

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE ADMINISTRATOR  
FOOD SAFETY AND INSPECTION SERVICE

In re:	)	
	)	
	)	
Mr. Abner Glick,	)	
and	)	
Glick's Meat Processing,	)	
	)	
	)	STIPULATION AND
	)	CONSENT AGREEMENT
Respondents.	)	

This administrative action was instituted by the delivery of a letter (Notice of Ineligibility) on or about October 14, 2008, to Mr. Abner Glick and Glick's Meat Processing, hereafter "Respondents", notifying them that they were no longer eligible for custom exemption under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et. seq.) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. § 451 et seq.). The notice of ineligibility that was hand delivered by FSIS personnel was effective upon receipt, and resulted from Respondents' alleged failure to maintain the facility in a sanitary manner.

The aforementioned action was instituted by the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture (USDA), hereafter "Complainant", in accordance with Section 23(a) of the FMIA (21 U.S.C. 623(a)) and Part 303 of the Federal Meat Inspection Regulations (9 C.F.R. 303.1 et seq.) and Section 15(c) of the PPIA (21 U.S.C. § 464 (a)), and Part 381 of the Poultry Products Inspection Regulations (9 C.F.R. § 381.10).

The parties have agreed that this administrative proceeding should be terminated by the execution of the Agreement set forth below and have agreed to the following stipulations:

1. For the purpose of this Stipulation and the provisions of this Agreement only,

Respondents admit the jurisdictional allegations of the above-mentioned notification and both parties waive:

- (a) any further procedural steps in this proceeding;
- (b) any requirement that the Stipulation and Consent Agreement in this proceeding contains findings and conclusions with respect to fact or law, as well as to reason or basis thereof; and
- (c) all rights to seek further judicial review or to otherwise challenge or contest the validity of this Stipulation and Consent Agreement.

2. This Stipulation and Consent Agreement is for settlement purposes in this proceeding only, and does not otherwise constitute an admission or denial by Respondents that they have violated any Federal regulation or statute.

3. Respondents waive any action against USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. 504 et seq.) for fees or other expenses incurred in connection with this proceeding, and any other action against the USDA and its employees in connection with this proceeding and the facts and events that gave rise to this proceeding.

#### FINDINGS OF FACT

1. Glick's Meat Processing is now, and at all times material was, a business operating as a custom exempt meat and poultry slaughter and processing facility at 4652 E. Mile Strip Road, Canastota, New York, 13022.

2. Mr. Abner Glick is now, and at all times material was, owner and operator of Glick's Meat Processing.

3. Glick's Meat Processing and Mr. Abner Glick operate under custom exemption eligibility, pursuant to Section 23(a) of the FMIA and Section 15(a) of the PPIA and applicable federal meat and poultry inspection regulations (9 C.F.R. §§ 303.1, 381.10, and 416 et seq.).

4. In a letter delivered on or about October 14, 2008, Respondents were notified that they were no longer eligible for custom exemption eligibility under the FMIA and PPIA.

### CONCLUSION

In as much as the parties have agreed to the provisions set forth in the following Agreement in disposition of this proceeding, such Agreement will be issued.

### AGREEMENT

Custom exempt meat and poultry slaughter and processing privileges granted under 9 C.F.R. § 303.1 promulgated under the Federal Meat Inspection Act (FMIA) (21 U.S.C. § 623) and 9 C.F.R. § 381.10 promulgated under the Poultry Products Inspection Act (PPIA) (21 U.S.C. § 464) are terminated from Abner Glick and Glick's Meat Processing, and its owners, officers, directors, partners, successors, affiliates, or assigns, directly or through any corporate device, for a period of two (2) years. The termination of custom exempt meat and poultry slaughter and processing exemption privileges shall be held in abeyance and custom exemption privileges shall be provided to Respondents, pursuant to Section 23 (a) of the FMIA, Section 15 (c) of the PPIA, and 9 C.F.R. Parts 303, 381, and 416, provided all regulatory requirements and the additional conditions set forth in this Agreement are met.

## CONDITIONS

1. Respondents have demonstrated, prior to reinstatement of eligibility to operate as a custom exempt meat and poultry slaughter and processing facility, compliance with the FSIS statutory and regulatory requirements upon review and examination of (a) its written operational procedures and (b) the physical and sanitary conditions of Respondents' facility. Prior to resumption of exemption privileges, Respondents' facility shall receive an "acceptable" rating in every category of FSIS' "Exempt Establishment Review Report," FSIS Form 5930-1.

### Sanitation Performance Standards (SPS)

2. Prior to resumption of exemption privileges, and subject to verification by FSIS, Respondents shall:

(a) develop written procedures for monitoring, corrective actions, and record keeping that Respondents will implement to operate and maintain in a manner sufficient to prevent the creation of insanitary conditions and practices;

(b) comply with the requirements of the Sanitation Performance Standards (SPS) regulations (9 C.F.R. §§ 416.1 to 416.6);

(c) ensure that meat and poultry products stored, prepared, and packed at said facility are not contaminated or adulterated; and

(d) address and repair any premises, facility, and/or equipment non-compliance issues identified by FSIS at the time of the physical facility review required by paragraph 1 of this Agreement.

3. Upon the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall:

(a) operate and maintain, at all times, the facility in a manner sufficient to prevent

the creation of insanitary conditions and practices;

(b) comply with the requirements of the SPS regulations (9 C.F.R. §§ 416.1 to 416.6);

(c) ensure that meat and poultry products are not contaminated or adulterated; and

(d) maintain overhead structures, including ceilings, hoists, and rails in a manner

to prevent the presence of algae, mold, flaking paint, rust or other foreign material.

Sanitation Standard Operating Procedures (SSOP)

4. Prior to the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall:

(a) develop a written SSOP to describe the monitoring activities, record keeping, and other procedures that Respondents will conduct;

(b) implement and maintain the SSOP on a daily and on-going basis, before, during and after operations, in accordance with 9 C.F.R. §§ 416.11 to 416.16, to ensure sanitary conditions and prevent product adulteration; and

(c) designate one person who shall have overall responsibility for developing, implementing, and maintaining the sanitation and other requirements of 9 C.F.R. Parts 303, 381 and 416 and compliance with the conditions of this Agreement.

5. Upon the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall:

(a) implement and maintain on a daily and on-going basis their SSOP system as required by 9 C.F.R. Part 416 to ensure sanitary conditions and prevent product adulteration;

(b) implement corrective and preventative actions, as required by 9 C.F.R. § 416.15.

Planned Improvement Program (PIP)

6. Prior to the resumption of exemption privileges, and subject to verification by FSIS,

Respondents shall develop a PIP to ensure that the entire structure of the facility, to include all rooms and compartments, is of sound construction and that all equipment is maintained in proper working order and kept in good repair.

7. Upon the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall implement and maintain their PIP and document any findings and corrective actions to address structural and/ or mechanical repairs and/ or improvements to their facility and make these records available to FSIS for review and/or copying upon request.

#### Pest Management Program

8. Prior to the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall develop a written pest management program, to be implemented and maintained by an independent pest control service, to prevent the harborage and breeding of pests within the facility and on its grounds consistent with 9 C.F.R. § 416.2 (a) and (b).

Respondent shall ensure that:

(a) the pest control service reviews and services Respondents' facility and grounds on at least a monthly frequency; and

(b) written reports are provided by the pest control service to Respondents detailing its findings and recommendations of its review.

9. Upon resumption of exemption privileges, and subject to verification by FSIS, Respondents shall implement and maintain their pest management program in a manner sufficient to prevent the creation of insanitary conditions and practices, to prevent the harborage and breeding of pests, and to ensure that meat and poultry products stored, prepared, and packed are not contaminated or adulterated.

### Specified Risk Materials (SRM) and Non-Ambulatory Cattle

10. Prior to the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall develop a written specified risk material (SRM) control program, to include monitoring, verification, and record keeping procedures and corrective and preventative actions, that they will implement and maintain, on a daily and on-going basis, to ensure the control of SRMs and regulatory compliance with 9 C.F.R. Parts 309, 310, 311, and 313. This program shall include procedures indicating the handling and removal of non-ambulatory disabled cattle (downers) at their facility.

11. Upon the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall implement and maintain, on a daily basis and on-going basis, their written SRM control program.

### Humane Handling and Slaughter

12. Respondents shall ensure that any cattle, sheep, swine, or goats slaughtered or handled in connection with slaughter at their facility comply with the Humane Methods of Slaughter Act (HMSA) of August 27, 1958 (7 U.S.C. 1901-1906), 9 C.F.R. Part 313, and any Federal, state, or local laws regarding the humane treatment of animals.

### Pathogen Control

13. Prior to the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall develop a written pathogen control program for the heat treatment, refrigeration and curing of hams. This control program shall include monitoring, verification, corrective actions, and recordkeeping that respondent will implement to prevent the growth of pathogens associated with the process and to destroy trichinae.

14. Upon the resumption of exemption privileges, and subject to verification by FSIS, Respondents shall implement and maintain, on a daily on-going basis, the pathogen control program.

#### Meat Custom Exemption Requirements

15. If conducting meat slaughter operations, respondents shall ensure that the following meat exemption requirements are met:

- (a) that product does not become adulterated during processing, handling, storage, loading and unloading, or during transportation;
- (b) ensure that all slaughtered and processed animal's carcasses and further processed meat or meat food products are properly marked, labeled and packaged;
- (c) ensure that custom prepared products are plainly marked "Not for Sale" and kept separate and apart from meat or poultry products held for sale; and
- (d) maintain records as required by 9 C.F.R. Part 303.

#### Poultry Custom Exemption Requirements

16. If conducting poultry slaughter operations, respondents shall ensure that the following poultry exemption requirements are met:

- (a) Respondents may not engage in the buying or selling of any poultry products capable of use as human food;
- (b) ensure that the custom slaughtered poultry is for the personal use of the owner of the poultry and may not be sold or donated;
- (c) ensure that the shipping containers of custom slaughtered poultry products bear the owner's name, address, and the statement "Exempted-P.L. 90-492".



(d) ensure that only one of the following poultry exemptions (retail, slaughter or processing) is claimed during a calendar year in accordance with 9 C.F.R. § 381.10.

#### General Provisions

17. Respondents shall not (a) commit any felony or fraudulent act; (b) violate any section of the FMIA, PPIA, Federal, State, or local statute or regulation involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated or misbranded meat or poultry product; or (c) assault, intimidate, impede, or interfere with, or threaten to assault, intimidate, impede, or interfere with any representative or designee of the Secretary of Agriculture.

18. Respondents shall make all records required to be maintained by the FMIA, PPIA, or regulations issued thereunder or this Agreement available to FSIS personnel for review and/or copying immediately upon request.

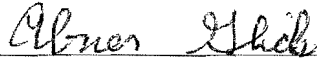
19. Respondents shall fully and completely cooperate with any USDA or FSIS investigation, inquiry, review or examination of Respondents' (a) facility, products, inventory or records, (b) compliance with the FMIA, PPIA, or the regulations issued there under, or (c) compliance with this Agreement.


20. The Administrator, FSIS, may summarily terminate custom exemption privileges from Respondents upon a determination by the Director, Evaluation and Enforcement Division, Office of Program Evaluation, Enforcement and Review, FSIS, that Respondents have failed to comply with 9 C.F.R. Parts 303, 381, and/or 416 or any requirement of this Agreement. It is acknowledged that Respondents retain the right to request an expedited hearing pursuant to the Adopted Rules of Practice concerning any violation alleged as the basis for a summary termination of custom exemption privileges.

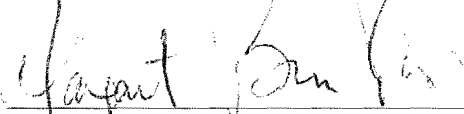
21. The provisions of this Agreement shall be applicable for two (2) years and become effective when signed by all parties.

22. Nothing in this Agreement shall preclude any regulatory or administrative actions or the referral of any matter to any agency for possible criminal, civil, or administrative proceedings.

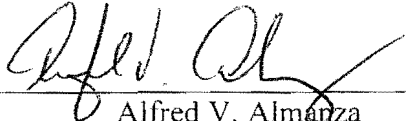
If any provision of this Agreement is declared invalid, such declaration shall not affect the validity of any other provision herein.

  
Mr. Abner Glick on behalf of himself  
and for Glicks Meat Processing  
Canastota, New York

  
Scott C. Safian, Director  
Evaluation and Enforcement  
Division, OPEER, FSIS, USDA

  
Margaret Burns, Esq.  
Office of the General Counsel  
Attorney for Complainant

Issued this 16 day of Jan. <sup>2009</sup>/<sub>2008</sub>

  
Alfred V. Almarza  
Administrator  
Food Safety and Inspection Service