical food safety hazards reasonably likely to occur at each process step in the slaughter process; (ii) identify *Escherichia coli* biotype 1, *Escherichia coli* 0157:H7 as a food safety hazard that is reasonably likely to occur in the slaughter process; (iii) each critical control point in the slaughter process shall provide measures to prevent, eliminate, or reduce to an acceptable level, biological, chemical or physical hazards; (iv) address the process steps in the hazard analysis and include preventive measures or controls, where employee hygiene/practices, faulty equipment, and sanitary dressing procedures have created insanitary conditions and product contamination at those process steps; (v) assess the multiple interventions in the slaughter process that are used to control food safety hazards and determine their capabilities to ensure that pathogens of concern are actually being prevented, eliminated or reduced to an acceptable level, and validate the food safety system in accordance with 9 C.F.R. § 417.4(a), to ensure that these interventions and HACCP plan are effective in producing safe and wholesome

products; (vi) provide supporting and decision making documentation for the hazard analysis and HACCP plan, and validation protocols, including all parameters used in the validation protocols, and data to support the food safety system.

8. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) implement, validate and maintain its HACCP systems and plans, as provided in paragraph 7, in accordance with the requirements of 9 C.F.R. Part 417;

(b) implement timely and appropriate corrective and preventive actions and reassess and modify its HACCP systems and plans as necessary to ensure that the regulatory requirements for the control and prevention of pathogens and the product and distribution of wholesome, not adulterated and properly labeled products in commerce are met, as required by and consistent with 9 C.F.R. Part 417; and

(c) conduct ongoing assessment, validation and testing of the adequacy of the critical control points, critical limits, monitoring and record-keeping procedures, and corrective actions set forth in the HACCP system and plans, to ensure that the establishment's food safety systems remain validated over time, as required by 9 C.F.R. Part 417.

Humane Methods of Slaughter

9. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall develop a written animal welfare program to:

(a) ensure that any cattle, sheep, swine, goats, horses, mules, or other equines slaughtered or handled in connection with slaughter at respondents' establishment comply with 7

U.S.C. §§ 1901 to 1906 and 9 C.F.R. Part 313;

(b) ensure that livestock are placed in holding pens that provide functioning watering systems;

(c) ensure that all animals that are held overnight shall be provided appropriate feed stuff;

(d) include monitoring, verification corrective and preventive actions, and recordkeeping that it will implement and maintain on a daily and on-going basis, to ensure that livestock are treated in a humane manner prior to slaughter; and (e) address specific procedures within its animal welfare program including humane handling audits, stun gun maintenance, procedures for sensible animals, insensibility of stunned animals, stunning of animals, prods and driving tools.

10. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) implement and maintain, on a daily basis, its animal welfare program, as provided in paragraph 9, in accordance with this Order and regulatory requirements, 9 C.F.R. Part 313, to ensure humane handling of livestock.

(b) document and maintain records regarding the implementation and monitoring of its animal welfare program, corrective and preventive actions and any decision making documents.

Specified Risk Material Program

11. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) develop a written specified risk material (SRM) control program, including monitoring, verification, corrective and preventive actions, and recordkeeping that it will implement and maintain, on a daily and on-going basis, to ensure the control of SRM's and regulatory compliance with 9 C.F.R. Parts 309, 310, 311, 313;

(b) address specific procedures within its SRM control program, including the following: (i) identification of animals; (ii) determination of cattle age; (iii) receiving and holding controls; (iv) removal, segregation and control of SRM's from cattle slaughtered at the establishment; (v) removal of tonsils; (vi) ensuring no cross-contamination with edible products; and (vii) ensuring monitoring, verification and recordkeeping activities;

12. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) implement and maintain, on a daily on-going basis, its written SRM control program, as provided in paragraph 11; and

(b) document and maintain records regarding the implementation and monitoring of its written SRM removal program, corrective and preventive action and any decision making documents.

Escherichia coli Sampling and Testing Program

13. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall develop, implement, and maintain a *Escherichia coli* Biotype 1 (*E. coli*) sampling and testing program and describe the procedures, sampling methodology, frequency, analyses and recording that respondents will conduct and maintain in order to ensure daily and ongoing compliance with 9 C.F.R. § 310.25(a).

14. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) implement and maintain, on a daily on-going basis, its an *E. coli* Biotype I sampling and testing program, as provided in paragraph 13; and (b) document and maintain records regarding the implementation and monitoring of its *E. coli* Biotype I sampling and testing program, corrective and preventive actions and any decision making documents.

Establishment Management and Employee Training

15. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents 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. Respondents shall take all actions necessary to ensure that the designee and alternate(s) have: (i) completed a course of instruction and received certification in HACCP consistent with 9 C.F.R. 417.7; and (ii) have completed training in regulatory requirements regarding SPS, SSOP, SRM's, and *E. coli* sampling and testing procedures.

16. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) develop a training program for all current employees and management personnel and future hires to ensure that employees are trained in all aspects of food safety measures and regulatory requirements, including the requirements of the SPS, SSOP, HACCP, residue control, removal and control of SRM's, *E. coli* sampling and testing, recordkeeping

procedures, and good manufacturing procedures relevant to each employee's position; and

(b) train all current employees and management personnel in all aspects of food safety measures and regulatory requirements of SPS, SSOP, HACCP, residue control, SRM's removal and control, *E. coli* sampling and testing, recordkeeping procedures and the terms and conditions of this Order.

17. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) train and educate any new employee, consistent with the requirements of paragraph 16, within thirty (30) days of their employment; and

(b) conduct annual training for all employees, current and new, consistent with the requirements of paragraph 16; and

(c) document and maintain written records of the implementation and completion of the initial and annual training for current and new employees for the duration of this Order, and make these records available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Non-Intimidation and Interference Policy

18. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) develop a written company policy and action plan to address measures that will be taken by plant management, before the resumption of inspection services and on a daily basis, to ensure that respondent, or any of its owners, officers, partners, employees, agents, affiliates, or assigns, shall not violate any federal, state, or local statutes involving the assault or threat to

assault, intimidation, or interference with any program employee in the performance of his or her official duties under the FMIA; and (b) said policy and action plan shall, at a minimum, include: (i) a statement of respondents' commitment to ensure the safety and non interference with FSIS personnel; (ii) written guidelines prohibiting assaults, threats of assault, intimidation or interference with FSIS personnel; (iii) preventive measures and assurances to be taken by plant management to preclude any acts of intimidation, assault, or interference of FSIS personnel; (iv) corrective actions to be implemented by plant management if instances are reported; (v) disciplinary actions and sanctions against individuals involved in reported incidents; and, (vi) training for all current and future managers and employees in the company policy and action plan; and

19. Upon resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, respondents shall:

(a) implement the company policy and action plan as provided in paragraph 18;

(b) ensure that the company policy is permanently displayed in a prominent location; and

(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.

Recordkeeping

20. Respondents shall maintain full, complete and accurate written records of (a) all records required to be maintained by the FMIA and the regulations (b) all records required to be maintained under applicable federal, state and local statutes; and (c) all SPS, SSOP, HACCP,

SRM's, sampling or testing of products and other systems, plans and records required by the FMIA, the regulations or this Order.

21. Respondents shall notify the FSIS District Manager and/or designee of any changes or modifications to its SSOP, HACCP or other systems, programs or plans, and all associated recordkeeping forms as required by the regulations or this Order.

General Provisions

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

(a) violate any section of the FMIA, state or local statutes involving the preparation, sale, transportation or attempted distribution of any adulterated or misbranded meat or poultry products;

(b) willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by respondents 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 respondents business;

(c) commit any felony or fraudulent criminal act that results in a conviction; or 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. (d) 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

shall immediately terminate its connection with any such individual when that individual's conviction becomes known to respondents.

Enforcement Provisions

23. 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 22 of this Order have been materially 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 contained in these provisions prevents the right of respondents to appeal the decision of an FSIS employee to his/her immediate supervisor pursuant to 9 C.F.R. § 306.5.

24. Nothing in this Consent Decision shall preclude the referral of any violation of this Consent Decision and Order to any agency for possible criminal, civil, or administrative proceedings.

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

CRESCENT SLAUGHTERHOUSE
CORPORATION A/K/A AL BADR
SLAUGHTERHOUSE
RESPONDENT CORPORATION

for
[Redacted]

SCOTT SAFIAN, Director
Evaluation and Enforcement
Division
Office of Program Evaluation,
Enforcement and Review
Food Safety and Inspection Service

BY:

[Redacted]
NASSAR SAAD
President

[Redacted]
TRACEY MANOFF
Attorney for Complainant

[Redacted]
NASSAR SAAD
Respondent

[Redacted]
NAZEM SAAD
Respondent

[Redacted]
STEVEN RABINOVITZ
ATTORNEY FOR RESPONDENT

Issued this 7th of July, 2006
at Washington, D.C.

[Redacted]
ADMINISTRATIVE LAW JUDGE
PETER M. DAVENPORT