

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 10-0451

In re: Raymond Giesbrecht,

Respondent.

Default Decision and Order

This is a proceeding brought under §515(h) of the Federal Crop Insurance Act (Act) (7 U.S.C. §1515(h) for the assessment of a civil penalty and disqualification of the Respondent from receiving any benefit from any program offered under any of the statutes listed in §1515(h)(3)(A) and (B) of the Act for a specified period.

On September 24, 2010, William J. Murphy, Manager of the Federal Crop Insurance Corporation (FCIC), United States Department of Agriculture (USDA), initiated this proceeding by filing an administrative complaint against Respondent. The complaint was served on the Respondent at the address provided by the Complainant in Butte City, California via certified mail, return receipt requested on October 1, 2010.

Section 1.136 of the Rules of Practice (7 C.F.R. § 1.136) states that an answer to a complaint should be filed with the Hearing Clerk within twenty (20) days after service of the complaint, and that failure to file an answer within twenty (20) days after service of the complaint constitutes an admission of the allegations in the complaint and waiver of a hearing. The Respondent never filed an answer to the complaint and the Hearing Clerk mailed him a no answer letter on October 25, 2010.

Pursuant to section 1.136(c) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary, failure of the Respondent Raymond Giesbrecht

(Respondent) to file an answer within the time provided under section 1.136(a) is deemed an admission of the allegations contained in the Complaint. Since the allegations in paragraphs I and II of the Complaint are deemed admitted, it is found that the Respondent has willfully and intentionally provided false or inaccurate information to the Federal Crop Insurance Corporation (FCIC) or to the approved insurance provider with respect to a policy or plan of insurance under the Federal Crop Insurance Act (Act) (7 U.S.C. § 1515(h)).

It is further found that pursuant to section 515(h)(3)(B) of the Act (7 U.S.C. § 1515(h)(3)(B)) and FCIC's regulations (7 C.F.R. part 400, subpart R), the Respondent is disqualified from receiving any monetary or nonmonetary benefit provided under each of the following for a period of two years:

- (1) Subtitle A the Federal Crop Insurance Act (7 U.S.C. §§ 1501-1524);
- (2) The Farm Security and Rural Investment Act of 2002 (7 U.S.C. §§ 7333 et seq.);
- (3) The Agricultural Act of 1949 (7 U.S.C. §§ 1421 et seq.);
- (4) The Commodity Credit Corporation Charter Act (15 U.S.C. §§ 714 et seq.);
- (5) The Agricultural Adjustment Act of 1938 (7 U.S.C. §§ 1281 et seq.);
- (6) Title XII of the Food Security Act of 1985 (16 U.S.C. §§ 3801 et seq.);
- (7) The Consolidated Farm and Rural Development Act (7 U.S.C. §§ 1921 et seq.); and
- (8) Any Federal law that provides assistance to a producer of an agricultural commodity affected by a crop loss or a decline in the prices of agricultural commodities.

Therefore, unless this decision is appealed as set out below, the period of ineligibility for all programs offered under the above listed acts shall commence 35 days after this decision is served. As a disqualified individual, you will be reported to the U.S. General Services Administration (GSA) pursuant to 7 C.F.R. § 3017.505. GSA publishes a list of all persons who are determined ineligible in its Excluded Parties List System (EPLS).

This order shall be effective 35 days after this decision is served upon the Respondent unless there is an appeal to the Judicial Officer pursuant to 7 C.F.R. §1.145.

December 29, 2010

Peter M. Davenport
Chief Administrative Law Judge

Copies to: Maria Giatrakis, Esquire
Raymond Giesbrecht

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