

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:

Meat Chips, LLC
and Daniel T. Fillmore

PPIA Docket No.

14-0033
14-0034

Respondents

Consent Decision and Order

This is a proceeding under 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., 9 C.F.R. §§ 500.1 et seq.) to refuse Federal inspection service to Meat Chips, LLC, and Daniel T. Fillmore, hereinafter referred to jointly as Respondents. This proceeding was commenced by a complaint filed by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture. The parties have agreed that this proceeding, pursuant to the Consent Decision provisions of the Rules of Practice (7 C.F.R. § 1.138), should be terminated by entry of the Consent Decision and Order set forth below and have agreed to the following stipulations.

The respondents admit the findings of fact as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter. The respondents neither admit nor deny remaining allegations and waive oral hearing and further procedure. The respondents, any officers, directors, partners, successors, assigns, and affiliates waive any claim against 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.

Complainant agrees to the entry of this Consent Decision and Order.

Findings of Fact

1. Meat Chips, LLC, Respondent Corporation, desires to engage in the processing of poultry products at the establishment located at 8350 South Kyrene Road # 103, Tempe, Arizona 85284.
2. Respondents, on June 19, 2013, submitted an "Application for Federal Inspection" requesting Federal Inspection service under the PPIA at the place of business in Tempe, Arizona.
3. Respondent Daniel T. Fillmore is identified in said application as owner and President of Meat Chips, LLC.
4. On or about February 15, 2013, in the Superior Court of California, Orange County, Respondent Daniel T. Fillmore was sentenced on two felony counts involving marijuana.

Conclusion

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

Order

Federal poultry inspection service under the PPIA is refused to Respondents, its owners, officers, directors, partners, affiliates, successors and assigns, directly or through any corporate or other device, for a period of three (3) years beginning on the date the conditional grant of Federal inspection service is issued. This refusal to provide inspection service shall be held in abeyance, and conditional Federal poultry inspection service shall be provided to Respondents, for so long as the conditions set forth below, in addition to all other requirements of applicable inspection statutes and regulations, are met for the duration of this Consent Decision and Order.

1. Upon the effective date of this Order, and for the duration of this Order, subject to verification by FSIS, Respondents shall comply with the Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedure (SSOP), and Hazard Analysis and Critical Control Point (HACCP), and product Recall Procedure regulatory requirements specified in Title 9 Code of Federal Regulations, Parts 416, 417, and 418 as applicable.

2. Respondents and any of the Respondents' partners, employees, agents or affiliates shall not:

(a) violate any section of the PPIA, the Federal Meat Inspection Act, as amended (21 U.S.C. §§ 601 et seq.) (FMIA), the Egg Products Inspection Act, as amended (21 U.S.C. §§ 1031 et seq.) (EPIA), or regulations promulgated thereunder, or any state or local statute involving the preparation, sale, transportation, or attempted distribution of any adulterated, non-inspected, misbranded, or deceptively packaged meat, poultry, egg products or other foods or food products;

(b) commit any felony or fraudulent act or other criminal act involving fraud, conspiracy, bribery, or any other act or circumstances indicating a lack of integrity needed for the conduct of operations affecting the public health;

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

(d) conduct any operation requiring Federal inspection outside Respondent Corporation's official hours of operations without first submitting a request to, and receiving approval from, the assigned FSIS personnel.

3. Within sixty (60) calendar days from the date of issuance of the conditional grant of inspection, Respondents shall develop and submit for review by the Director, Enforcement and Litigation Division, of the Office of Investigation, Enforcement and Audit, FSIS, (hereinafter,

“the Director, ELD”), a code or policy statement of business conduct and ethics to ensure food safety and regulatory compliance in business practices (hereinafter “Corporate Code”) applicable to all business entities and individuals within or employed by the Respondents. The Corporate Code, at a minimum, shall include:

- (a) a statement of corporate 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 or assault of, or interference with, USDA program employees.

The Corporate Code shall be permanently displayed in a prominent location in Respondents' federal establishment and shall be discussed with all current and new employees.

4. Within ninety (90) calendar days from the date of issuance of the conditional grant of inspection, Respondent Daniel T. Fillmore shall participate in and successfully complete a training program or educational course encompassing ethical business practices that has received prior concurrence from the Director, ELD. Respondents shall maintain, for the duration of this Order, records documenting the successful completion of such training and shall make those records available upon request to any FSIS program personnel upon request.

5. Respondents shall record and maintain complete and accurate written records of
- (a) all records required to be maintained by the PPIA, FMIA, and EPIA, and implementing regulations; and
 - (b) all records required by this Order.

6. Respondents shall make all records regarding its Federally inspected establishment or other regulated business or business activities at said establishment available to FSIS personnel for review and/or copying immediately upon request by FSIS.

7. Respondents shall provide a written report annually to the Director, ELD, regarding Respondents' compliance with all the terms and conditions of this Order and FSIS statutory and regulatory requirements, including 9 C.F.R. Parts 416, 417, and 418.

8. Respondents shall not knowingly hire or add 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 any such individual when that individual's conviction becomes known to Respondents.

9. Respondents shall fully and completely cooperate with any FSIS investigation, inquiry, review, or examination of Respondents' compliance with the PPIA, FMIA, EPIA, or this Order.

10. The Administrator, FSIS, shall have the right to summarily withdraw inspection service upon a determination by the Director, ELD, or his or her designee, that one or more conditions set forth in paragraphs 1 through 9 of this Order have been violated. 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 summary withdrawal of inspection service. This does not affect Complainant's right to suspend 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 U.S. Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the PPIA, FMIA, EPIA, and the regulations promulgated there under.

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

12. This Order shall become final and effective upon issuance by an Administrative Law Judge.



Daniel T. Fillmore, President
Meat Chips, LLC



Scott C. Safian, Director
Enforcement and Litigation Division
Food Safety and Inspection Service
U.S. Department of Agriculture



Darlene M. Bolinger
Attorney for Complainant
United States Department of Agriculture
Office of the General Counsel

Issued this 19th day of November 2013

in Washington, D.C.



ADMINISTRATIVE LAW JUDGE