

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:	}	Docket No. 16-0066
	}	Docket No. 16-0067
	}	(FMIA)
Lake's Farm Raised Catfish Inc. and John H. Lake	}	
	}	
	}	
	}	
Respondents	}	Consent Decision and Order

This proceeding was instituted under the Federal Meat Inspection Act ("FMIA"), as amended (21 U.S.C. § 601 et seq.), and the applicable Rules of Practice (7 C.F.R. § 1.130 et seq. and 9 C.F.R. § 500.1 et seq.), to refuse Federal inspection services to Lake's Farm Raised Catfish Inc. and John H. Lake (hereinafter referred to as the 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 (USDA). The parties have agreed that this proceeding should be terminated by entry of this Consent Decision and Order (Order) set forth below, pursuant to the consent decision provisions of the Rules of Practice (7 C.F.R. § 1.138).

For the purposes of this Consent Decision, Respondents admit the findings of jurisdictional fact as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter. The Respondents neither admit nor deny the remaining allegations and waive oral hearing and further procedure. The Respondents, officers, directors, partners, successors, assigns, and affiliates waive any claim against the Complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.). The 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

(A) Lake's Farm Raised Catfish Inc., Respondent Corporation, is a corporation that will require Federal inspection for the slaughter of Siluriform Fish in accordance with the FMIA at its establishment located at 10280 Old Hwy 61 South Box 67, Dundee, Mississippi 38626.

(B) Respondents, on January 20, 2016, submitted an "Application for Federal Inspection (Meat, Poultry, Siluriform Fish, Egg Products and Import Inspection)", FSIS Form 5200-2, requesting Federal inspection services under the FMIA at their place of business in Dundee, Mississippi.

(C) Respondent John H. Lake is identified in said application as Secretary/Treasurer of Lake's Farm Raised Catfish Inc. and holder of 10% or more voting stock within the corporation.

(D) On or about August 18, 2010, in the Circuit Court of Coahoma County, Clarksdale, Mississippi, Respondent John H. Lake pled guilty to and was convicted of two felony counts; DUI Homicide and DUI Maiming, both in violation of Mississippi Code Annotated § 63-11-30 (5).

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 Siluriform Fish inspection services under Title I of the FMIA is refused for the Respondent its owners, officers, directors, partners, successors, affiliates and assigns, directly or through any business or other device, for a period of three (3) years, beginning on the effective

date of this Order; Provided, however, said refusal of inspection services shall be held in abeyance, and Federal Siluriform Fish inspection services shall be provided to the Respondents, pursuant to a conditional grant of inspection, for so long as the statutory and regulatory requirements for applicable inspection services and all terms and conditions of this Order set forth below are met and maintained.

Ethics Training and Standards of Conduct Policy and Program

1. Within ninety (90) days of the effective date of this Order, Respondent John H. Lake shall participate in and successfully complete a training program(s) or educational course(s) encompassing ethical business practices and compliance with applicable State and Federal statutes and regulations pertaining to the slaughter and processing of fish products. Prior to participating in such course(s), Respondent John H. Lake shall submit a detailed description of the proposed training course(s) for concurrence by the Director, ELD, or designee. 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.

2. Within sixty (60) days of the effective date of this Order, Respondents shall develop and submit for review and concurrence by the Director, ELD, a Standards of Conduct Policy and Program to include, at a minimum:

(i) a statement of Respondent Corporation's commitment and a commitment of its officers, managers, and employees not to condone nor tolerate use of or the presence of illegal drugs, alcohol, or other legally controlled substances in Respondent Corporation's establishment by plant officers, managers, or employees; to ensure the safety and non-interference with, and non-intimidation of, FSIS personnel; (ii) measures to address specific actions Respondent

Corporation's management will take to correct and eliminate the use of drugs or alcohol at the Respondent Corporation's establishment; (iii) a statement of Respondent Corporation's commitment to maintain a safe work environment where mutual respect and the ability to work together productively are supported and precludes any acts of assault, threats of assault, intimidation, resistance, or interference; (iv) a statement of Respondent Corporation's commitment to promote communications and exchanges between Respondent Corporation's officers, managers, and employees and FSIS personnel that are professional, respectful, business like, non-threatening, and non-offensive in gender or ethnicity; (v) a statement of Respondent Corporation's policy addressing ethics and public trust; (vi) a statement of Respondent Corporation's commitment to comply with all Federal and State food safety and other laws in the conduct of their business; (vii) guidelines for Respondent Corporation's officers, managers, and employees to follow with respect to food safety and ethics issues; and (viii) measures for Respondent Corporation's officers, managers, and employees to report alleged violations of food safety, compliance, or ethics issues, or violations of Corporation polices, to Respondent Corporation's officers or managers, without fear of reprisal and for Respondent Corporation to document and address reported allegations.

3. The Standards of Conduct Policy and Program shall be permanently displayed in a prominent location in Respondent Corporation's federal establishment and shall be provided to and discussed with all current and future officers, managers, and employees, and shall require written acknowledgement by each individual of receipt, discussion, understanding, and adherence to the policy and program.

Food Safety and Compliance Provisions

4. Within the timeframe prescribed by the regulations regarding Siluriform Fish, Respondents shall maintain compliance with relevant sanitation, food safety programs, process controls regulations, and all other applicable requirements, including, but not limited to, Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP), Hazard Analysis and Critical Control Point (HACCP), and product Recall Procedures, as specified in 9 C.F.R. Parts 416, 417, and 418.

Recordkeeping Provisions

5. Within the timeframe prescribed by the regulations regarding Siluriform Fish, Respondents shall maintain full, complete, and accurate written records of all business activities involved in their operations including the SSOP, and HACCP records requirements. Respondents shall make these records available for review and copying upon request of any authorized representative of the Secretary.

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.

General Provisions

7. Respondents and their officers, directors, partners, employees, agents, affiliates, successors, and assigns shall not:

(a) violate any section of the FMIA or any regulations promulgated thereunder, or state or local statutes involving the preparation, sale, transportation, distribution or attempted distribution of any Siluriform Fish 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 public health;

(c) willfully make or cause to be made any false entry into any accounts, records, reports, or memoranda kept by the Respondents in compliance with Federal, State or local statutes or regulations or this Order; neglect or fail to make full, true, and correct entries in such accounts, records, reports or memoranda; and fail to keep such accounts, records, reports, or memoranda that fully and correctly disclose all transactions in the Respondents' business;

(d) assault, intimidate, impede, threaten or interfere with any FSIS program employee in the performance of his or her official duties under the FMIA, or regulations promulgated thereunder; and

(e) conduct any operation requiring Federal inspection outside the official hours of operations without first submitting a written request to, and receiving written approval from FSIS.

8. Respondents shall not 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 distribution of unwholesome, mislabeled, or deceptively packaged food, or based upon fraud in connection with transactions in food. 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 FMIA or this Order.

Corporate Reporting to FSIS

10. Respondents shall provide an annual report to the Director, ELD regarding Respondents' compliance with all terms and conditions of this Order within the timeframe prescribed by the FMIA and regulations promulgated thereunder, including 9 C.F.R. Parts 416, 417, and 418.

Implementation

11. Respondents shall implement the Corporation policies and programs required by this Order, require strict adherence to the Corporation policies and programs on the part of all current and future officers, managers, and employees, and take and document corrective action, including disciplinary action, when necessary.

Enforcement Provisions

12. The Administrator, FSIS, shall have the right to summarily withdraw inspection services upon a determination by the Director, ELD, or his or her designee, that one or more conditions set forth in paragraphs 1 through 11 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 withdrawal of inspection services. This does not affect complainant's right to suspend official operations in accordance with the rules of practice, 9 C.F.R. Part 500. Nothing in this Order shall preclude the referral of any such violation to the Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the FMIA, and the regulations promulgated thereunder.

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

14. This Order shall be considered issued on the date that an Administrative Law Judge signs it but shall become effective on the date that the conditional grant of Federal inspection services is issued to Respondents.

15. This Order shall expire three (3) years from the date on which the conditional grant of Federal inspection services is issued to Respondents.



John H. Lake, Secretary/Treasurer
Lake's Farm Raised Catfish Inc.



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



Earl Lake, President
Lake's Farm Raised Catfish Inc.



Tracey Manoff
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel

Issued this 1st day of March 2016

at Washington, D.C.



Administrative Law Judge

JANICE K. BULLARD