

AUDREY STRAUSS
United States Attorney for the
Southern District of New York
By: CHARLES S. JACOB
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2725
Fax: (212) 637-2702
Email: charles.jacob@usdoj.gov

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

YIN GONG CORP., a corporation, and
YONG XING WANG, individually,

Defendants.

No. 21 Civ. 5613

COMPLAINT

Plaintiff the United States of America, by its attorney, Audrey Strauss, United States Attorney for the Southern District of New York, alleges as follows:

INTRODUCTION

1. The Federal Meat Inspection Act (the “Meat Inspection Act”) protects the public health by imposing strict requirements on food suppliers regarding the inspection, preparation, transportation, and sale of meat products. These requirements enable American consumers to have confidence that the meat they purchase and consume is wholesome and unadulterated. In the event that food safety issues are discovered, the labeling, packaging, and recordkeeping requirements allow public health officials to trace problems to their source.

2. Defendants have repeatedly violated the Meat Inspection Act at their facilities in Manhattan. They routinely sell uninspected and misbranded meat products in commerce. In all, USDA has uncovered over six hundred and fifty pounds of meat products sold by Defendants in violation of the Meat Inspection Act.

3. USDA has repeatedly demanded that Defendants cease their violations, with no success. Defendants' ongoing conduct creates risks to the public health and undermines the protective scheme of the Meat Inspection Act. Accordingly, the United States brings this civil action against Defendants to enjoin Defendants from committing further violations of the Meat Inspection Act.

JURISDICTION AND VENUE

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

5. 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 Defendant Yin Gong Corp. has its principal place of business in New York, New York, within the Southern District of New York.

THE PARTIES

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

7. Defendant Yin Gong Corp. ("Yin Gong") is a New York-registered corporation. Yin Gong's current principal place of business is 18 Eldridge Street, New York, New York, 10002. Yin Gong uses the building located at 18 Eldridge Street for retail sales, processing, and storage. Yin Gong's prior place of business was 13B Eldridge Street, New York, NY 10002. Yin

Gong previously used the building located at 13B Eldridge Street for retail sales, processing, and storage.

8. Defendant Yong Xing Wang is the President of Yin Gong.

9. Defendants are and have been engaged in the business of preparing and selling, among other things, meat food products in the State of New York and within the jurisdiction of this Court.

STATUTORY AND REGULATORY BACKGROUND

The Meat Inspection Act and Meat Regulation

10. The Meat Inspection Act 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 meat slaughter and processing operations and transactions wholly within a state governed by Titles I and IV of the Meat Inspection Act. *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.

11. *Inspections.* Section 3 through 6 of the Meat Inspection Act requires 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 Meat Inspection Act 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).

12. *Adulteration and Misbranding.* The Meat Inspection Act 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 have been adulterated or misbranded. 21 U.S.C. § 610(c).

13. *Record Requirements.* The Meat Inspection Act requires persons and corporations engaged in the business of preparing or selling any meat or meat food products to maintain records that fully and correctly disclose all transactions involved in their businesses. *See* 21 U.S.C. § 642. Regulations promulgated by the USDA require that these maintained records include, among other things, information concerning the meat product sold and the name and address of the buyer. 9 C.F.R. § 320.1. Those same regulations also provide a record retention period of two years, with that retention period commencing on December 31 of the year in which the relevant transaction occurred. 9 C.F.R. § 320.3(a).

DEFENDANTS' VIOLATIONS OF THE MEAT INSPECTION ACT

14. Defendants do not operate under a grant of federal inspection to process meat products under the Meat Inspection Act. USDA investigators have uncovered the following specific violations by Defendants of the Meat Inspection Act.

15. *The November 2019 Violation.* On or about November 24, 2019, Defendants, operating as Yin Gong, prepared and sold approximately 274 pounds of non-federally inspected pork dumplings and pork buns to a grocery store located in Rochester, New York (“Retailer 1”), in violation of 21 U.S.C. § 610(c). Further, Defendants packaged some of these meat and meat food products in clear plastic bags without any labeling, causing the products to become misbranded, in violation of 21 U.S.C. 610 (c)(1)(A)(B).

16. Retailer 1 then offered its retail customers this non-federally inspected and misbranded meat food products, as human food. Retailer 1 sold approximately 167 pounds of these pork products to its customers.

17. In a written statement, defendant Wang acknowledged Yin Gong had prepared, offered for sale, and sold pork buns and pork dumplings totaling approximately 274 pounds to Retailer A. Defendant Wang further acknowledged that Yin Gong failed to maintain records that fully and correctly disclosed all of its business transactions. In addition, although defendant Wang provided USDA inspectors with certain invoices relating to the November 2019 transaction with Retailer 1, none of those records identified Defendants' name or place of business, or identified the meat or meat food products, as required by 21 U.S.C. § 642 and 9 C.F.R. § 320.1(b).

18. Further, given that Defendants sold over two hundred pounds of meat products to a retailer that had the words "Food and Grocery" in its business name, Defendants knew that the pork dumplings and pork buns would be resold in commerce.

19. ***The November 2020 Violation.*** On or about November 19, 2020, Defendants, operating as Yin Gong, prepared and sold approximately 105 pounds of non-federally inspected pork dumplings to a retailer in Norwich, Connecticut ("Retailer 2") in violation of 21 U.S.C. § 610(c). Retailer 2 sold approximately 75 pounds of these non-federally inspected pork dumplings to its customers.

20. In a written statement, defendant Wang acknowledged Yin Gong had prepared, offered for sale, and sold the pork dumplings totaling approximately 105 pounds of pork dumplings to Retailer 2. Defendant Wang also acknowledged that Yin Gong had failed to maintain records that fully and correctly disclosed all of its business transactions. For example, Defendants did not maintain records with information regarding the meat products sold in this transaction, in violation of 21 U.S.C. § 642 and 9 C.F.R. § 320.1.

21. Further, given that Defendants sold over one hundred pounds of meat products to a retailer that advertises itself as a “market,” Defendants knew that the pork dumplings and pork buns would be resold in commerce.

22. ***Defendants’ Extensive Meat Inspection Act Violation History.*** The November 2019 and November 2020 violations were not one-off occurrences. To the contrary, USDA inspectors have repeatedly caught Defendants violating the Meat Inspection Act, and have issued four prior Notices of Warnings for the following similar violations of the Meat Inspection Act:

- a. ***The August 2015 Violation.*** On August 6, 2015, Yin Gong prepared, offered for sale, and sold, in commerce, approximately 40 pounds of non-federally inspected and misbranded pork dumplings to a retailer located in North Windham, Connecticut (“Retailer 3”) for resale. FSIS inspectors discovered this violation and sent Defendants a Notice of Warning for it on February 8, 2016.
- b. ***The February 2016 Violation.*** On or about February 15, 2016, Yin Gong prepared, offered for sale, and sold, in commerce, approximately 35 pounds of non-federally inspected and misbranded pork dumplings to Retailer 3 for resale. Yin Gong also failed to maintain records that fully and correctly disclosed this transaction. FSIS inspectors discovered this violation and sent Defendants a Notice of Warning for it on May 3, 2016.
- c. ***The July 2018 Violation.*** On or about July 12, 2018, Yin Gong prepared, offered for sale, and sold, in commerce, approximately 174 pounds of non-federally inspected and misbranded pork dumplings to a retailer located in South Charleston, West Virginia. Yin Gong also failed to maintain records that fully

and correctly disclosed this transaction. FSIS inspectors discovered this violation and sent Defendants a Notice of Warning for it on October 2, 2018.

- d. ***The September 2018 Violation.*** On or about September 22, 2018, Yin Gong prepared, offered for sale, and sold, in commerce, approximately 36 pounds of non-federally inspected and misbranded pork dumplings and approximately 10 pounds of beef with starch to a retailer located in Quincy, Massachusetts. Yin Gong also failed to maintain records that fully and correctly disclosed this transaction. FSIS inspectors discovered this violation and sent Defendants a Notice of Warning for it on March 5, 2019.

23. Further, upon information and belief, Defendants have violated the Meat Inspection by processing, offering for sale, and selling uninspected meat and meat food products at other times not observed by USDA inspectors.

COUNT 1:
RELIEF FOR VIOLATIONS OF THE MEAT INSPECTION ACT

(21 U.S.C § 674)

24. The United States repeats and realleges the allegations in paragraphs 1 through 23 with the same force and effect as if set forth fully herein.

25. Section 674 of the Meat Inspection Act, 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.”

26. On or about August 6, 2015, March 3, 2016, July 12, 2018, September 22, 2018, November 24, 2019, and November 19, 2020, Defendants prepared and sold, or caused to

be transported and offered for sale, meat and meat food products in violation of the Federal Meat Inspection Act, 21 U.S.C 610 (a)(c)(1)(A)(B) and (2).

27. Such preparation and sale of meat products did not occur in compliance with any exemption from the Meat Inspection Act.

28. Defendants failed to maintain records that fully and correctly disclosed their business transactions, in violation of 21 U.S.C. § 642.

29. Accordingly, plaintiff United States of America is entitled to a permanent injunction to enforce the Meat Inspection Act, and to prevent and restrain Defendants from continuing to violate the Meat Inspection Act.

30. Additionally, pursuant to the Court's equitable powers, the United States is entitled to any other available equitable relief.

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 Meat Inspection Act, as well as the regulations promulgated thereunder, including but not limited to those requirements and regulations:
 - i. prohibiting the processing, offering for sale or transportation, and sale of uninspected or misbranded meat and meat products required to be inspected and passed by the USDA;

- 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: June 28, 2021
New York, New York

AUDREY STRAUSS
United States Attorney for the
Southern District of New York
Attorney for the United States of America

By:



CHARLES S. JACOB
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel.: (212) 637-2725
Fax: (212) 637-2702
Email: charles.jacob@usdoj.gov