

**In re: COUNTRY MAID FOODS, INC.
ERCIA Docket No. 98-0001.
Decision and Order filed October 15, 1999.**

Brian T. Hill, for Complainant.
Respondent, Pro se.
Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This proceeding was instituted under the Egg Research and Consumer Information Act, 7 U.S.C. § 2701 *et seq.* (the "Act"), and the Egg Research and Promotion Order, 7 C.F.R. Part 1250, by a complaint filed by the Administrator of the Agricultural Marketing Service, United States Department of Agriculture, alleging that the respondent willfully violated the Order.

The Hearing Clerk served on the respondent, by mail, copies of the complaint and the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151). The respondent was informed in the accompanying letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. The respondent has failed to file an answer within the time prescribed in the Rules of Practice, or at all, and the material facts alleged in the complaint, which are admitted by the respondent's failure to file an answer, are adopted and set forth herein as Findings of Fact. This decision and order is issued pursuant to section 1.139 of the Rules of Practice.

Findings of Fact

1. Respondent Country Maid Foods, Inc., is a Missouri corporation whose mailing address is Box 229, Aurora, Missouri 65605, and whose agent for service of process is John C. Moneymaker, 321 East Olive, Aurora, Missouri 65605.

2. At all times mentioned herein, the respondent was a handler of eggs as defined in section 1250.309 of the Egg Research and Promotion Order (7 C.F.R. § 1250.309) and section 1250.500(i) of the administrative rules and regulations promulgated pursuant thereto (7 C.F.R. § 1250.500(i)).

3. From January 1993 through January 1995, the respondent failed to pay to the American Egg Board, \$18,649.00 in assessments, based on the rate of 5 cents per 30-dozen case of eggs, plus late charges, in willful violation of sections 1250.347, 1250.349 and 1250.517 of the Egg Research and Promotion Order and the regulations promulgated thereunder (7 C.F.R. §§ 1250.347, 1250.349, 1250.517).

4. From February through April 1995, the respondent failed to pay to the American Egg Board \$6,589.00 in assessments, based on the rate of 10 cents per 30-dozen case of eggs, plus late charges, in willful violation of sections 1250.347, 1250.349 and 1250.517 of the Egg Research and Promotion Order and the

regulations promulgated thereunder (7 C.F.R. §§ 1250.347, 1250.349, 1250.517).

5. From September through December 1996, the respondent failed to pay to the American Egg Board assessments based on the rate of 10 cents per 30-dozen case of eggs in the manner and in the time specified by the American Egg Board, and has failed to pay the resulting late charges, in willful violation of sections 1250.347, 1250.349 and 1250.517 of the Egg Research and Promotion Order and the regulations promulgated thereunder (7 C.F.R. §§ 1250.347, 1250.349, 1250.517).

6. From December 1996 through February 1997, the respondent failed to pay to the American Egg Board \$4,525.50 in assessments, based on the rate of 10 cents per 30-dozen case of eggs, plus late charges, in willful violation of sections 1250.347, 1250.349 and 1250.517 of the Egg Research and Promotion Order and the regulations promulgated thereunder (7 C.F.R. §§ 1250.347, 1250.349, 1250.517).

7. From March 1997 through May 1997, the respondent failed to pay to the American Egg Board approximately \$5,231.10 in assessments, based on the rate of 10 cents per 30-dozen case of eggs, plus late charges, in willful violation of sections 1250.347, 1250.349 and 1250.517 of the Egg Research and Promotion Order and the regulations promulgated thereunder (7 C.F.R. §§ 1250.347, 1250.349, 1250.517).

8. On three occasions from March through May 1997, the respondent failed to submit complete and accurate reports of the number of cases of eggs handled and other required information, in willful violation of section 1250.352 of the Egg Research and Promotion Order and sections 1250.529 of the regulations promulgated thereunder (7 C.F.R. §§ 1250.352, 1250.529).

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By reason of the facts set forth in the Findings of Fact above, the respondent has violated sections 1250.347, 1250.349, 1250.352, 1250.517, and 1250.529 of the Egg Research and Promotion Order (7 C.F.R. §§ 1250.347, 1250.349, 1250.352, 1250.517, 1250.529), as specified above.
3. The following order is authorized by the Act and warranted under the circumstances.

Order

1. Respondent is assessed a civil penalty of \$18,500, which shall be paid by a certified check or money order made payable to the Treasurer of the United States.
2. Respondent, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, from paying

to the American Egg Board \$34,994.60 in past due assessments owed from January 1, 1993, through May 1997, plus \$18,022.06 in late charges pursuant to section 1250.519 of the Egg Research and Promotion Order, 7 C.F.R. § 1250.519, and from paying to the American Egg Board any and all assessments due under the Egg Research and Promotion Order in any subsequent year..

The provisions of this order shall become effective on the first day after this decision becomes final. This decision becomes final without further proceedings 35 days after service as provided in sections 1.142 and 1.145 of the Rules of Practice. Copies of this decision shall be served upon the parties.

[This Decision and Order became final April 11, 2000.-Editor]
