

**Department of Health and Human Services**

**DEPARTMENTAL APPEALS BOARD**

**Civil Remedies Division**

Center for Tobacco Products,  
(FDA No. FDA-2014-H-2025)

Complainant

v.

KNN Market, LLC / Khalid M. Ibrahim / Nabila Benawa  
d/b/a One Stop Grocery,

Respondent.

Docket No. C-15-508

Decision No. CR3650

Date: February 13, 2015

**INITIAL DECISION AND DEFAULT JUDGMENT**

The Center for Tobacco Products (CTP) began this matter by serving an administrative complaint on Respondent, KNN Market, LLC / Khalid M. Ibrahim / Nabila Benawa d/b/a One Stop Grocery, at 3316 Ashley Phosphate Road, Suite 1, North Charleston, South Carolina 29418, and by filing a copy of the complaint with the Food and Drug Administration's (FDA) Division of Dockets Management. The complaint alleges that One Stop Grocery impermissibly sold cigarettes to a minor, failed to verify, by means of photo identification containing a date of birth, that that a tobacco purchaser was 18 years of age or older and sold individual cigarettes, thereby violating the Federal Food, Drug, and Cosmetic Act (Act), 21 U.S.C. § 301 *et seq.*, and its implementing regulations, 21 C.F.R. pt. 1140. CTP seeks to impose a \$500 civil money penalty against Respondent One Stop Grocery.

As provided for in 21 C.F.R. §§ 17.5 and 17.7, on December 22, 2014, CTP served the complaint on Respondent One Stop Grocery by United Parcel Service. In the complaint and accompanying cover letter, CTP explained that, within 30 days, Respondent should

pay the penalty, file an answer, or request an extension of time in which to file an answer. CTP warned Respondent that, if it failed to take one of these actions within 30 days, the Administrative Law Judge could, pursuant to 21 C.F.R. § 17.11, issue an initial decision ordering it to pay the full amount of the proposed penalty.

Respondent One Stop Grocery has neither filed an answer within the time prescribed, nor requested an extension of time within which to file an answer. Pursuant to 21 C.F.R. § 17.11, I assume that the facts alleged in the complaint (but not its conclusory statements) are true. Specifically:

- On February 20, 2014, at Respondent's business establishment, 3316 Ashley Phosphate Road, Suite 1, North Charleston, South Carolina 29418, an FDA-commissioned inspector observed Respondent's staff selling individual Newport cigarettes to a customer, and the clerk on duty informed the inspector that the business establishment sold individual cigarettes;
- In a warning letter dated April 24, 2014, CTP informed Respondent of the inspector's February 20, 2014 observation, and that such an action violates federal law, 21 C.F.R. § 1140.14(d). The letter further warned that Respondent's failure to correct its violation could result in a civil money penalty or other regulatory action;
- At approximately 9:16 a.m. on July 8, 2014, at Respondent's business establishment, 3316 Ashley Phosphate Road, Suite 1, North Charleston, South Carolina 29418, an FDA-commissioned inspector documented Respondent's staff selling a package of Newport Box 100s cigarettes to a person younger than 18 years of age. The inspector also documented that Respondent's staff failed to verify, by means of photographic identification containing a date of birth, that the purchaser was 18 years of age or older.

These facts establish Respondent One Stop Grocery's liability under the Act. The Act prohibits misbranding of a tobacco product. 21 U.S.C. § 331(k). A tobacco product is misbranded if sold or distributed in violation of regulations issued under section 906(d) of the Act. 21 U.S.C. § 387f(d); *see* 21 U.S.C. § 387c(a)(7)(B); 21 C.F.R. § 1140.1(b). The Secretary of the U.S. Department of Health and Human Services issued the regulations at 21 C.F.R. pt. 1140 under section 906(d) of the Act. 21 U.S.C. § 387a-1; *see* 21 U.S.C. § 387f(d)(1); 75 Fed. Reg. 13,225, 13,229 (Mar. 19, 2010). Under 21 C.F.R. § 1140.14(a), no retailer may sell cigarettes to any person younger than 18 years of age. Under 21 C.F.R. § 1140.14(b)(1), retailers must verify, by means of photographic identification containing a purchaser's date of birth, that no cigarette purchasers are younger than 18 years of age.

