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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 15-0018

In re:

JOHN R. SHOUP, doing business as
DINSDALE ELEVATOR,

Respondent.

**ORDER DENYING MOTION FOR SUMMARY JUDGMENT;
MOTION TO DISMISS; AND MOTION FOR SANCTIONS;
AND SETTING DEADLINES FOR FILING SUBMISSIONS**

On October 30, 2014, the Agricultural Marketing Service of the United States Department of Agriculture (AMS; USDA; Complainant) filed a complaint against John R. Shoup, doing business as Dinsdale Elevator (Respondent), alleging violations of the Soybean Promotion, Research and Consumer Information Act (7 U.S.C. §§ 6301-6311)(Act) and the Order (7 U.S.C. §§ 1220.101 - 1220.257)(Order) and the Rules and Regulations issued pursuant to the Act (7 C.F.R. §§ 1260.301-1260.314)(Regulations). Respondent filed an answer.

The parties exchanged evidence and a date for the commencement of a hearing was set. On July 6, 2015, Complainant filed a motion for summary judgment, which stayed the commencement of the hearing. On July 20, 2015, Respondent filed an objection to the motion, accompanied by documentary evidence, and also filed a motion to dismiss the complaint and a motion for sanctions.

For good cause shown, I hereby DENY the motion for summary judgment. Respondent's pleadings and submissions demonstrate the existence of a genuine issue of material fact.

For good cause shown, I hereby DENY Respondent's motions for dismissal and sanctions, as such actions are not contemplated by the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary, USDA, found at 7 C.F.R. Part 1, §§1.130 through 1.151 (the Rules).

In consideration of Respondent's affirmative defenses and evidentiary submissions, I conclude that administrative efficiency supports resolving the issue of whether or not Complainant has identified the proper entity against which to bring the instant action. Notwithstanding the burden of proof, I hereby direct both parties to file with the Hearing Clerk for OALJ any and all evidence that supports each party's position on that issue, together with written argument that includes precedent and statutory and legislative guidance **by not later than December 4, 2015.**

Copies of this Order shall be sent to the parties by regular mail by the Hearing Clerk.

So Ordered this 21st day of October, 2015, in Washington, D.C.



Janice K. Bullard
Administrative Law Judge