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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
	)	
	)	
A.L. Duck, Jr., Inc.	)	
and	)	FMIA Docket No. 10 - 0377
Brenda G. Redd	)	
	)	
	)	
Respondents.	)	Consent Decision and Order
	)	

This is a proceeding under the Federal Meat Inspection Act, as amended (21 U.S.C. §§ 601 et seq.) ("FMIA") 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 A.L. Duck, Jr. Inc. and Brenda G. Redd, hereinafter referred to as Respondents. This proceeding was commenced by a complaint filed on July 21, 2010, 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 the Consent Decision and Order set forth below pursuant to the consent decision provisions of the rules of practice (7 C.F.R. § 1.138).

Respondents admit the allegations in the Complaint and specifically admit that the Secretary has jurisdiction in this matter. Respondents waive oral hearing and further procedure, and waive any 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 the USDA and its employees in connection with the facts and events that gave rise to these proceedings. 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. At all times material herein, Respondent A.L. Duck, Jr., Inc. is a business organized and existing under the laws of Virginia, with a mailing address of 26231 River Run Trail, Zuni, Virginia, 23898.

2. Respondent A.L. Duck, Jr., is now, and was at all times material herein, a meat processing plant receiving federal meat inspection services under section 401 of the FMIA, FSIS Establishment Number 6605, at its place of business in Zuni, Virginia.

3. Respondent Brenda G. Redd is an individual with a mailing address of 26532 River Run Trail, Zuni, Virginia, 23898.

4. Respondent Brenda G. Redd is now, and was at all times material herein, president and manager of, and is responsibly connected to, Respondent A.L. Duck, Jr.

5. On September 20, 1989, in Circuit Court, Isle of Wight County, Virginia, respondent Brenda G. Redd (then named Brenda Redd Bowman) was adjudicated guilty on three class-1 misdemeanor counts of knowingly transporting and selling livestock products in intrastate commerce, which were capable of use as human food and which were misbranded at the time of such sale and transportation, in violation of Va. Code 3.1-884.22(b); and adjudicated guilty on three class-1 misdemeanor counts of intentionally selling and transporting meat products without having them inspected, knowing that they required inspection under the Virginia Meat and Poultry Inspection Act, in violation of Va. Code 3.1-884.31.

6. As a result of the September 20, 1989, conviction of respondent Brenda G. Redd, and as a result of the conviction on that date of William E. Bowman, the plant supervisor of respondent A. L. Duck, Jr., Inc. at that time, on December 29, 1989, the FSIS Administrator filed an administrative complaint, *In re: A.L. Duck, Jr., Inc., Brenda Redd Bowman, and William Eugene Bowman*, FMIA Docket No. 90-3. The complaint sought withdrawal of inspection services under Title I of the FMIA from respondents, based on respondents' lack of fitness to engage in a business requiring inspection services under the FMIA. On May 9, 1990, Administrative Law Judge Dorothea A. Baker issued a Stipulation and Consent Decision and Order provisionally granting inspection services under Title I of the FMIA, provided that respondents complied with conditions of the Order for the specified duration of those conditions.

7. On January 19, 2010, in the General District Court, Suffolk County, Virginia, respondent Brenda G. Redd was adjudicated guilty on two class-1 misdemeanor counts for the sale and transportation of misbranded and/or uninspected food, in violation of Va. Code 3.2-5407. Respondent Brenda G. Redd was formally sentenced for these two violations on January 19, 2010, to a suspended period of incarceration of 10 days, a one-year term of probation, and a fine of five-hundred dollars.

8. On January, 27, 2010, in the Combined Court, Emporia County, Virginia, respondent Brenda G. Redd was adjudicated guilty on two class-1 misdemeanor counts for the sale and transportation of misbranded and/or uninspected food, in violation of Va. Code 3.2-5407. Respondent Brenda G. Redd was formally sentenced for these two violations on January 27, 2010, to a fine of three-hundred dollars.

### **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 are withdrawn from Respondent Brenda G. Redd, and Respondent A.L. Duck, Jr., Inc., including its owners, officers, directors, partners, affiliates, successors and assigns, directly or through any business or other device, 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 conditional Federal inspection services shall continue to be provided to Respondents for so long as the conditions set forth herein below, in addition to all other statutory and regulatory requirements for applicable inspection services, are met.

### **Compliance Provisions**

1. Respondents shall implement and maintain Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP) and a Hazard Analysis and Critical Control Point (HAACP) system in accordance with regulatory requirements specified in Title 9, Code of Federal Regulations, Part 416 and 417, respectively.

2. Within sixty (60) calendar days from the effective date of this Order, Respondents shall develop and implement an effective compliance program to ensure that all inspected meat and/or poultry products do not become adulterated, contaminated or misbranded. This compliance program shall include, at a minimum, provisions to ensure that:

(a) all meat and/or poultry products are processed and recordkeeping is maintained in accordance with product specifications and formulations in 9 C.F.R. § 318.6;

(b) all meat and/or poultry products produced at Respondent do not have any undeclared substance of any kind, are correctly labeled, and bear full and accurate labeling in accordance with the requirements of 9 C.F.R. § 301.2; and

(c) written recall procedures are in place to effectively recall potentially adulterated or misbranded products produced or processed by Respondent when found in distribution channels.

Respondents shall submit their proposed compliance program to the Director, Evaluation and Enforcement Division (EED) of OPEER, FSIS (hereinafter, the Director, EED) for review and concurrence.

3. Respondents shall designate an employee and an alternate to be responsible for oversight of all aspects of the compliance program at all times during production. Such employee or alternate shall have full authority to hold up production, stop production, remove product from production, or take positive control of any products manufactured or stored at the facility that are or are believed to be adulterated or misbranded. The designated employee or alternate must be present at all times when operations requiring Federal inspection are conducted. The parties shall make every effort to ensure that Respondents' compliance program is reviewed and implemented in an expeditious manner.

#### **Training and Corporate Code of Conduct**

4. Within sixty (60) calendar days from the issuance of this Order, Respondent Brenda G. Redd shall participate in and successfully complete a training program or educational course encompassing food safety, sanitation, the seven HACCP Principles as identified in 9 C.F.R. 417.7 (b), and compliance with applicable Federal and State statutes. 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.

5. Within ninety (90) calendar days from the issuance of this Order, Respondent Brenda G. Redd shall participate in and successfully complete a training program or educational course encompassing ethical business practices that has received prior concurrence from the Director, EED. 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.

6. Within ninety (90) calendar days from the issuance of this Order, Respondents shall develop and submit for review and concurrence of the Director, EED a business code or policy statement of business conduct and ethics to ensure food safety and regulatory compliance in business practices (“Business Code”) applicable to all business entities and individuals within or employed by Respondent. The Business 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 Business Code shall be permanently displayed in a prominent location in Respondents' establishment, and shall be discussed with all current and new employees.

### **Company Reporting to FSIS**

7. Respondents shall provide a written report to the Director, EED regarding Respondents' compliance with all terms and conditions of this Order. Such report shall also include any information regarding regulatory control actions, withholding actions, or suspension actions taken by FSIS personnel. The report shall be submitted to the Director, EED every six months for the duration of the Order.

### **Recordkeeping Provisions**

8. Respondents shall maintain full, complete and accurate written records of all business activities applicable to the FMIA, including but not limited to SSOP and HACCP records, and will make these records available for review and copying upon request of any authorized representative of the Secretary of Agriculture of the United States (Secretary).

### **General Provisions**

9. Respondent Brenda G. Redd, and Respondent A.L. Duck Jr., Inc., or any other responsibly connected individual, or any of its owners, officers, directors, partners, employees, agents, affiliates, successors, and assigns shall not:

(a) violate any section of the FMIA, the Poultry Products Inspection Act (21 U.S.C. §§ 451 et seq.) ("PPIA") or regulations promulgated there under, or state or local statute involving the slaughter, preparation, sale, transportation, or attempted distribution of any adulterated or misbranded meat or poultry product;

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

(c) willfully make or cause to be made any false entry into any accounts records, or memoranda kept by Respondents in compliance with Federal or State statutes or regulations; fail

to make true and correct entries in such accounts, records or memoranda; or fail to keep such accounts that fully disclose all transactions in Respondents' business;

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

(e) conduct any operations requiring Federal inspection outside the official approved hours without obtaining prior approval from FSIS.

10. Respondents shall not knowingly hire or employ any new individual who has been convicted, in any Federal, state, or territorial court, of any felony, or more than one misdemeanor based upon the acquiring, handling, or distributing of unwholesome, mislabeled or deceptively packaged food, or based upon fraud in connection with transactions in food. To the extent permitted by state and federal law, Respondents shall immediately terminate their connection with 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, PPIA or this Order.

### **Enforcement Provisions**

12. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Director, EED or his or her designee, that one or more conditions set forth in this Order in paragraphs one (1) through eleven (11) have been violated.

13. 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 Rules of Practice, 9 C.F.R. Part 500. Nothing in this Order shall preclude the referral of any violation of law to the Department of Justice for possible

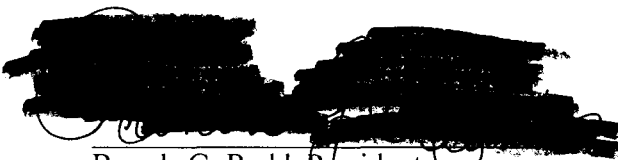


criminal or civil proceedings, or preclude the Administrator, FSIS, from taking other appropriate administrative action under the FMIA, PPIA, or the regulations promulgated thereunder.

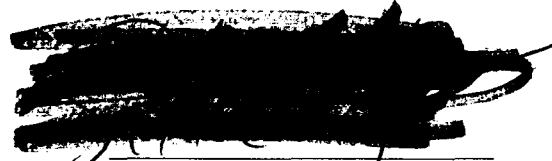
14. The provisions set forth in this Order shall be applicable for a period of five years.

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

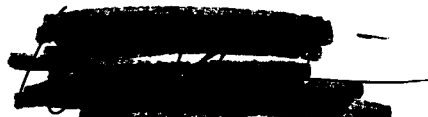
16. This Order shall become effective upon issuance by the Administrative Law Judge.



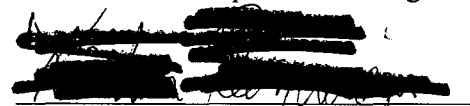
Brenda G. Redd, President  
For herself and for A.L. Duck, Jr., Inc.



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



William F. Devine, Esq.  
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Attorney for Respondent



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Attorney for Complainant  
United States Department of Agriculture  
Office of the General Counsel

Issued this 15<sup>th</sup> day of Sept 2010

in Washington, D.C.



ADMINISTRATIVE LAW JUDGE