STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[redacted] **2022**
Signature Confirmation

[redacted]
Request # 199877

ADMINISTRATIVE DISQUALIFICATION HEARING
NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department") requested an Administrative Disqualification Hearing ("ADH") to seek the disqualification of [redacted] (the "Defendant"), from participating in the Supplemental Nutrition Assistance Program ("SNAP") for a period of twelve (12) months. The Department alleges that the Defendant committed an Intentional Program Violation ("IPV") by trafficking his SNAP benefits. The Department is seeking to recover $528.03 in overpaid SNAP benefits. This is the Defendant's first IPV offense in the SNAP program.

On [redacted] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") notified the Defendant of the initiation of the ADH process via certified mail delivery. The notification outlined the Defendant's rights in these proceedings. The hearing was scheduled for [redacted] 2022.

The Defendant did not claim the ADH packet that was sent via certified mail.

On [redacted] 2022, OLCRAH notified the Defendant of the ADH hearing via the United States Postal Service.

OLCRAH rescheduled the hearing.

On [redacted] 2022,OLCRAH notified the Defendant notified the Defendant of the initiation of the ADH process via certified mail delivery. The notification outlined the Defendant's rights in these proceedings. The hearing was scheduled for [redacted] 2022.

The Appellant did not claim the ADH packet.

On[redacted], 2022, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Disqualification Hearing. The following individuals were present at the hearing:

William Carasquillo, Department's Representative
Melissa Prisavage, Observing Hearing Officer
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Defendant committed an IPV of the SNAP program, is subject to disqualification from program participation for 12 months.

The second issue to be decided is whether the Department's proposal to recoup a $528.03 SNAP overpayment is correct.

FINDINGS OF FACT

1. The Defendant was not present at the ADH. (Hearing Record)

2. The Defendant is not currently receiving SNAP assistance. His SNAP closed on [redacted], 2019. (Department's Testimony)

3. [redacted]t is a store located at [redacted], Connecticut.

4. On multiple dates, as shown in the table below, the Defendant's Electronic Bank Transfer ("EBT") card was used at [redacted], to access SNAP benefits from the Defendant's account.

Date	Amount	Time
[redacted]/2019	$50.00	12:28 pm
[redacted]/2019	$15.01	3:02 pm
[redacted]/2019	$18.00	7:33 pm
[redacted]/2019	$15.00	6:56 pm
[redacted]/2019	$15.00	3:42 pm
[redacted]/2019	$15.00	6:36 pm

[redacted]/2019	$27.01	8:20 pm
[redacted]/2019	$16.25	4:27 pm
[redacted]/2019	$24.50	5:14 pm
[redacted]/2019	$28.00	6:23 pm
[redacted]/2019	$30.00	3:09 pm
[redacted]/2019	$30.00	7:53 pm
[redacted]/2019	$25.00	7:38 pm
[redacted]/2019	$25.00	7:38 pm
[redacted]/2019	$25.00	7:17 pm
[redacted]/2019	$25.00	2:59 pm
[redacted]/2019	$28.50	6:09 pm
[redacted]/2019	$17.50	9:01 pm
[redacted]/2019	$42.01	8:33 pm
[redacted]/2019	$25.00	4:42 pm
[redacted]/2019	$15.00	9:26 pm
[redacted]/2019	$16.25	6:09 pm
Total	**$528.03**	

(Exhibit 3: Transaction History)

5. On [redacted], 2019, [redacted], located at [redacted] Connecticut was charged with trafficking because the EBT transactions conducted at the store established repetitive patterns of unusual, irregular, and inexplicable activity for the type of store. [redacted] violated federal SNAP regulations when it participated in trafficking activities with SNAP program recipients. The United States Department of Agriculture ("USDA") proposed to permanently disqualify [redacted] from participating in the SNAP. (Exhibit : USDA letter, [redacted]/19)

6. On [redacted], 2021, the USDA upheld its decision to permanently disqualify [redacted] from participating in the SNAP. (Exhibit 4: USDA letter, [redacted]21)

7. Because the USDA found [redacted] located at [redacted], Connecticut, guilty of trafficking in SNAP benefits, it forwarded a list of client identification numbers and transactions to the Department for further investigation. (Hearing Summary)

8. The Department has marked the above transactions as trafficking because they are of high dollar value, end in $.00, $.25, $.50, $.75 or $.99. (Department's Testimony)

9. On [redacted] 2022, the Department sent the Defendant a *W-1448 Notice of Prehearing Interview* and a *W-1449 Waiver of Disqualification Hearing* for the SNAP informing him that he could schedule an appointment to discuss the allegation of fraud and that there: was an IPV that had caused a $528.03 overpayment for the period covering [redacted] 2019, through [redacted] 2019. The Defendant was given a deadline of [redacted] 2022, to respond. (Exhibit 1:

Notice of Prehearing Interview; Exhibit 2: Waiver of Disqualification Hearing Notices)

10. On [redacted] 2022, the Defendant contacted the Department by telephone to request a telephone hearing and to find out what the ADH was about. (Department's Testimony)

11. The Defendant has no prior IPVs. (Exhibit 7: Electronic Disqualification Recipient System; Department's Testimony; Hearing Summary)

12. The Department is seeking to disqualify the Defendant from participating in the SNAP for a period of one year and is seeking recovery of $528.03 in overpaid SNAP benefits due to an IPV of trafficking. (Exhibit 1; Exhibit 2; Hearing Summary)

13. The issuance of the decision is timely based on Title 7 of the Code of federal Regulations Section § 273.16(e)(2)(iv) which provided that within 90 days of the date the household member is notified in writing that a State or local hearing initiated by the State agency has been scheduled, the State agency shall conduct the hearing, arrive at a decision, and notify the household member and local agency of the decision. The Department notified the Defendant on [redacted] 2022, and held the administrative hearing on [redacted] 2022; therefore, this decision is due lo later than [redacted], 2022. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the SNAP program.

2. Section 17b-88 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to recover any public assistance overpayment and take such other action as conforms to federal regulations, including, but not limited to, conducting administrative disqualification hearings.

3. Title 7 of the Code of Federal Regulations ("C.F.R.") Section 273.16(a)(1) provides that the State agency shall be responsible for investigating any case of alleged intentional Program violation and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section.

4. Title 7 C.F.R. § 273.16(e) provides that the State agency shall conduct administrative disqualification hearings for individuals accused of Intentional Program Violation.

The Department has the authority to administer the SNAP program and conduct Administrative Disqualification Hearings.

5. Title 7 C.F.R. § 273.16(e)(3) provides for the advance notice of the hearing. (i) The State agency shall provide written notice to the individual suspected of committing an intentional Program violation at least 30 days in advance of the date a disqualification hearing initiated by the State agency has been scheduled. If mailed, the notice shall be sent either first class mail or certified mail return receipt requested. The notice may also be provided by any other reliable method. If the notice is sent using first-class mail and is returned as undeliverable, the hearing may still be held. (ii) If no proof of receipt is obtained, a timely (as defined in paragraph (e)(4) of this section) showing of nonreceipt by the individual due to circumstances specified by the State agency shall be considered good cause for not appearing at the hearing. Each State agency shall establish the circumstances in which non-receipt constitutes good cause for failure to appear. Such circumstances shall be consistent throughout the State agency. (iii) The notice shall contain at a minimum: (A) The date, time, and place of the hearing; (B) The charge(s) against the individual; (C) A summary of the evidence, and how and where the evidence can be examined; (D) A warning that the decision will be based solely on the information provided by the State agency if the individual fails to appear at the hearing

   Title 7 C.F.R. § 273.16(e)(4) provides for the scheduling of the hearing. The time and place of the hearing shall be arranged so that the hearing is accessible to the household member suspected of intentional Program violation. If the household member or its representative cannot be located or fails to appear at a hearing initiated by the State agency without good cause, the hearing shall be conducted without the household member being represented. Even though the household member is not represented, the hearing officer is required to carefully consider the evidence and determine if an intentional Program violation was committed based on clear and convincing evidence. If the household member is found to have committed an intentional Program violation but a hearing official later determines that the household member or representative had good cause for not appearing, the previous decision shall no longer remain valid, and the State agency shall conduct a new hearing. The hearing officer who originally ruled on the case may conduct the new hearing. In instances where good cause for failure to appear is based upon a showing of nonreceipt of the hearing notice as specified in paragraph (e)(3)(ii) of this section, the household member has 30 days after the date of the written notice of the hearing decision to claim good cause for failure to appear. In all other instances, the household member has 10 days from the date of the scheduled hearing to present reasons indicating a good cause for failure to appear. A hearing official must enter the good cause decision into the record.

The Department properly notified the Defendant of the ADH on [redacted] 2022.

The defendant was not present at the hearing, nor did he show good cause for failing to appear.

6. Title 7 C.F.R. § 273.16(a)(1) provides that the State agency shall be responsible for investigating any case of alleged intentional Program violation, and ensuring that appropriate cases are acted upon either through administrative disqualification hearings or referral to a court of appropriate jurisdiction in accordance with the procedures outlined in this section. Administrative disqualification procedures or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has intentionally made one or more acts of Intentional Program Violation as defined in paragraph (c) of this section. If the State agency does not initiate administrative disqualification procedures or refer for prosecution a case involving an overissuance caused by a suspected act of intentional Program violation, the State agency shall take action to collect the overissuance by establishing an inadvertent household error claim against the household in accordance with the procedures in § 273.18. The State agency should conduct administrative disqualification hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system, in cases previously referred for prosecution that were declined by the appropriate legal authority, and in previously referred cases where no action was taken within a reasonable period of time and the referral was formally withdrawn by the State agency. The State agency shall not initiate an administrative disqualification hearing against an accused individual whose case is currently being referred for prosecution or subsequent to any action taken against the accused individual by the prosecutor or court of appropriate jurisdiction if the factual issues of the case arise out of the same or related circumstances. The State agency may initiate administrative disqualification procedures or refer a case for prosecution regardless of the current eligibility of the individual.

The Defendant's case has not been referred for civil or criminal prosecution and the Department correctly initiated administrative disqualification proceedings.

7. Title 7 C.F.R. § 273.16(a)(3) provides that the State agency shall base administrative disqualifications for Intentional Program Violations on the determinations of hearing authorities arrived at through administrative disqualification hearings in accordance with paragraph (e) of this section or on

determinations reached by courts of appropriate jurisdiction in accordance with paragraph (g) of this section. However, any State agency has the option of allowing accused individual either to waive their rights to administrative disqualification hearings in accordance with paragraph (f) of this section or to sign disqualification consent agreements for cases of deferred adjudication in accordance with paragraph (h) of this section. Any State agency which chooses either of these options may base administrative disqualifications for Intentional Program Violation on the waived right to an administrative disqualification hearing or on the signed disqualification consent agreement in cases of deferred adjudication.

The Defendant failed to sign and return the disqualification consent agreement.

8. Title 7 C.F.R. § 273.16(c) defines an IPV as follows: For purposes of determining through administrative disqualification hearings whether or not a person has committed an IPV, IPV's shall consist of having intentionally: (1) made a false or misleading statement, or misrepresented, concealed or withheld facts, or (2) committed any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of Food Stamp coupons, authorization cards or reusable documents used as part of an automated benefit delivery system (access device).

   Title 7 C.F.R. § 273.16(e)(6) provides that the hearing authority shall base the determination of Intentional Program Violation on clear and convincing evidence which demonstrates that the household member(s) committed, and intended to commit, an Intentional Program Violation.

   The Department established with clear and convincing evidence that the Defendant intentionally violated the SNAP regulations violating the SNAP Act, the SNAP Program Regulations, or any State statute relating to the use, presentation, transfer, acquisition, receipt, or possession of SNAP and correctly determined that the Defendant committed an IPV.

9. Title 7 C.F.R. § 273.16(e)(8)(i) provides that if the hearing authority rules that the individual has committed an intentional program violation, the household member must be disqualified in accordance with the disqualification periods and procedure in paragraph (b) of this section. The same act of intention Program violation repeated over a period must not be separated so that separate penalties can be imposed.

Title 7 C.F.R. § 273.16(b)(1)(i) provides that individuals found to have committed an intentional program violation either through an administrative disqualification hearing or by a Federal, State or local court, or who have signed either a waiver of right to an administrative disqualification hearing or a disqualification consent agreement in cases referred for prosecution, shall be ineligible to participate in the Program; for a period of twelve months for the first intentional Program violation, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section.

Title 7 C.F.R. § 273.16(b)(5) provides for disqualification penalties and states that individuals found to have committed an IPV shall be ineligible to participate in the program for a period of twelve months for the first IPV, except as provided under paragraphs (b)(2), (b)(3), (b)(4), and (b)(5) of this section.

The Department correctly seeks to disqualify the Defendant from participating in the SNAP program for twelve months.

10. Title 7 C.F.R. § 271.2 defines trafficking as:

(1) The buying, selling, stealing, or otherwise affecting an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone;

(2) The exchange of firearms, ammunition, explosives, or controlled substances, as defined in section 802 of title 21, United States Code, for SNAP benefits;

(3) Purchasing a product with SNAP benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount;

(4) Purchasing a product with SNAP benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with SNAP benefits in exchange for cash or consideration other than eligible food; or

(5) Intentionally purchasing products originally purchased with SNAP benefits in exchange for cash or consideration other than eligible food.

(6) Attempting to buy, sell, steal, or otherwise affect an exchange of SNAP benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for

cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone.

The hearing record clearly and convincingly established that the Defendant intentionally violated program rules by trafficking his SNAP benefits.

11. Title 7 C.F.R. § 273.18(a)(1)(i) provides a recipient claim is an amount owed because of benefits that are overpaid.

Title 7 C.F.R. § 273.18(a)(2) provides this claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

Title 7 C.F.R. § 271.2 provides that overissuance means the amount by which benefits issued to a household exceeds the amount it was eligible to receive.

Title 7 C.F.R. § 273.18(b) provides for types of claims. There are three types of claims: (1) Intentional Program violation (IPV) any claim for an overpayment or trafficking resulting from an individual committing an IPV. (2) Inadvertent household error ("IHE") defined as any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household; (3) Agency error ("AE") defined as any claim for an overpayment caused by an action or failure to take action by the State agency.

The Department correctly determined the Defendant was overpaid for the period covering [redacted] 2019, through [redacted] 2019, due to an IPV.

12. Title 7 C.F.R. § 273.18(c) provides for calculating the claim amount—(1) Claims not related to trafficking. (i) As a state agency you must calculate a claim back to at least twelve months prior to when you become aware of the overpayment and or an IPV claim, the claim must be calculated back to the month the act of IPV first occurred and for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

Title 7 C.F.R. § 273.18(c)(1)(ii) provides for the actual steps in calculating a claim. (A) determine the correct amount of benefits for each month that a household received an overpayment. (C) subtract the correct amount of benefits actually received. The answer is the amount of the overpayment.

The hearing record reflects that $528.03 was trafficked in SNAP benefits.

The Department correctly proposed a SNAP overpayment claim for $528.03.

DECISION

The Defendant is **GUILTY** of committing a first intentional program violation in the SNAP. The Department's request to disqualify the Defendant from the SNAP is **GRANTED.** The Defendant is disqualified from the SNAP program for a period of twelve months and must make restitution of $528.03

_____*Carla Hardy*_____
Carla Hardy
Hearing Officer

Pc: DSS, Quality Assurance
William Carasquillo, Investigator, Department of Social Services.

RIGHT TO APPEAL

The defendant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106, or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. A copy of the petition must also be served on all parties to the hearing.

The 45-day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or her designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the defendant resides.