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7

8 IN THE UNITED STATES DISTRICT COURT
9 IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA, *ex rel.*
12 COMPASSION OVER KILLING,

13 Plaintiffs,

14 vs.

15 TRANSHUMANCE HOLDING COMPANY,
INC., d/b/a SUPERIOR FARMS, INC.,

16 Defendants.
17

NO. 2:17-cv-210 MCE CKD

**ORDER ON THE UNITED STATES’
NOTICE OF PARTIAL INTERVENTION
FOR SETTLEMENT AND PARTIAL
DECLINATION**

18 The United States having intervened in this action, pursuant to the False Claims Act, 31 U.S.C. §
19 3730(b)(2), (3), and (4), the Court rules as follows:

20 IT IS ORDERED that relator’s Complaint, the United States’ Notice of Partial Intervention for
21 Settlement, and this Order, be unsealed;

22 IT IS FURTHER ORDERED that all other previously-filed contents of the Court’s file in this
23 action remain under seal and not be made public, or served upon defendant;

24 ///

25 ///

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28 ///

1 IT IS FURTHER ORDERED that the seal shall be lifted on all matters occurring in this action
2 after the date of this Order.

3 IT IS SO ORDERED.

4 Dated: May 20, 2019

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6 MORRISON C. ENGLAND, JR.
7 UNITED STATES DISTRICT JUDGE
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA *ex rel.*
[UNDER SEAL],

Plaintiff and Relator,

v.

[UNDER SEAL],

Defendants.

Case No.

2:17 - CV - 0210 MCE CKD

**FALSE CLAIMS ACT
COMPLAINT AND DEMAND
FOR JURY TRIAL**

FILED UNDER SEAL PURSUANT
TO 31 U.S. §3730(b)(2)

**DO NOT ENTER ON PACER
DO NOT PLACE IN PRESS BOX**

[FILED IN CAMERA AND UNDER SEAL]

SEALED

**ORIGINAL
FILED**

JAN 31 2017

**CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**BY _____
DEPUTY CLERK**

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12
13 **U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

14 UNITED STATES OF AMERICA *ex rel.*
15 COMPASSION OVER KILLING,

16 Plaintiff and Relator,

17 v.

18 TRANSHUMANCE HOLDING
COMPANY, INC., d/b/a
SUPERIOR FARMS, INC.,

19 Defendants.

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FALSE CLAIMS ACT
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1 4. This systematic method of multiple-cuts also violates objective and basic
2 requirements for halal slaughter, notwithstanding that Defendants sell lamb certified to be halal to
3 the United States and other purchasers. These certifications are false.

4 5. In addition, Defendants also engage in other egregious violations of the Humane
5 Slaughter Act laws and regulations through inhumane handling of the more than a thousand
6 lambs moving through their facility every day. Defendants routinely used excessive force,
7 including throwing lambs, pulling lambs by their heads in an attempt to move them, hitting lambs
8 on the head, and inappropriately using dogs in the herding of the lambs into the slaughter plant,
9 including by attacking and biting the back legs of lamb in trapped spaces. Defendants also
10 knowingly permitted the truck drivers to use excessive electric prodding, including repeated
11 shocking of the same animal, including in the face, prodding for extended periods of time, and
12 jabbing animals indiscriminately with the prod. Further, Defendants consistently engaged in the
13 improper stunning of the lambs prior to slaughter, contributing to their sensibility and
14 consciousness during slaughter and processing, including cutting off their tails. Because
15 Defendants also did not use a cutting method which conformed with the legal standard, and did
16 not wait to process the lambs until there was anemia of the brain due to blood loss from that cut,
17 Defendants systematically dismembered lambs while the animals were still sensible to pain.

18 6. Finally, Defendants also fraudulently represented the freshness and safety of the
19 meat they sell to the United States. Specifically, Defendants routinely switch the freshness dates
20 on lamb product sold to their customers, including the United States, misrepresenting the age of
21 fresh product by several days, sometimes over two weeks. Further, Defendants intentionally and
22 routinely avoid running the meat through metal detectors – an important safety control required
23 by law and the relevant contracts—for the sole purpose of speeding up their production line and
24 maximizing profits.

1 7. Defendants have caused false claims to be submitted to the United States under
2 contracts for purchase to the United States, including, among other things, purchases under the
3 National School Lunch Program operated by the U.S. Department of Agriculture (“USDA”),
4 Agricultural Marketing Service (“AMS”) which expressly require Defendants to slaughter lambs
5 in conformance with the Humane Slaughter Act, and its implementing laws and regulations.
6

7 8. Additionally, Defendants have separately caused false claims to be submitted to
8 the United States Department of Defense (“DOD”) under contracts that specified for halal lamb,
9 *i.e.*, lamb ritually slaughtered in accordance with the precepts of Islamic law. Defendants’
10 slaughter methods do not conform to essential requirements of halal slaughter, namely that the
11 animal be killed by use of a single, swiping cut that simultaneously and instantaneously severs
12 both carotid arteries.
13

14 9. In sum, by engaging in the conduct alleged above, Defendants falsely submit or
15 cause the submission of claims to the United States by:

- 16 • falsely representing in bid submissions to USDA and DOD that Defendants humanely
17 handle lamb, per material statutory and USDA requirements, when, in truth,
Defendants know that they do not humanely handle lamb;
- 18 • falsely representing that Defendants are in compliance with the terms of contracts with
19 AMS and DOD when, in truth, Defendants know that they are in material violation of
20 those contracts by virtue of their inhumane slaughter method and inhumane handling
of lamb;
- 21 • falsely representing that Defendants’ lamb product satisfies the halal requirements in
22 DOD contracts when, in truth, Defendants know that they slaughter lambs in material
violation of halal requirements; and
- 23 • falsely representing that refrigerated lamb products Defendants provide to the United
24 States are safe and fresh when, in truth, Defendants know that they falsify freshness
25 dates and avoid passing meat through metal detectors in violation of safety and
labeling requirements.

26 10. Defendants’ schemes resulted in false claims paid by the United States for lamb
27 procured inhumanely and in violation of material conditions of their government contracts.
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1 Davis, California 95618. It has been registered as a foreign corporation in Colorado since 2000.
2 Transhumance Holding Company, Inc., has approximately 400 employees and annual revenues of
3 \$267 million.

4 17. Transhumance and its affiliates and subsidiaries have done business under the
5 names Transhumance, Inc., Transhumance Colorado, Inc., and Superior Farms, as well as its own
6 name. Its affiliate or subsidiary, Mountain Meadows Lamb Corporation, a Colorado corporation
7 formed in 1982, does business under the names Superior Farms-Denver and Transhumance
8 Colorado, Inc. Upon information and belief, both Superior Farms, Inc., and Transhumance, Inc.,
9 have merged into Transhumance Holding Company, Inc. as of approximately 2006 and 2009,
10 respectively. Superior Farms is the primary business name under which the affiliates or
11 subsidiaries of Transhumance Holding Company, Inc., do business. As such, Transhumance and
12 Superior will be collectively referred to herein as “Defendants” or “Superior.”
13
14

15 **IV. MATERIAL REQUIREMENTS APPLICABLE TO GOVERNMENT**
16 **PAYMENT FOR DEFENDANTS PRODUCTS**

17 18. The federal False Claims Act (“FCA”) imposes liability on any person who (A)
18 “knowingly presents, or causes to be presented, a false or fraudulent claim for payment or
19 approval;” or (B) “knowingly makes, uses, or causes to be made or used, a false record or
20 statement material to a false or fraudulent claim.” 31 U.S.C. § 3729(a)(1)(A)-(B).

21 19. Knowingly is defined in the False Claims Act as “hav[ing] actual knowledge of the
22 information,” “act[ing] in deliberate ignorance of the truth or falsity of the information,” or
23 “act[ing] in reckless disregard of the information.” 31 U.S.C. § 3729(b)(1). It requires “no proof
24 of specific intent to defraud.” *Id.* Relator uses the terms “knows” or “knowing” herein as that
25 term is defined in the False Claims Act.
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1 20. Defendants' schemes to knowingly submit, or cause the submission of, claims to
2 the United States for lamb products in violation of the material conditions governing the
3 provision of those products violate the FCA.

4 21. Defendants' knowing false representations of compliance with material conditions
5 governing the provision of lamb products to the United States violate the FCA.

6 22. The material conditions under which Government programs pay claims for lamb
7 products are spelled out in the sections below.

8 23. As these paragraphs reflect, Defendants' conduct violated material requirements of
9 Government payment, including by violating material requirements for (1) the humane slaughter
10 and handling of the animals, (2) the ritual slaughter of the animals (as specified by statute and in
11 contracts which specified for Halal lamb), and (3) food safety.

12
13
14 **A. The Humane Methods of Slaughter Act**

15 24. Congress passed the Humane Methods of Slaughter Act, 7 U.S.C. § 1901 *et seq.*
16 ("Humane Slaughter Act"), in 1958, in response to growing public concern regarding inhumane
17 livestock slaughtering practices in the United States. At the time, the generally accepted method
18 of stunning cattle, for example, was to bash the animals in the head repeatedly with a
19 sledgehammer, with inspectors "frequently see[ing stunners] take 10 and more blows to stun an
20 animal . . . beating [it] into immobility." *Proposals Relating to Humane Methods of Slaughter of*
21 *Livestock: Hearings on S. 1213, S. 1497, and H. R. 8308 Before the S. Comm. on Agriculture and*
22 *Forestry*, 85th Cong. 30 (1958) (statement of Fred Myers, executive dir., Humane Soc'y of the
23 United States). Methods such as these failed to guarantee that the animal would be rendered
24 insensible to pain prior to further dismemberment. *Id.*

25
26 25. After receiving such testimony, Congress inserted official findings into the Act:

27 The Congress finds that the use of humane methods in the slaughter of livestock
28 prevents needless suffering; results in safer and better working conditions for

1 persons engaged in the slaughtering industry; brings about improvement of products
2 and economies in slaughtering operations; and produces other benefits for
3 producers, processors, and consumers which tend to expedite an orderly flow of
4 livestock and livestock products in interstate and foreign commerce.

5 *Id.* § 1901.

6 26. Congress therefore unequivocally declared it “the policy of the United States that
7 the slaughtering of livestock and the handling of livestock in connection with slaughter shall be
8 carried out only by humane methods.” *Id.*

9 27. Section 1902 of the Humane Slaughter Act, titled “Humane methods,” provides:
10 “No method of slaughtering or handling in connection with slaughtering shall be deemed to
11 comply with the public policy of the United States unless it is humane.”

12 28. The Humane Slaughter Act sets out two methods of slaughter that are “found to be
13 humane”:

14 (a) in the case of cattle, calves, horses, mules, sheep, swine, and other livestock,
15 all animals are rendered insensible to pain by a single blow or gunshot or an
16 electrical, chemical or other means that is rapid and effective, before being
17 shackled, hoisted, thrown, cast, or cut; or

18 (b) by slaughtering in accordance with the ritual requirements of the Jewish
19 faith or any other religious faith that prescribes a method of slaughter whereby
20 the animal suffers loss of consciousness by anemia of the brain caused by the
21 simultaneous and instantaneous severance of the carotid arteries with a sharp
22 instrument and handling in connection with such slaughtering.

23 7 U.S.C. § 1902(b).

24 29. Section 1902(a) governs non-ritual slaughter and mandates that the animal be
25 rendered insensible to pain by approved means before being shackled, hoisted, thrown, cast, or
26 cut. This is accomplished by means of electrical stunning, captive-bolt stunning, or chemical
27 stunning prior to exsanguination.

28 30. Section 1902(b) governs ritual slaughter and mandates that ritual slaughter be
accomplished (1) in accordance with ritual religious requirements (2) so long as the religiously-
prescribed method causes the animal to lose consciousness through anemia of the brain (3) “by

1 the *simultaneous* and *instantaneous* severance of the carotid arteries with a sharp instrument.”
2 (emphasis added).

3 31. Here, Defendants perform ritual slaughter governed by Section 1902(b).

4 32. Ritual slaughter that does not accomplish loss of consciousness by anemia of the
5 brain through simultaneous and instantaneous cutting of the carotid arteries does not conform to
6 the statute.
7

8 33. For example, the use of multiple cuts (as alleged herein) where one carotid artery
9 is severed, the blade is lifted, and then the other carotid is severed do not conform to the mandates
10 of § 1902(b).

11 34. A ritual slaughter facility must comply with § 1902(b) for its slaughter practices to
12 be deemed humane and in compliance with United States public policy.

13 35. These statutory policy requirements put Defendants on notice that the Humane
14 Slaughter Act prohibitions are material to all lamb procurement by the United States.
15

16 **B. Relevant USDA Regulations Related to the Humane Handling**
17 **and Slaughter of Animals**

18 36. The USDA, through the Food Safety Inspection Service (“FSIS”), is charged with
19 enforcement of the Humane Slaughter Act and has issued regulations interpreting the Act. 9
20 C.F.R. § 313.1 *et seq.* These regulations control not only the killing of livestock in the United
21 States, but all aspects of livestock treatment on slaughterhouse premises. FSIS has also issued
22 directives containing further guidance regarding livestock slaughter methods. *E.g.*, Humane
23 Handling and Slaughter of Livestock, FSIS Directive 6900.2, Rev. 2 (Aug. 15, 2011).¹
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28 ¹ Available at <https://www.fsis.usda.gov/wps/wcm/connect/2375f4d5-0e24-4213-902d-d94ee4ed9394/6900.2.pdf?MOD=AJPERES>.

1 **1. Regulation of Pre-Slaughter Treatment of Animals**

2 37. Regarding the humane pre-slaughter treatment of animals, USDA regulations
3 provide that:

- 4
- 5 • “Driving of livestock from the unloading ramps to the holding pens and from
6 the holding pens to the stunning areas shall be done with a minimum of
7 excitement and discomfort to the animals.” 9 C.F.R. § 313.2(a).
 - 8 • “Electric prods, canvas slappers, or other implements employed to drive animals
9 shall be used as little as possible in order to minimize excitement and injury.” 9
10 C.F.R. § 313.2(b).
 - 11 • “The driving or conveying of the animals to the place of application of electric current
12 shall be done with a minimum of excitement and discomfort to the animals. Delivery
13 of calm animals to the place of application is essential to ensure rapid and effective
14 insensibility. Among other things, this requires that, in driving animals to the place of
15 application, electrical equipment be used as little as possible and with the lowest
16 effective voltage.” 9 C.F.R. § 313.30(a)(2).

17 38. FSIS Directive 6900.2, Rev. 2, likewise provides that “egregious inhumane
18 treatment” includes “[e]xcessive beating or prodding of ambulatory or nonambulatory disabled
19 animals” and “[o]therwise causing unnecessary pain and suffering to animals, including situations
20 on trucks.” *Id.* ¶¶ 2, 9.

21 **2. Regulation of Proper Stunning of Animals**

22 39. Stunning of animals by electrical means must comply with USDA regulations. 9
23 C.F.R. § 313.30.

24 40. While stunning is not required when a slaughterhouse is engaged in ritual
25 slaughter, Defendants employ reversible stunning prior to the slaughter of lambs.

26 41. When stunning is employed, regardless of whether it is employed in a ritual or
27 non-ritual context, it must be done effectively. The USDA regulations provide that:

- 28
- “The electric current shall be administered so as to produce, at a minimum, surgical
anesthesia, i.e., a state where the animal feels no painful sensation. The animals shall
be either stunned or killed before they are shackled, hoisted, thrown, cast, or cut. They
shall be exposed to the electric current in a way that will accomplish the desired result

1 quickly and effectively, with a minimum of excitement and discomfort.” 9 C.F.R. §
2 313.30(a)(1).

- 3 • “The driving or conveying of the animals to the place of application of electric current
4 shall be done with a minimum of excitement and discomfort to the animals. Delivery
5 of calm animals to the place of application is essential to ensure rapid and effective
6 insensibility. Among other things, this requires that, in driving animals to the place of
7 application, electrical equipment be used as little as possible and with the lowest
8 effective voltage.” 9 C.F.R. § 313.30(a)(2).
- 9 • “The quality and location of the electrical shock shall be such as to produce
10 immediate insensibility to pain in the exposed animal.” 9 C.F.R. § 313.30(a)(3).
- 11 • “The stunned animal shall remain in a state of surgical anesthesia through shackling,
12 sticking, and bleeding.” 9 C.F.R. § 313.30(a)(4).
- 13 • “Each animal shall be given a sufficient application of electric current to ensure
14 surgical anesthesia throughout the bleeding operation. Suitable timing, voltage and
15 current control devices shall be used to ensure that each animal receives the necessary
16 electrical charge to produce immediate unconsciousness. The current shall be applied
17 so as to avoid the production of hemorrhages or other tissue changes which could
18 interfere with inspection procedures.” 9 C.F.R. § 313.30(b)(2).

14 42. FSIS Directive 6900.2, Rev. 2 further defines “egregious inhumane treatment” as
15 including “stunning of animals and then allowing them to regain consciousness” and “[m]ultiple
16 attempts, especially in the absence of immediate corrective measures, to stun an animal versus a
17 single blow or shot that renders an animal immediately unconscious.” *Id.* at 2-3.

18 43. Thus, multiple ineffective stuns are explicitly prohibited by regulations as
19 egregious inhumane treatment.
20

21 3. Regulation of Post-Ritual Slaughter Dismemberment

22 44. FSIS Directive 6900.2, Rev. 2, provides that “no dressing procedure (e.g., head
23 skinning, leg removal, ear removal, horn removal, opening hide patterns) is performed until the
24 animal is insensible.” *Id.* at 7. FSIS Guidance on Humane Handling Verification for Livestock
25 and Good Commercial Practices in Poultry (November 29, 2016) defines such dismemberment as
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1 an egregious violation “so serious that it warrants an immediate suspension of assignment of
2 inspectors,” which effectively prohibits a facility from operating. *Id.* at 20.²

3 45. The FSIS directives implement the public policy of the United States that all
4 slaughter of livestock within the United States shall be humane.

5 46. Both the Humane Slaughter Act and the FSIS directives consistently require strict
6 compliance with the Humane Slaughter Act by all government contractors and make clear to all
7 contractors that such requirements are material to the procurement of lamb by the United States.
8

9 **C. Halal Slaughter Requirements**

10 47. As relevant to this complaint, the term “halal” denotes meat prepared in
11 accordance with Islamic law. An essential and objective halal slaughter requirement is that the
12 slaughterer must apply a single sweeping cut at the throat of a live animal that simultaneously and
13 instantaneously severs the carotid arteries. Animals that are not so slaughtered are not properly
14 certified as being halal.
15

16 48. Halal slaughter plants are not exempt from complying with federal regulations
17 regarding humane handling of animals. *See* FSIS Livestock Inspection Training: Humane
18 Handling Verification for Livestock and Good Commercial Practices in Poultry: “[R]itual
19 slaughter establishments are required to meet all the humane handling regulatory requirements
20 except stunning prior to shackling, hoisting, throwing, cutting, or casting. All animals must be
21 unconscious or insensible to pain prior to any dressing procedures such as head skinning, leg
22 removal, ear removal, horn removal, or opening hide patterns An exception to [the stunning
23 exception] is when stunning methods are an accepted part of that religious slaughter protocol.” As
24 such, Defendants must comply with all federal humane handling regulations and, because they
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² Available at, https://www.fsis.usda.gov/wps/wcm/connect/049bb2c3-18ae-401c-a5d4-3ca3b3348e5a/31_IM_Humane_Handling_GCP.pdf?MOD=AJPERES.

1 perform stunning as part of its Halal slaughter, they must comply with all federal stunning
2 regulations.

3 49. Halal lamb is procured upon an affirmative representation, that the product is
4 certified halal. The United States relies on this certification to make payment.

5 50. As a ritual slaughter establishment, absent compliance with the single cut
6 requirement, Defendants cannot legally produce meat under the Humane Slaughter Act. The
7 United States relies on Defendants' compliance with this requirement as a material condition of
8 their contract obligations.
9

10 **E. Food Safety**

11 51. Federally-inspected meat processors are subject to the Humane Slaughter Act and
12 the Federal Meat Inspection Act ("Meat Inspection Act"), 21 U.S.C. § 601 *et seq.* USDA has
13 promulgated regulations interpreting the Meat Inspection Act at 9 C.F.R. § 412.1 *et seq.*
14

15 52. Those regulations prohibit any false or misleading label, and specifically that:

- 16 • No "product or any of its wrappers, packing, or other containers shall bear any
17 false or misleading marketing, label, or other labeling and no statement, word,
18 picture, design, or device which conveys any false impression or gives any
19 false indication of origin or quality or is otherwise false or misleading shall
20 appear in any marking or other labeling. No product shall be wholly or partly
21 enclosed in any wrapper, packaging, or other container that is so made,
22 formed, or filled as to be misleading." 9 C.F.R. § 317.8(a)

23 53. The Meat Inspection Act regulations also require that all labels and containers
24 contain packing, sell by, and use before dates, and specifically that:

- 25 (i) The calendar date shall express the month of the year and the day of the month
26 for all products and also the year in the case of products hermetically sealed in
27 metal or glass containers, dried or frozen products, or any other products that
28 the Administrator finds should be labeled with the year because the distribution
and marketing practices with respect to such products may cause a label
without a year identification to be misleading.
- (ii) Immediately adjacent to the calendar date there must be a phrase explaining
the meaning of the date, in terms of 'packing' date, 'sell by' date, or 'use

1 before' date, with or without a further qualifying phrase, e.g., 'For Maximum
2 Freshness' or 'For Best Quality.'”

3 9 C.F.R. § 317.8(b)(32).

4 54. Those regulations also provide for all establishments to have a written hazard
5 analysis, or Hazard Analysis and Critical Control Point (“HACCP”) which they follow:

- 6 • “Every official establishment shall conduct, or have conducted for it, a hazard
7 analysis to determine the food safety hazards reasonably likely to occur in the
8 production process and identify the preventative measures the establishment
9 can apply to control those hazards.” 9 C.F.R. § 417(a)(1).
10 • “Every establishment shall develop and implement a written HACCP plan
11 covering each product produced by that establishment whether a hazard
12 analysis reveals one or more food safety hazards that are reasonably likely to
13 occur.” 9 C.F.R. § 417.2(b).

14 55. In addition, FSIS Directive 7310.5 provides that only unadulterated products enter
15 commerce and that establishments are “properly addressing the possibility that foreign material is
16 present” in meat or poultry products, with “foreign material” defined as “non-animal objects, such
17 as metal, plastic, glass, wood, steel, or lead shot.” If the hazard analysis reveals that foreign
18 material contamination is likely, the HACCP plan may have the facility use functioning metal
19 detectors. *Id.* at 1.³

20 56. A facility is in regulatory noncompliance when the “[e]stablishment personnel are
21 not performing tasks specified in the HACCP plan.” 9 C.F.R. § 417.6.

22 57. Both the statutory and regulatory scheme put Defendants on notice that
23 compliance with food safety requirements is material to the provision of lamb meat.

24 **G. Defendants’ Contracts with Government Agencies**

25 **1. Defendants’ Contracts with the Agricultural Marketing Service**

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³ Available at, <https://www.fsis.usda.gov/wps/wcm/connect/c32a1bff-5f25-46c1-be52-36d640201abe/7310.5.pdf?MOD=AJPERES>.

1 58. The United States of America, through AMS, which is a branch of the USDA,
2 solicits bids and awards contracts for the purchase of commodities, including fresh and frozen
3 lamb products. AMS purchases these items and distributes them to programs established by the
4 National School Lunch Act and other laws. Commodities thus purchased are provided to school
5 children, needy families, the elderly, and others through federal nutrition assistance programs
6 administered by the USDA's Food and Nutrition Service.
7

8 59. The National School Lunch Program ("NSLP"), 42 U.S.C. §§ 1751-1769, provides
9 cash and commodities to assist states in providing free or low-cost nutritious lunches to school
10 children. More than 31 million school children receive lunches through the program each school
11 day. To assist states in providing healthy, low-cost or free meals, the USDA provides states with
12 various commodities, including lamb. AMS purchases commodities for distribution to states
13 through programs administered by the Food and Nutrition Service ("FNS").
14

15 60. From 2009 through 2015, Superior and Transhumance were awarded numerous
16 contracts to AMS to supply fresh and frozen lamb products for federal programs, including the
17 National School Lunch Program. These contracts resulted in remuneration to the Defendants of
18 approximately \$16 million in taxpayer dollars. Transhumance was awarded recent contracts for
19 frozen lamb on July 16, 2015 (Award No. AG3J14P150180, with delivery period August 16,
20 2015 - November 15, 2015) and September 25, 2015 (Award No. AG3J14P150264, with delivery
21 period November 1, 2015 - June 15, 2016). The solicitations for those contracts were made on
22 July 13, 2015 and September 23, 2015, respectively.
23

24 61. AMS, FNS, the Food Safety and Inspection Services ("FSIS"), and the Farm
25 Service Agency ("FSA") work cooperatively to develop product specifications and quality
26 assurance provisions for USDA commodities. These standards, known as commodity
27 specifications, address product attributes such as nutrient content, production methods, and
28

1 inspection requirements. AMS and FSA purchase commodities by inviting vendors to participate
2 in formally-advertised competitive bidding. Once the contracts are awarded, suppliers are
3 obligated to deliver conforming goods to recipients in various states on a specific date.

4 62. Since 2008, AMS has used a document titled “Agricultural Marketing Service
5 Master Solicitation for Commodity Procurements” (“Master Solicitation”) to procure
6 commodities for the school lunch and other federal food and nutrition programs. According to the
7 Master Solicitation, the “Contractor must assure compliance with all requirements of this Master
8 Solicitation and the applicable Commodity Specification and/or Supplement prior to submission
9 of product to USDA for acceptance.”⁴

11 The USDA periodically issues bid invitations, which are referred to as solicitations
12 or invitations for bids, under the Master Solicitation and its supplements. Each
13 solicitation is an invitation from the USDA for vendors to offer to sell particular
14 products, such as frozen lamb, for delivery on specific dates at certain locations,
under domestic food nutrition assistance programs.

15 63. By submitting an offer, the offeror “certifies that the offer is made subject to the
16 Master Solicitation; Commodity Supplement and/or Specifications, this Solicitation; the
17 Agriculture Acquisition Regulations (AGAR) and the Federal Acquisition Regulations (FAR).”⁵

18 64. The FAR require provide that the “Contractor shall comply with all applicable
19 Federal, State and local laws, executive orders, rules and regulations applicable to its performance
20 under this contract.”⁶ These include the Humane Slaughter Act and the Meat Inspection Act,
21 which set out the public policy of the United States that every animal slaughtered in the United
22 States shall be slaughtered humanely.

26 ⁴ Agricultural Marketing Service Master Solicitation for Commodity Procurements,
27 https://www.ams.usda.gov/sites/default/files/media/AMS_Master_Solicitation%5B1%5D.pdf at 8.

28 ⁵ *E.g.*, Solicitation No. 2000003623 (September 18, 2015), <https://www.ams.usda.gov/sites/default/files/2000003623%20-%20Bid%20Invitation.pdf>

⁶ 48 C.F.R. § 52.212-4(q).

1 65. In addition, the Master Solicitation during the relevant time period included
2 include the following provisions:⁷

3 All animal harvest facilities that supply raw materials from . . . ovine species for
4 the production of AMS destined finished products must develop and implement a
5 written program that is consistent with a systematic approach to humane animal
6 handling and welfare as outlined in 69 FR 54625. The program will ensure proper
7 animal handling and welfare techniques are conducted from the time the
transportation conveyance enters the facility's premises through the stunning and
exsanguination of the animal.

8 *See also* Supplement 404 to AMS Master Solicitation, Federal Purchase Program
9 Specification for Animal Handling and Welfare, Effective January 2015 (requiring same).

10 66. 69 F.R. 54625, referenced above, provides that "All livestock establishments are
11 required to meet requirements in the Humane Methods of Slaughter Act, Meat Inspection Act and
12 implementing regulations."

13 67. The Master Solicitation supplement for lamb also includes the following
14 provisions with respect to humane handling:
15

- 16 • "Animal Welfare Requirements — All contractors and subcontractors must
17 meet the animal handling and welfare requirements set forth in the Federal
18 Purchase Program Specification (FPPS) For Animal Handling and Welfare
[Supplement 404 to the Master Solicitation]. Effective January 2015."⁸
- 19 • "Humane Handling – All lambs shall be humanely handled in accordance with
20 all applicable FSIS regulations and AMS requirements."⁹

21 68. Contractors must also certify in submitting their invoice for payment that all
22 requirements of the contract have been satisfied. Vendors submitting an invoice are required to
23

24 ⁷ Supplement 602 to the AMS Master Solicitation for Purchase of Frozen Lamb Products for Distribution to Federal
25 Food and Nutrition Assistance Programs (June 2015), [https://www.ams.usda.gov/sites/default/files/media/
Supplement%20602%20%E2%80%93%20Frozen%20Lamb%20Products.%20June%202015.pdf](https://www.ams.usda.gov/sites/default/files/media/Supplement%20602%20%E2%80%93%20Frozen%20Lamb%20Products.%20June%202015.pdf) (last visited,
26 December 16, 2016).

27 ⁸ Supplement 602 to the AMS Master Solicitation for Purchase of Frozen Lamb Products for Distribution to Federal
Food and Nutrition Assistance Programs (June 2015), [https://www.ams.usda.gov/sites/default/files/media/
Supplement%20602%20%E2%80%93%20Frozen%20Lamb%20Products.%20June%202015.pdf](https://www.ams.usda.gov/sites/default/files/media/Supplement%20602%20%E2%80%93%20Frozen%20Lamb%20Products.%20June%202015.pdf) (last visited,
28 December 16, 2016).

⁹ *Id.*

1 include a copy of the Contractor's Certificate of Conformance certifying that the product
2 "conforms in all respects with the purchase order requirements."¹⁰

3 69. The Master Solicitation explicitly warns contractors that "[s]ubmission of an
4 invoice when all contract terms and conditions have not been satisfied may subject the Contractor
5 to civil and criminal penalties as provided in Title [] 31 of the United States Code," which
6 includes the False Claims Act, 31 U.S.C. § 3729.¹¹

7
8 70. In addition to these material requirements, contractors, including Defendants, who
9 wish to provide products to AMS must submit to audits by AMS or its designee that evaluate it on
10 various animal handling criteria outlined in the Recommended Animal Handling Guidelines and
11 Audit Guide (July 2013). These include a zero tolerance for failure to meet Core Criteria 2 and 6.

12 71. Core Criteria 2, "Bleed Rail Insensibility," specifies that

13
14 Any sensible animal on the bleed rail constitutes and automatic audit failure.
15 It is CRITICAL that animals showing signs of a return to sensibility be
16 restunned immediately. There is "zero tolerance" for beginning any
17 procedures like skinning the head or leg removal on any animal that shows
18 signs of a return to sensibility. However, it is important to complete the audit
19 and note observations about insensibility using the following guide:

20 X = completely insensible; no signs of return to sensibility
21 BL = blinking – do not count a vibrating eye as a blink; only natural
22 blinks like those that might be observed in the yards should be
23 documented
24 RB = rhythmic breathing
25 VO = vocalization no matter how small
26 RR = righting reflex/animal attempts to lift head while hanging on
27 the rail

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¹⁰ Supplement 602 to the AMS Master Solicitation for Purchase of Frozen Lamb Products for Distribution to Federal Food and Nutrition Assistance Programs (June 2015), <https://www.ams.usda.gov/sites/default/files/media/Supplement%20602%20%E2%80%93%20Frozen%20Lamb%20Products,%20June%202015.pdf> (last visited, December 16, 2016).

¹¹ Agricultural Marketing Service Master Solicitation for Commodity Procurements, https://www.ams.usda.gov/sites/default/files/media/AMS_Master_Solicitation%5B1%5D.pdf.

1 Temple Grandin, Recommended Animal Handling Guidelines and Audit Guide: A
2 Systematic Approach to Animal Welfare, Official AMI Audit Forms (Sheep), Rev. 1, at
3 101 (July 2013).

4 72. Core Criteria 6, “Willful Acts of Abuses/Egregious Acts,” specifies that such acts
5 “include, but are not limited to” hitting or beating animals or dragging them by the wool. *Id.* at
6 105. FSIS guidance to meat inspectors identifies as examples of egregious violations: “making
7 cuts on or skinning conscious animals; excessive beating or prodding of ambulatory animals;
8 stunning animals and then allowing them to regain consciousness; multiple attempts, especially in
9 the absence of immediate corrective measures, to stun an animal versus a single blow or shot that
10 renders an animal immediately unconscious; dismembering conscious animals, for example,
11 cutting off ears or removing feet; otherwise causing unnecessary pain and suffering to animals.”
12 FSIS, Humane Handling Verification for Livestock and Good Commercial Practices for Poultry
13 at 22 (Nov. 29, 2016).

14 73. These Criteria explicitly apply to both “Conventional and Religious” slaughter.
15 Temple Grandin, Recommended Animal Handling Guidelines and Audit Guide: A Systematic
16 Approach to Animal Welfare, Official AMI Audit Forms (Sheep), Rev. 1, at 101, 105 (July
17 2013).

18 74. AMS guidance explains that, “If an audit is failed for any of the Core Criteria, the
19 organization is not eligible to provide product until such a time that corrective and preventative
20 actions are approved by the Food Safety and Commodity Specification (FSCS) Division,
21 implemented and proven effective.” Supplement 404 to the Master Solicitation at 4 (January
22 2015).

1 75. The statute, the FSIS directives, the contract, and the agency guidance all make
2 plain that humane handling and slaughter, including strict compliance with the Humane Slaughter
3 Act, are material to the procurement of lamb by the United States.

4 76. Indeed, Defendants' systematic violations of AMS Core Criteria 2 and 6, by
5 allowing sensible lambs to be dismembered, shackled, and hoisted, and other egregious inhumane
6 treatment as that is defined by the Guidance, made them ineligible to provide lamb and receive
7 payment under AMS contracts.

8 77. Defendants' ongoing submission, or acts to cause the submission of invoices under
9 AMS Master Solicitations, caused false claims to AMS in violation of the material terms of its
10 provision of lamb products.

11
12 **2. Defendants' Contracts with the Department of Defense**

13 78. DOD purchases and distributes fresh and frozen lamb and lamb products. These
14 purchases are primarily managed through the Defense Logistics Agency ("DLA"), Troop Support
15 Directorate of Subsistence, under the Subsistence Prime Vendor ("SVP") program. The program
16 contracts with between 50 and 60 SVPs in eight global regions, which make lamb and lamb
17 products available to U.S. military personnel on military bases, both through directly furnishing
18 meals to troops and resale of products to military personnel through hundreds of "base
19 exchanges," which are administered by the DOD military branches. These contracts permit DOD
20 military branches to rapidly supply food products at the installation level through overarching
21 contracts with regional SVPs.

22 79. Defendants have had direct contracts for the sale of lamb to DOD. Upon
23 information and belief, Defendants also provide lamb to DOD as subprime contractors to SVPs,
24 as well as to contractors that supply Meals Ready-To-Eat to SVPs.
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1 80. The West Prime Region, for example, where Defendant Superior Farms is located,
2 has two SVP contracts awarded to prime contractor US Foods in Los Angeles (Solicitation
3 SPM300-13-R-0075/Contract SPE300-15-D-3127) and San Francisco (Solicitation SPM300-13-
4 R-0061/Contract SPE300-14-D-3007). The SVP for Colorado is United Food Service, d/b/a
5 Shamrock Foods (Solicitation SPM300-13-R-0080/Contract SPE300-14-3041).
6

7 81. The arrangements are fixed-price, indefinite quantity contracts with economic
8 price adjustment. The SVPs bid to supply specified items (a “market basket”) to the base
9 exchanges for a two-year base period, with a two-year optional extension. Lamb products are
10 offered as part of the “market basket.” The SVPs then subcontract to obtain the items identified in
11 the market basket and any other items covered under the contract, including, upon information
12 and belief, with Defendants for lamb.
13

14 82. SVPs are required to furnish lamb and, as a part of some market baskets, halal-
15 certified Meals Ready to Eat (“MREs”). Each package of halal MREs under stock number
16 8970014241998, for example, must contain twelve meals, of which six must contain meat. All
17 ingredients must be halal. The technical specs identify stock number 8970014241998 as “Meal,
18 Religious, Ready-To-Eat, Individual, Halal, 6 Meat and 6 Vegetarian Menus, Domestic, 12 meals
19 per box.” Other MRE specifications, of which Relator is aware, require four of twelve meals to
20 contain lamb. Upon information and belief, the United States has recently paid approximately
21 \$100 a case for halal MREs with stock number 8970014241998.
22

23 83. The solicitation for halal MREs requires that each halal item be certified as halal,
24 placing responsibility for such certification on the contractor. The contractor must provide
25 certificates of compliance testifying that all ingredients meet halal requirements.

26 84. Specifically, DOD’s solicitations require that the contractor “shall be responsible
27 for”:
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- “ensuring that appropriate...halal guidelines are followed for all meal components”; and
- “obtaining the services of a ... recognized halal supervision agency that is prepared to meet the requirements for halal certification”.

85. Further, the contractor “shall ensure that the ...halal inspectors are fully familiar with all aspects of production.”

86. Base exchanges do not allow substitution of products. If contractors cannot support their claims to the base exchanges as a result of fraud or misrepresentation, the claims are nonpayable and the contractor must, in addition to any other penalties, reimburse the base exchange for the unsupported portion of any claims plus any associated costs of reviewing the claims.

87. The Solicitation (Clause 52.246-9044, “Sanitary Conditions”) requires contractors to furnish products from establishments listed in the Meat and Poultry Inspection Directory, which is published by USDA. Defendants are listed in the directory as Superior Farms, Superior Farms—Boston Division, and Superior Farms—Grove Division, with the first and last doing business as Transhumance Holding Co. USDA Directory at 532. These facilities have establishment numbers of M2800, P2800, M252, P252, and M1974.

88. DOD’s solicitation and certification requirements make clear that the halal certification is material to the provision of lamb product to the United States under these contracts.

89. An essential and objective halal slaughter requirement is that the slaughterer must apply a single sweeping cut at the throat of a live animal that simultaneously and instantaneously severs the carotid arteries. Defendants’ systemic method of slaughtering lamb are objectively not in compliance with this basic requirement of halal slaughter.

1 90. Defendants' actions to submit or cause the submission of false certifications of
2 halal lamb violate the FCA and result in false claims.

3 **V. FACT ALLEGATIONS**

4 91. For six and a half months (May 11, 2016 to November 30, 2016), Relator
5 Compassion Over Killing ("COK") conducted an undercover investigation at Superior's
6 slaughtering and processing establishment in Dixon, California. During this period, a COK
7 investigator was hired into the Case Ready area on the "cold side" of the facility where he
8 packaged products into boxes and weighed them. He was subsequently transferred to the "Pelt"
9 area, where he handled wet and dry pelts and also saw intermittent animal handling and slaughter.
10 During his time at Superior's facility, the COK investigator personally observed and videotaped
11 examples of the conduct described below.
12

13 **A. Defendants' Systemic Practice of Slaughtering Lambs in Material Violation of the**
14 **Humane Slaughter Act.**

15 92. On a daily and systemic basis, Superior engages in an illegal, inhumane, and
16 contractually-prohibited slaughter method which does not include simultaneously and
17 instantaneously sever the carotid arteries with one cut that causes insensibility by anemia of the
18 brain.
19

20 93. Instead, Superior's slaughterer uses a knife to saw in a back and forth motion
21 along one side of the neck, after which he then proceeds to lift the knife and make the same
22 sawing and slicing motion on the other side of the animal's neck. The slaughterer also
23 systematically presses down onto and further manually tears open the wound of every animal
24 after each cut.¹²
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¹² Lambs are also electrically stunned using a "head-only," reversible stun prior to the first cut. In many documented instances this stun was itself ineffective and inhumane treatment, as further discussed *infra*.

1 94. Superior, by virtue of being a ritual slaughter facility, must comply with § 1902(b)
2 of the Humane Slaughter Act. This means that it must slaughter the animals by a “simultaneous
3 and instantaneous severance of the carotid arteries.” Superior violates the Humane Slaughter Act
4 by employing a slaughter methodology that is not aimed at simultaneously severing the carotid
5 arteries. Rather, its methodology involves first sawing on one side of the animals’ necks, lifting
6 the blade, and then sawing on the other side of the animals’ necks.
7

8 95. In each instance of slaughter COK’s investigator documented, after making the
9 first cut the slaughterer reaches into the lamb’s throat through the opening he has just made,
10 grasps the esophagus (which in almost all instances has not been severed), then saws and slices on
11 the other side, and then, after typically cutting further into the lamb in and along the esophagus,
12 places a plastic clip on the esophagus.
13

14 96. Upon information and belief, Superior violates the Humane Slaughter Act in this
15 way to preserve the lambs’ esophagi in order to sell them as dog treats. Superior Farms Lamb
16 Esophagus Twists are available from www.superiorfarmspet.com and other online retailers like
17 www.cleanrun.com at a price of \$5.95 for a two-pack. COK’s investigator documented the
18 slaughterer preserving the esophagus, including making efforts to fish and retrieve the esophagus
19 on an occasion when he appears to have severed it inadvertently.
20

21 97. Superior’s multiple-cut slaughter violates 7 U.S.C. § 1902(b) because it does not
22 accomplish anemia of the brain by means of the single “simultaneous and instantaneous
23 severance of the carotid arteries.” In addition, a subsequent cut or cuts made immediately after the
24 first cut also separately violates the Act, since there cannot have been enough time for the animal
25 to have lost sensibility through anemia to the brain.
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1 98. After the slaughter cuts, animals display signs of consciousness including the
2 following, often in combination: raising head, rhythmic breathing, agonal gasping, kicking legs,
3 and/or moving in response to tail cutting.

4 99. Superior's slaughter methodology results in the systemic dismemberment of
5 animals which are conscious to pain. COK's investigation revealed that 89% of lambs of the
6 lambs observed exhibited reactions to stimuli after slaughter cutting, and specifically, reacted to
7 the cutting of their tails.

8 100. Superior's conduct is identified as "egregious" under FSIS Directives, as described
9 above, and, if known, would result in decisive action by FSIS, up to and including the removal of
10 FSIS inspectors from the facility, resulting in a suspension of operations pending corrective
11 action.

12 101. Superior's multiple-cut slaughter method also violates a central requirement of
13 halal slaughter: that the animal be slaughtered by means of a single, slicing cut that severs both
14 carotid arteries.¹³

15 102. Defendants' systemic and ineffective method of multiple-cut slaughter violates
16 material conditions of the provision of lamb to the United States, and also renders its
17 certifications of compliance with halal requirements false.

18 103. Defendants' conduct results in false claims to the United States.

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21 **B. Defendants Engage in Inhumane Handling Practices in Material Violation of FSIS**
22 **Regulations**

23 104. On a consistent basis, Defendants engaged in the following multiple types of
24 illegal, inhumane, and contractually prohibited handling of lambs.

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¹³ Defendants' inhumane practices also violate other basic halal requirements, including that the animals witness other animal's being slaughtered.

1 105. Defendants used excessive force in handling animals, including throwing lambs,
2 pulling lambs by their heads in an attempt to move them, hitting lambs on the head, and using
3 dogs inhumanely in the herding of the lambs into the slaughter plant, including by attacking and
4 biting the back legs of lamb in trapped spaces.
5

6 106. Defendants also knowing permitted truck drivers to use excessive electric
7 prodding, including repeated shocking of the same animal, prodding in the face, holding the prod
8 directly on animals for extended periods of time, and jabbing animals indiscriminately with the
9 prod.
10

11 107. Defendants routinely ineffectively stunned the animals prior to slaughter, resulting
12 in signs of consciousness during and after the ritual slaughter, including the following, often in
13 combination: raising head, rhythmic breathing, agonal gasping, vomiting, kicking legs, and/or
14 moving in response to tail cutting. In some cases, the animal may be paralyzed but still sensible
15 and feeling pain as the animal moves through throat cutting and begins to be dismembered.
16

17 108. Following the ineffective stun, some animals are then stunned multiple additional
18 times after the initial stunning and after slaughter in violation of the Humane Slaughter Act and
19 the USDA's implementing regulations.
20

21 109. Defendants' practice of reversible stunning prior to slaughter was ineffective due
22 to, by information and belief, ineffective placement of the prod or ineffectual electric current
23 levels. By information and belief, systematic use of low electric current levels may be used to
24 intentionally ensure a "reversible" stun – where the animal wakes up and reanimates before the
25 animal dies from blood loss after having the carotid and jugular arteries slit.
26

27 110. In addition, as also discussed above, Superior's handling and slaughter methods
28 also resulted in animals which were conscious and/or sensible to pain being processed and
dismembered. Specifically, animals exhibited signs of consciousness immediately after slaughter,

1 on the bleed rail, and as Superior began dismembering them. The vast majority of animals
2 observed in COK's investigation exhibited a response to the specific stimuli of having their tails
3 cut and removed.

4 111. Superior's egregious inhumane stunning and handling practices violate material
5 conditions regarding the provision of lamb to the United States, as set forth in FSIS regulations
6 set out *supra*, including 9 C.F.R. §§ 313.2(a) and (b), 313.30(a) and (b), and FSIS Directive
7 6900.02, Rev. 2.

8 112. Defendants' practices result in false claims in violation of the FCA.

9
10 **C. Defendants Fraudulently Misrepresent the Freshness of Refrigerated Lamb Meat in**
11 **Material Violation of USDA and DOD Requirements**

12 113. On twelve different days over a two week period, COK's investigator documented
13 Superior workers changing "best by" labels on individual refrigerated lamb products and the
14 "packed on date" on boxes which contained these products to falsely represent the lamb as fresher
15 than it actually was. These changes included dating the products as much as 15 days fresher than
16 the original true date.

17 114. Defendants' fraudulent labeling practices violated material conditions of USDA's
18 requirements regarding the labeling of products, and the explicit prohibitions on false and
19 misleading statements in any marking or labeling on the packaging. 9 C.F.R. §§ 317.8 (*see supra*
20 Section IV.E.)

21 115. In addition, Defendants' actions to falsify the freshness dates on its products
22 fraudulently concealed material aspects of the lamb acquired by the United States

23 116. Defendants' fraudulent conduct resulted in false claims to the United States in
24 violation of the FCA.
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1 **D. Defendants' Fraudulently Misrepresent the Safety of Lamb Meat in Material**
2 **Violation of USDA and DOD Requirements by Avoiding Passing Meat Through**
3 **Required Metal Detectors**

4 117. During the Relator's investigation, its investigator observed and documented
5 Superior workers avoiding putting meat through the metal detectors in order to speed up the
6 process. The workers picked up the items to package before they made it to the end of the
7 conveyor system through the metal detector.

8 118. Superior, by virtue of being a federally inspected processor operating under USDA
9 establishment numbers M2800 and P2800, is an official establishment under the Humane
10 Slaughter Act and the Meat Inspection Act.

11 119. Superior violated its federally-required Hazard Analysis and Critical Control Point
12 (or HACCP) plan that required meat to go through the metal detector in order to screen for
13 possible metal contamination.

14 120. As such Defendants' fraudulent metal detector practices violated material statutory
15 and regulatory obligations regarding food safety, including those found in 9 C.F.R. § 417 (see
16 *supra* Section IV.E.), and FSIS Directive 7310.5.

17 121. Defendants' fraudulent metal detector practices resulted in false claims to the
18 United States in violation of the FCA.

19 **E. Defendants Knew Their Conduct Violated Material Terms of Government Contracts**

20 122. Defendants' violations of their material contractual obligations are systematic and,
21 by information and belief, ongoing.

22 123. Defendants' violations were taking place in the view of and with the full
23 awareness of Superior's supervisors, who were stationed near the slaughter line on a daily basis.
24 Superior management observed each of the violations articulated above, including the systemic
25 methodology for inhumane handling and slaughter, and the resulting and overwhelming
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1 frequency of consciousness and sensibility of the animals post-slaughter and during the cutting of
2 their tails.

3 124. Defendants' uniform practice in the slaughter of lamb by multiple cuts expressly
4 violates the Humane Slaughter Act and its implementing regulations, compliance with which is
5 integral to Defendants' contractual obligations to the United States.
6

7 125. Defendants' routine inhumane practices, including without limitation:

- 8 • using electronic prods on the lambs unnecessarily and indiscriminately,
9 including repeatedly, excessively, and in the face;
- 10 • handling lambs inhumanely by throwing or jabbing or improperly using dogs
11 which attacked the back legs of lambs in trapped spaces;
- 12 • improper and ineffective stunning;
- 13 • allowing lambs to return to consciousness on the bleed line; and
14 • dismembering lambs that are still conscious,
15

16 also violate the Humane Slaughter Act and its implementing regulations, compliance with which
17 is integral to Defendants' contractual obligations to the United States.

18 126. Defendants' false labeling and food safety violations, including misrepresentation
19 of the freshness of their refrigerated lamb products and the avoidance of metal detectors
20 employed as part of safety protocols, violate the Humane Slaughter Act, the Federal Meat
21 Inspection Act, and their implementing regulations, compliance with which are also integral to
22 Defendants' contractual obligations to the United States.
23

24 127. Defendants knew, as that term is defined in the FCA, that these violations were
25 occurring systemically and pervasively at its lamb processing facility.

26 128. Defendants also knew or had reason to know that these violations were material to
27 the United States procurement of lamb products.
28

1 129. The United States established an explicit, clear and consistent prohibition of each
2 of these violations through the Humane Slaughter Act, the Federal Meat Inspection Act, and their
3 implementing regulations and guidance.

4 130. The United States incorporated these prohibitions into the contracts of all meat
5 providers to the United States. In the case of halal meat procurement, the United States required
6 an additional affirmative certification from contractors regarding compliance with halal
7 requirements.

8 131. Defendants have also previously been warned that certain of the conduct at issue
9 were violations of federal mandates. For example, FSIS had previously issued enforcement
10 actions to Transhumance specifically for violations of federal stunning regulations. *See* FSIS
11 Notice of Intended Enforcement issued on Dec. 9, 2015 to Mountain Meadows Lamb Corporation
12 [Transhumance's Denver location] for allowing a lamb to become conscious after the animal was
13 stunned with an electric stun, hoisted and stuck for bleeding, in violation of 9 CFR §313.30(a)(4);
14 FSIS Notice of Suspension issued on July 14, 2016 to Mountain Meadows Lamb Corporation for
15 having two lambs on the same line that have regained consciousness in violation of 9 CFR
16 313.30(a)(4).

17 132. Defendants knew that the reasonable and foreseeable consequence of their ongoing
18 systemic and material violations was that claims would be submitted to the United States in in
19 violation of their material contractual, statutory, and regulatory obligations.

20 133. Defendants' scheme violates the FCA and damages the United States.
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COUNT I

FEDERAL FALSE CLAIMS ACT

31 U.S.C. § 3729(a)(1)(A)

134. Relator re-alleges and incorporates by reference the information and allegations contained in the preceding paragraphs of this Complaint. This claim for treble damages and penalties comes under the False Claims Act, 31 U.S.C. § 3729(a)(1)(A), which imposes liability on those who “knowingly present, or cause to be presented a false or fraudulent claim for payment or approval.”

135. Knowingly, as that term is defined in the False Claims Act, means “hav[ing] actual knowledge of the information,” “act[ing] in deliberate ignorance of the truth or falsity of the information,” or “act[ing] in reckless disregard of the information.” 31 U.S.C. § 3729(b)(1). It requires no proof of specific intent to defraud.” *Id.*

136. Through the acts described above, Defendants knowingly presented or caused to be presented false or fraudulent claims, records or other materials for payment or approval, all of which resulted in significant payments of false claims by the Government to the Defendants.

137. Defendants’ conduct violated material conditions of its provision of lamb product to the United States, including in Defendants’ provision of lamb to federal nutritional programs, such as the National School Lunch Program, and to military personnel.

138. Defendants’ systemic violations of the Humane Slaughter Act and the Federal Meat Inspection Act and their implementing regulations, as incorporated into government contract requirements, rendered them ineligible for payment.

139. Each payment by the United States to the Defendants under the terms of their various contracts, including with the USDA and DOD, was the product of a false claim and materially false statements made by the Defendants. The United States, unaware of the falsity and

1 fraudulent nature of the Defendants' conduct and of the records, statements, and claims made or
2 caused to be made by the Defendants, has paid and may continue to pay millions of dollars for
3 claims in violation of material conditions of Defendants' performance of their contract
4 obligations.

5
6 **COUNT II**
7 **FEDERAL FALSE CLAIMS ACT**
8 **31 U.S.C. § 3729(a)(1)(B)**

9 140. Relator re-alleges and incorporates by reference the information and allegations
10 contained in the preceding paragraphs of this Complaint.

11 141. This claim for treble damages and penalties comes under the False Claims Act, 31
12 U.S.C. § 3729(a)(1)(B), which imposes liability on those who "knowingly make, use, or cause to
13 be made or used, a false record or statement material to a false or fraudulent claim."
14

15 142. Through the acts described above, Defendants knowingly, as that term is defined
16 in the FCA, made, used, and caused to be made or used false records and statements material to
17 false and fraudulent claims, resulting in significant payment of false claims by the Government.

18 143. Defendants made and used, or caused to be made and used, false bid submissions
19 regarding their compliance with material contractual, statutory and regulatory obligations, upon
20 which the United States relied to award lamb procurements.
21

22 144. Defendants made and used, or caused to be made and used, false invoices which
23 fraudulently concealed their material violations.

24 145. Defendants made and used, or caused to be made and used, false affirmative
25 certifications of compliance with its obligations, including false certifications that their lamb is
26 halal-compliant. These certifications were material to the payment of claims by the United
27 States.
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