

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO'
2021 OCT 19 4:10 PM'

In re:)
)
Jerky Dudes, Inc.; and) FMIA Docket No. 21-J-0051
Ryan Prichard,) FMIA Docket No. 21-J-0052
)
Respondents.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Thomas Bolick, Esq., and G. Blake Jackson, Esq., with the Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, Paul Kiecker, Administrator, Food Safety and Inspection Service (“FSIS”)

Preliminary Statement

This is an administrative proceeding under the Federal Meat Inspection Act, as amended (21 U.S.C. §§ 601.1 *et seq.*) (“FMIA”); the regulations promulgated thereunder (9 C.F.R. Subchapter E) (“Regulations”); the rules of practice that govern proceedings under the FMIA (9 C.F.R. §§ 500.1 through 500.8); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”).

The Administrator of the Food Safety and Inspection Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Jerky Dudes, Inc. and Ryan Prichard (“Respondents”) on July 29, 2021. The Complaint contends that inspection services provided to Respondents “should continue to be suspended and be suspended indefinitely because Respondents have repeatedly threatened, harassed, intimidated, and/or interfered with United States Department of Agriculture (USDA), Food Safety and Inspection

Service (FSIS) personnel engaged in the performance of their official duties under the FMIA.”¹

Further, the Complaint requests:

1. That *unless Respondents fail to file an answer within the prescribed time* or file an answer admitting all the material allegations of the Complaint, this proceeding be set for expedited hearing in conformity with the FSIS Rules of Practice (9 C.F.R. § 500.1 – 500.8) and the Uniform Rules of Practice (7 C.F.R. §§ 1.130 – 1.151).
2. That an order be issued continuing the suspension of inspection services under the FMIA indefinitely from Respondents and its owners, officers, operators, partners, successors, affiliates, and assigns, as warranted by the facts and circumstances of this case.

Complaint at 6-7 (emphasis added).

Respondents were duly served with a copy of the Complaint and did not file an answer within the twenty-day period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).²

On September 10, 2021, Complainant filed a proposed default decision and order (“Proposed Decision”) and motion for adoption thereof (“Motion for Default”) pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Respondent has not filed any objections

¹ Complaint at 1. The Complaint further provides: “Such acts to intimidate, interfere with, and prevent FSIS personnel from executing their responsibilities under the FMIA (21 U.S.C. §§ 603 – 609), are prohibited (21 U.S.C. §§ 642, 675), and have caused inspection services under the FMIA to be suspended (9 C.F.R. §§ 500.1(c), 500.3(a)(6)).” *Id.*

² United States Postal Service records reflect that the Complaint was sent to Respondents via certified mail and delivered on August 12, 2021. Respondents had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondents’ answer was due on or before September 1, 2021. Respondents have not filed an answer.

to Complainant's Motion for Default or Proposed Decision.³

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision.⁴ Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an untimely answer where, as in the present case, no meritorious objections have been filed.⁵

As Respondents failed to file an answer to the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Jerky Dudes, Inc. ("Respondent Jerky Dudes") is now, and at all times material herein was, a corporation organized and existing under the laws of the State of Oklahoma and operating as a meat-processing establishment located at 110 W. Main Street, Stratford, Oklahoma 74872.

³ United States Postal Service records reflect that Complainant's Motion for Default and Proposed Decision were sent to Respondents via certified mail and delivered on September 21, 2021. Respondents had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondents' objections were due on or before October 12, 2021. Respondents have not filed any objections.

⁴ 7 C.F.R. § 1.136(c).

⁵ See *supra* note 3 and accompanying text.

2. Respondent Ryan Prichard (“Respondent Prichard”), an individual, is the president and owner of 10% or more of Respondent Jerky Dudes and responsible for the management and oversight of the latter’s day-to-day business activities. Respondent Prichard’s home address is in the [REDACTED].
3. On or about June 26, 2019, Respondent Jerky Dudes and Prichard submitted FSIS Form 5200-2, Application for Federal Inspection, to FSIS requesting Federal inspection services under the FMIA for the processing of heat-treated, shelf-stable meat products. Respondents’ application listed Respondent Prichard as well as another individual, Tony Prichard, in block 22 as owners of 10% or more of and responsibly connected to Respondent Jerky Dudes, the applicant for inspection services.
4. Respondents’ application listed in boxes 23 and 24 of FSIS Form 5200-2 several convictions of Respondent Prichard. Specifically, the application identified that Respondent Prichard was convicted on or about June 3, 2011 of concealing stolen property, assault with a dangerous weapon, and possession of a firearm, all felonies in the State of Oklahoma, and convicted on or about May 14, 2009 of conspiracy to traffic controlled dangerous substance, a felony in the State of Oklahoma.
5. Due to Respondent Prichard’s felony convictions, on or about August 28, 2019 FSIS filed a complaint (FMIA Docket Nos. 19-J-0141 and 19-J-0142) alleging Respondents are unfit to receive Federal inspection under the FMIA (21 U.S.C. § 671). Concurrently, FSIS filed a consent decision and order (“Consent Order”) that held the denial of inspection services in abeyance and provided inspection services to Respondents conditioned upon their

maintaining compliance with applicable statutory and regulatory requirements and the terms and conditions of the Consent Order. The Consent Order required, among other things, that Respondents develop, implement, and maintain standards of conduct to ensure a safe work environment for FSIS personnel; to promote professional, respectful, business-like, non-threatening, and non-offensive communications with FSIS; and to ensure FSIS personnel are not intimidated, impeded, interfered with, or threatened. It also prohibited Respondents from assaulting, intimidating, impeding, threatening, or interfering with any FSIS employee in the performance of his or her duties under the FMIA. The Consent Order is in effect until September 18, 2022.⁶

6. Accordingly, on or about September 18, 2019, Respondent Jerky Dudes was issued a conditional grant of Federal meat inspection services and designated by FSIS as Official Establishment No. M46988. It has received inspection services under the FMIA, subject to FSIS verification and oversight since that date.
7. Since about January 16, 2020, FSIS has documented numerous communications from and acts by Respondent Prichard that constitute threats against, harassment of, intimidation of, and/or interference with FSIS program personnel performing their responsibilities under the FMIA, each in violation of FSIS statutory and regulatory requirements (21 U.S.C. §§ 642, 675) and the terms of the Consent Order that Respondents entered with FSIS. More specifically, since about January 28, 2020, FSIS personnel documented eight FSIS Forms

⁶ Official notice is taken of the Consent Order in Docket Nos. 19-J-0141 and 19-J-0142. *See* 7 C.F.R. 1.141(h)(6).

4735-4 (Reporting Form for Assault, Harassment, Interference, Intimidation, or Threat) detailing actions by or interactions with Respondent Prichard. Documented actions and communicates include, but are not limited to:

- a. On or about January 28, 2020, while discussing Respondents' Hazard Analysis and Critical Control Point Plan, a FSIS Consumer Safety Inspector ("CSI") reported that Respondent Prichard became agitated and uncooperative and slammed the door to the processing area;
- b. On or about January 30, 2020, a CSI and two Frontline Supervisors ("FLS") reported that, during an inspection of Respondents' facility, Respondent Prichard began to act in an aggressive and confrontational manner;
- c. On or about May 6, 2021, a CSI reported that Respondent Prichard had moved the CSI's workstation and furniture to an unsafe area in the back of the facility that was not conducive to work activities due to the poor lighting and col temperatures and, subsequently, prevented the CSI from gaining access to the establishment;
- d. On or about July 19, 2021, a CSI reported that Respondent Prichard yelled, screamed at, and used profanity toward him as he was verifying sanitary operations and, subsequently, made intimidating comments while filming the CSI performing his inspection duties;
- e. On or about July 21, 2021, a CSI reported that interactions with Respondent Prichard led her to not feel safe while performing her duties at the establishment because he

- raised his voice at her and followed her out to her car while continuing to shout at her; and
- f. On or about July 21, 2021, a Deputy District Manager (“DDM”) reported that Respondent Prichard sent him a threatening text message.
8. On or about May 7, 2021, the FSIS Dallas District Office suspended inspection services at Respondents’ establishment, in accordance with 9 C.F.R. § 500.3(a)(5) and (6), based on Respondent Prichard’s acts of harassing, intimidating, and interfering with FSIS program personnel and for violating a regulatory control action. As stated in the Notice of Suspension, the suspension action was based on the following: On or about May 6, 2021, Respondent Prichard raised his voice and engaged in argumentative and confrontational behavior after a FLS attempted to speak to him about a broken filing cabinet and desk located in the USDA office space and missing beef-jerky product retained by FSIS on May 4, 2021. This followed Respondent Prichard sending numerous unprofessional and antagonistic text messages and emails to the FLS and to other FSIS personnel involved, and other hostile face-to-face interactions between him and FSIS in the days and weeks preceding the incident.
9. On or about May 17, 2021, following the suspension action, Respondents submitted written and further planned actions to the FSIS Dallas District Office that were intended to correct and prevent recurrence of the violations. Proposed actions included commitments by Respondent Prichard to not engage in intimidating, threatening, or harassing communications with FSIS personnel; to restrict the use of video and audio recordings to the monitoring and verification of Respondents’ food-safety procedures and processes, in accordance with FSIS Directive

5000.9; to not remove or modify U.S. Retained/Rejected tags; and to remove a sign-in log for FSIS personnel that he had titled, “Untrustworthy People Sign-In.” On or about May 17, 2021, the District Office verbally notified Respondents of the acceptance of its actions and the District Office’s decision to place the suspension into abeyance, in accordance with 9 C.F.R. § 500.5(e), pending verification of Respondents’ execution of the actions and return to regulatory compliance. On or about May 18, 2021, the District Office issued a written Notice of Suspension held in Abeyance to Respondents, which outlined the terms of the abeyance.

10. On or about July 22, 2021, the FSIS Dallas District Office reinstated the May 7, 2021 suspension of inspection services at Respondents’ establishment, in accordance with 9 C.F.R. § 500.3(a)(6), based on Respondent Prichard’s threats against, harassment of, intimidation of, an interference with FSIS personnel and his failure to meet the terms of the abeyance and of the suspension action. Specifically, the Notice of Reinstatement Suspension stated that the reinstatement action was based on the following:

- a. On or about July 16, 2021, while speaking with a CSI, Respondent Prichard made several antagonistic comments, including stating he was going to fight her on everything she said while punching his right fist into the palm of his hand;
- b. On or about July 19, 2021, after a CSI advised Respondent Prichard that he could not remove jerky product from the cooker because of flying insects in the processing area, Respondent Prichard immediately became angry, raised his voice, and shouted profanities at the CSI. In addition, Respondent Prichard threatened to sue the CSI

while using his cellular phone to film the CSI taking the related regulatory control action;

- c. On or about July 20, 2021, Respondent Prichard sent argumentative emails to the FSIS Dallas District Office concerning the assignment of FSIS inspectors at Respondents' establishment and stated it was up to him to allow them access to his facility;
- d. On or about July 21, 2021, Respondent Prichard sent a CSI a text message threatening to have her arrested for breaking and entering if she entered his facility without permission; and
- e. On or about July 22, 2021, Respondent Prichard sent a threatening text message to the FSIS DDM, which stated, "If you want to threaten me [by reinstating suspension action], why don't you meet me at the casino in Thackerville tonight at 9 pm, we can talk about this facebto [sic] face!"

11. The reinstatement of the suspension of Federal meat inspection services at Respondents' establishment remains in effect.

Conclusions

- 1. The Secretary of Agriculture has jurisdiction in this matter.
- 2. Respondent Ryan Prichard has engaged in a pervasive pattern threatening, harassing, intimidating, and/or interfering with USDA FSIS personnel engaged in the performance of their official duties, in violation of the requirements of the Federal Meat Inspection Act (21 U.S.C. § 675) and the terms and conditions imposed by section 11(d) of the Consent

Decision and Order (FMIA Docket Nos. 19-J-0141 and 19-J-0142). Therefore, the suspension of federal inspection services to Respondent Jerky Dudes, Inc. and Ryan Prichard is warranted under 9 C.F.R. § 500.36 and may continue indefinitely.

ORDER

1. Complainant's Motion for Decision Without Hearing is GRANTED.
2. The suspension of federal inspection services to Respondents Jerky Dudes, Inc. and Ryan Prichard by the Secretary of Agriculture is CONTINUED indefinitely.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service, unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies of this Decision and Order shall be served upon the parties and counsel by the Hearing Clerk.

Done at Washington, D.C.,
this 19th day of October 2021

**CHANNING
STROTHER**

 Digitally signed by CHANNING
STROTHER
Date: 2021.10.19 15:50:32 -04'00'

Channing D. Strother
Chief Administrative Law Judge

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