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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

v.

YA FENG TRADING INC., LINMIN YANG, and  
KONG PING NI,

Defendants.

**COMPLAINT**

No. 23 Civ. 6459

Plaintiff, the United States of America (“United States”), by its attorney, Damian Williams, United States Attorney for the Southern District of New York, alleges for its complaint against defendants Ya Feng Trading Inc. (“Ya Feng”), Linmin Yang, and Kong Ping Ni (collectively, “Defendants”) as follows:

**INTRODUCTION**

1. This case involves a meat and poultry distributor that stored over 40,000 pounds of meat and poultry in a rodent-infested warehouse, where fresh and old droppings were observed throughout the facility, including on the lids of products, and gnawing and chew marks were observed on meat and poultry that it offered for sale and transportation.

2. The Federal Meat Inspection Act (the “FMIA”) (21 U.S.C. § 601 *et seq.*) and the Poultry Products Inspection Act (the “PPIA”) (21 U.S.C. § 451 *et seq.*) protect the public health

by imposing strict requirements on food suppliers regarding the inspection, preparation, transportation, and sale of meat, poultry, and meat and poultry products. These requirements enable American consumers to have confidence that the meat and poultry they purchase and consume is wholesome and unadulterated. In the event that food safety issues are discovered, the labeling and packaging requirements allow public health officials to trace problems to their source.

3. Between 2018 and 2022, Defendants repeatedly violated the FMIA and PPIA at their warehouse facility in Manhattan. A United States Department of Agriculture (“USDA”) investigation found approximately 43,771.75 pounds of meat and poultry products being stored in insanitary, rodent-infested conditions. Defendants have also sold, transported, or offered for sale or transportation meat and poultry products without meeting the minimum federal inspection and identification requirements of the FMIA and PPIA, including by misbranding or repackaging products without marks of federal inspection. Since December 13, 2018, the USDA’s inspections have uncovered approximately 905 pounds of misbranded poultry products (whole chickens, bone-in chicken thighs, chicken drumsticks, chicken leg quarters, chicken gizzards) and 197 pounds of misbranded meat products (pork spareribs, pork fat, pork feet). Defendants have also violated the FMIA by failing to maintain records that fully and accurately disclose all business transactions involving meat in its business.

4. Despite repeated Notice of Warnings from the USDA, Defendants continued to violate the FMIA and PPIA. Their conduct has presented a public health risk.

5. Accordingly, the United States brings this civil action to enjoin Defendants from future violations of the FMIA and PPIA.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to 21 U.S.C. § 467c, 21 U.S.C. § 674, and 28 U.S.C. §§ 1331, 1337, and 1345.

7. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims in this action occurred in this District and because, at all relevant times, Defendant Ya Feng's principal place of business was in New York, New York, which is within this District.

### **THE PARTIES**

8. Plaintiff is the United States of America, on behalf of its agency, the USDA.

9. Defendant Ya Feng is or was a wholesale distributor of meat and poultry products and a corporation organized under the laws of the State of New York with a principal place of business located at 23 Allen Street, New York, New York 10002.

10. Defendant Linmin Yang is or was the president of Ya Feng.

11. Defendant Kong Ping Ni is or was the warehouse manager of Ya Feng.

12. At all relevant times, Defendants were engaged in the business of selling meat and poultry products in the State of New York, within the jurisdiction of this Court.

### **STATUTORY AND REGULATORY BACKGROUND**

#### **The FMIA and Meat Regulation**

13. The FMIA grants the Secretary of Agriculture the power to regulate and inspect meat and meat products distributed in interstate or foreign commerce. *See* 21 U.S.C. §§ 602–604, 615. Additionally, the Secretary of Agriculture may designate that meat slaughter and processing operations and transactions wholly within a state be governed by Titles I and IV of the FMIA. *See*

21 U.S.C. § 661(c)(1); 9 C.F.R. § 331.2. The Secretary has so designated New York. 9 C.F.R. § 331.2.

14. *Inspections.* Sections 3 through 6 of the FMIA require inspectors to conduct both *ante-mortem* and *post-mortem* inspections of meat in each official establishment processing meat or meat products for commerce. *See* 21 U.S.C. §§ 603(a), 604–606. The FMIA prohibits the selling, transporting, offering for sale or transportation or receiving for transportation, in commerce, of meat or meat food products capable of use as human food that have not been inspected and passed by the USDA. 21 U.S.C. § 610(c).

15. The FMIA prohibits knowingly representing that any meat or meat food products have been inspected and passed, or exempted, when the meat or meat food products have not in fact been inspected and passed, or exempted. 21 U.S.C. § 611(b)(6).

16. *Adulteration and Misbranding.* The FMIA also prohibits any actions that are intended to cause or have the effect of causing meat or meat food products to be adulterated or misbranded. 21 U.S.C. § 610(d). It prohibits the selling, transporting, offering for sale or transportation or receiving for transportation, in commerce, of meat or meat food products capable of use as human food that that have been adulterated or misbranded. 21 U.S.C. § 610(c).

17. A meat or meat food product is considered “adulterated” under the FMIA if “it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food” or if “it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.” 21 U.S.C. § 601(m)(3)–(4).

18. The FMIA prohibits, without authorization from the Secretary, the use of any official device, mark, or certificate, as well as the alteration, detachment, defacing, or destruction of any official device, mark, or certificate. 21 U.S.C. § 611(b)(2).

19. *Safe Handling of Food.* Regulations promulgated by the USDA require the use of safe handling instructions regarding handling and cooking for all uncooked meat and meat food products. 9 C.F.R. § 317.2(l).

### **The PPIA and Poultry Regulation**

20. The PPIA grants the Secretary of Agriculture the power to regulate and inspect poultry and poultry products distributed in interstate or foreign commerce. 21 U.S.C. §§ 451, 452, and 455. Additionally, the Secretary of Agriculture may designate poultry operations and transactions wholly within a state governed by sections 1 through 4, 6 through 10, and 12 through 22 of the PPIA. *See* 21 U.S.C. § 454(c)(1); 9 C.F.R. § 381.221. The Secretary has so designated New York. 9 C.F.R. § 381.221.

21. *Inspection.* Section 6 of the PPIA requires inspectors to conduct both *ante-mortem* and *post-mortem* inspections of poultry in each official establishment processing poultry or poultry products for commerce. 21 U.S.C. § 455.

22. The PPIA prohibits the selling, transporting, offering for sale or transportation, or receiving for transportation, in commerce, of poultry products capable of use as human food that have not been inspected and passed by the USDA. 21 U.S.C. § 458(a)(2)(B).

23. The PPIA prohibits knowingly representing that any poultry products have been inspected and passed, or exempted, when the poultry products have not in fact been inspected and passed, or exempted. 21 U.S.C. § 458(c)(6).

24. *Adulteration and Misbranding.* The PPIA also prohibits any actions that are intended to cause or have the effect of causing poultry products to be adulterated or misbranded. 21 U.S.C. § 458(a)(3). It prohibits the selling, transporting, offering for sale or transportation or receiving for transportation, in commerce, of poultry products capable of use as human food that have been adulterated or misbranded. 21 U.S.C. § 458(a)(2)(A).

25. A poultry product is considered “adulterated” under the PPIA if “it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food” or if “it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.” 21 U.S.C § 453(g)(3)–(4).

26. The PPIA prohibits, without authorization from the Secretary, the use of any official device, mark, or certificate, as well as the alteration, detachment, defacing, or destruction of any official device, mark, or certificate. 21 U.S.C. § 458(c)(2).

27. *Safe Handling of Food.* Regulations promulgated by the USDA require the use of safe handling instructions regarding handling and cooking for all uncooked poultry products. 9 C.F.R. § 381.125(b).

**DEFENDANTS’ VIOLATIONS OF THE FMIA AND PPIA**

28. At all relevant times, Defendant Ya Feng was a wholesale distributor of meat and poultry, which did not operate under a grant of federal inspection to process meat or poultry products.

29. On or about December 13, 2018, Ya Feng removed 20 pounds of chicken gizzards from their labeled containers, causing them to become misbranded. Ya Feng repackaged the poultry products in containers that lacked federal marks of inspection or any labeling, and

subsequently transported and sold the misbranded chicken gizzards to another entity. On September 26, 2019, the USDA's Food Safety and Inspection Service ("FSIS") issued a Notice of Warning to Ya Feng for this violation of the PPIA.

30. On or about January 28, 2020, Ya Feng caused 80 pounds of pork spare rib product to become misbranded by removing it from its original container, repackaging it into two clear plastic bags bearing the federal marks of inspection for another firm, and then offering the misbranded product for sale and transportation. Ya Feng also failed to maintain records that fully and correctly disclosed all business transactions involving meat in its business. On October 16, 2020, FSIS issued a Notice of Warning to Ya Feng for these violations of the FMIA.

31. On or about November 9, 2020, and other dates, Ya Feng caused 5 pounds of chicken gizzards and 117 pounds of meat products (pork spareribs, pork fat, pork feet) to become misbranded by removing the products from their original containers, packing them in plastic bags and inside boxes that lacked labels indicating the species, weight, and pack date of the products. Ya Feng subsequently offered for sale and transportation the misbranded poultry and meat products to its customers. On January 27, 2021, FSIS issued a Notice of Warning to Ya Feng for these violations of the FMIA and PPIA.

32. On or about November 30, 2021, Ya Feng caused approximately 600 pounds of federally inspected whole chickens, bone-in chicken thighs, chicken drumsticks, and chicken leg quarters to become misbranded by removing the products from labeled containers bearing the marks of federal inspection and repackaging the products into boxes that lacked any labels or marks of inspection. Ya Feng later offered for sale and transportation the misbranded poultry products to its customers. On January 31, 2022, FSIS issued a Notice of Warning to Ya Feng for this violation of the PPIA.

33. On or about April 14, 2022, FSIS investigators visited the Ya Feng warehouse facility and observed 43,771.75 pounds of meat and poultry products being held in insanitary, rodent-infested conditions. Fresh and old rodent droppings were observed throughout the building, including in a walk-in freezer and walk-in cooler that held meat and poultry products. Droppings were observed on the lids of meat and poultry product boxes and beneath pallets holding the products. Some products had gnawing and chewing marks from rodents. Rodent nesting materials and a dead mouse were found in the walk-in freezer. As an investigator was speaking with Yang, four large rodents, approximately 12 inches in length, ran across the floor in front of them and into the walk-in cooler and, minutes later, a rodent ran out of the cooler and up the investigator's leg.

34. During the April 14, 2022 inspection, FSIS investigators also observed approximately 280 pounds of misbranded poultry products that were offered for sale without any labeling or marks of federal inspection.

35. Yang signed a written statement on April 14, 2022, admitting that Ya Feng has a serious rodent issue. Yang acknowledged that, despite his awareness of the problem, he continued to offer for sale the 43,771.75 pounds of meat and poultry products being held under insanitary conditions. In his statement, Yang also admitted that Ya Feng caused approximately 280 pounds of federally inspected poultry products to become misbranded.

36. Yang voluntarily destroyed a portion of the 43,771.75 pounds of meat and poultry on April 14, 2022, and the remainder on April 21, 2022.

**COUNT 1:**  
**RELIEF FOR VIOLATIONS OF FMIA**  
**(21 U.S.C § 674)**

37. The United States repeats and realleges the allegations in paragraphs 1 through 36 with the same force and effect as if set forth fully herein.



38. Section 674 of the FMIA, 21 U.S.C. § 674, provides that “[t]he United States district courts . . . are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 607(e) of this title.”

39. On or about January 28, 2020, November 9, 2020, and April 14, 2022, Defendants sold, transported, or offered for sale or transportation meat products in violation of 21 U.S.C. §§ 610(c)–(d) and 611(b) because the meat products were misbranded, adulterated, or both.

40. Such preparation and sale of meat products did not occur under any exemption from the FMIA. *See* 21 U.S.C. § 623(a).

41. Accordingly, plaintiff United States of America is entitled to a permanent injunction to enforce the FMIA and to prevent and restrain Defendants from continuing to violate the FMIA.

**COUNT II:**  
**RELIEF FOR VIOLATIONS OF PPIA**  
**(21 U.S.C § 467c)**

42. The United States repeats and realleges the allegations in paragraphs 1 through 41 with the same force and effect as if set forth fully herein.

43. Section 21 of the PPIA, 21 U.S.C. § 467c, provides that “[t]he United States district courts . . . are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of, this chapter, and shall have jurisdiction in all other kinds of cases arising under this chapter, except as provided in section 457(d) or 467 of this title.”

44. On or about December 13, 2018, November 9, 2020, November 30, 2021, and April 14, 2022, Defendants sold, transported, or offered for sale or transportation poultry products in violation of 21 U.S.C. § 458(a) because the poultry products were misbranded, adulterated, or both.

45. Such preparation and sale of poultry products did not occur under any exemption from the PPIA. *See* 21 U.S.C. § 464.

46. Accordingly, plaintiff United States of America is entitled to a permanent injunction to enforce the PPIA and to prevent and restrain Ya Feng from continuing to violate the PPIA.

**REQUEST FOR RELIEF**

WHEREFORE, the United States respectfully requests that this Court grant the following relief:

- a. A permanent injunction compelling Defendants and all of their directors, officers, agents, servants, representatives, employees, successors, or assigns, and any and all persons in active concert or participation with them, directly or indirectly, to comply with all applicable requirements of the FMIA and PPIA, as well as the regulations promulgated thereunder, including but not limited to those requirements and regulations:
  - i. prohibiting the processing, sale, transport, or offering for sale or transportation of uninspected meat, meat products, poultry, and poultry products required to be inspected and passed by the USDA; and
  - ii. prohibiting causing any meat, meat food products, poultry, or poultry products, capable of use as human food, to be misbranded while they are being transported in commerce, or within the designated State of New York, or being held for sale after such transportation; and
  - iii. prohibiting the processing, sale, transport, or offering for sale or transportation of misbranded meat, meat products, poultry, and poultry products; and
  - iv. requiring the maintenance of records as required by the FMIA or PPIA; and

- b. An order granting the United States its costs and disbursements of this action and such other and further relief as this Court deems just and proper.

Dated: July 26, 2023  
New York, New York

Respectfully submitted,

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