

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0063

In re: Kensal Farmers Elevator
Company, Inc.,

Respondent.

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the United States Grain Standards Act, as amended, 7 U.S.C. § 71 et seq. ("Act"), and the regulations issued pursuant to the Act, 7 C.F.R. §§ 800.0 - 800.219 ("regulations"), alleging that the respondent wilfully violated the Act and the regulations and issued thereunder.

Copies of the Complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served upon respondent by the Office of the Hearing Clerk.. Respondent was informed in the 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.

Respondent failed to file an Answer addressing the allegations contained in the complaint within the time prescribed in the Rules of Practice. The Administrator has filed a Motion for Adoption of Proposed Decision and Order upon Admission of Facts by Reason of Default. Accordingly, the material facts alleged in the Complaint are admitted by respondent's failure to file

an Answer pursuant to the Rules of Practice, and the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

Findings of Fact

1. The Respondent Kensal Farmers Elevator Company, Inc. is a corporation doing business in Kensal, North Dakota.
2. The Respondent, at all times material hereto, was engaged in the business of handling grain.
3. On or about August 5, 2010, Respondent deceptively loaded and handled grain, and thereby knowingly attempted to cause the issuance of a false and incorrect official certificate of grade for seventeen (17) railcars of grain inspected under the Act.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of Finding of Fact No. 3, Respondent willfully violated section 13(a)(3) of the Act, 7 U.S.C. § 87b(a)(3), and section 800.60 of the regulations, 7 C.F.R. § 800.60, by knowingly attempting to cause the issuance of a false and incorrect official certificate.

Order

1. Respondent, its 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 issued thereunder, and in particular, shall cease and desist from knowingly attempting to cause the issuance of a false and incorrect official certificate under the Act.
2. The Respondent is assessed a civil penalty of \$17,000.00, which shall be paid by a certified check or money order made payable to the Treasurer of United States.

3. The provisions of this Order shall become effective on the first day after the decision becomes final. Pursuant to the Rules of Practice, this decision becomes final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this decision shall be served upon the parties by the Hearing Clerk.

March 8, 2011

PETER M. DAVENPORT
Chief Administrative Law Judge