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Food Safety and
Inspection Service

March 01, 2023

Office of Field Operations

Philadelphia District
Mellon Independence
Center,
701 Market Street Suite
4100-A
Philadelphia, PA 19106

Mr. Nicholas Phillips, Vice President of Operations
Gold Medal Packing (Est. M17965)
8301 River Road
Rome, New York 13440

NOTICE OF SUSPENSION

Dear Mr. Phillips,

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Gold Medal Packing Inc., Establishment M17965 located at 8301 River Road, Rome, New York 13440. This letter follows verbal notification of the suspension action, provided by Mr. Joseph Schein, Deputy District Manager (DDM) to Mr. Dave Anguzza, General Manager (Est. M17965) at approximately 1030 hours on Wednesday, March 1, 2023. This action includes all Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice, 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements (9 CFR Part 313).

Background/Authority

The Federal Meat Inspection Act (FMIA) [21 U.S.C. 603 sec. 3. (b)] states, “for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other

equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with Sections 1901 to 1906 of Title 7 until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.” In addition, under prohibited acts, 21 U.S.C. 610 sec 10 (b), “No person, firm or corporation shall, with the respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of Title 7.”

Under the authorities of the FMIA, FSIS has prescribed rules and regulations required for establishments producing meat products, including the requirements pertaining to Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP), Hazard Analysis and Critical Control Point (HACCP) 9 CFR Parts 416, 417, and other matters. FSIS has also developed Rules of Practice regarding the enforcement action that it may take and includes procedures for taking a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Inspection.

Findings/Basis for Action

On Wednesday, March 01, 2023, based on observations made by the Consumer Safety Inspector (CSI), the following noncompliance was documented in Noncompliance Record JRF4907030901N:

HATS Category IX—Conscious Animals on the Rail: At approximately 0720 hours on 03/01/2023, the following livestock humane handling noncompliance was observed. Upon entering the pen area, a bob veal calf was observed to be conscious on the rail. The animal was shackled and hoisted and on the rail prior to being stuck for the bleed. The calf had coordinated head movement and both eyes were focused and blinking. I notified the pen area employee, who then retrieved a hand-held captive bolt and immediately rendered the calf unconscious with an effective use of the stunning device. The calf was then stuck and bled after being rendered unconscious. This is a failure of 9 CFR 313.15(a)(3) which states, “Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition through-out shackling, sticking and bleeding”. U.S. Reject tag #B40617912 was applied to the bob veal restraint chute opening. While the plant has a robust systematic approach to humane handling, it was not being implemented properly as FSIS IPP had to notify plant personnel of the conscious animal on the rail.”

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" (69 Fed. Reg. 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, "*Humane Handling and Slaughter of Livestock.*" Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock.*" Within the guidance material is information

intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. Although your establishment has previously developed and implemented a systematic approach to humane handling that was considered robust, you have failed to effectively implement your program accordingly.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Acts. Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.15(a)(3), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of adulterated products at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

Appeal and Hearing Rights

You have the right to appeal this matter and can do so by contacting:

Melissa Moore
Executive Associate for Regulatory Operations
Office of Field Operations

Food Safety and Inspection Service
United States Department of Agriculture
SB, Room1222
1400 Independence Avenue, SW
Washington, DC 20250
Email: melissa.moore1@usda.gov
Phone: (202) 450-0330

Pursuant to 9 C.F.R. 500.5(d), you may also request a hearing regarding this determination. Should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have any questions regarding this matter, please feel free to contact Mr. Joseph Schein, DDM, via electronic mail at joseph.schein@usda.gov or by telephone at (267) 355-9761. Additionally, you can contact the Philadelphia District Office at (800) 637-6681 or by fax at (215) 597-4217.

Sincerely,

**JASON
ORLANDO** Digitally signed by
JASON ORLANDO
Date: 2023.03.01
14:55:40 -0500

Mr. Jason Orlando
District Manager

Cc:

Ms. Melissa Moore, EARO, FSIS, OFO, Washington, DC

Mr. Jason Orlando, DM, FSIS, OFO, Philadelphia District Office

Mr. Joseph Priore, RD, FSIS, OIEA, Northeast Region

Mr. Joseph Schein, DDM, FSIS, OFO, Philadelphia District Office

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(b) (6), DCS, OFO, Philadelphia District Office

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(b) (6), DVMS, FSIS, OFO Philadelphia District Office

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(b) (6), SPHV, FSIS, OFO, Philadelphia District

Official Files Establishment Folder – Est. 17965

FSIS - FO/Quarterly Enforcement Report