

**Department of Health and Human Services
DEPARTMENTAL APPEALS BOARD
Appellate Division**

Mike's Food and Fuel, Inc. d/b/a Citgo
Docket No. A-18-105
Decision No. 2890
August 20, 2018

**DECISION TO DECLINE REVIEW OF
ADMINISTRATIVE LAW JUDGE DECISION**

This case is before the Departmental Appeals Board (DAB) on a notice of appeal filed by Mike's Food and Fuel, Inc. d/b/a Citgo (Respondent). Respondent appealed a June 22, 2018 initial decision of an Administrative Law Judge (ALJ), *Mike's Food and Fuel, Inc. d/b/a Citgo*, DAB TB2833 (2018). In that decision, the ALJ, pursuant to 21 C.F.R. §§ 17.35(a)(1)(2), (b), (c)(3) and 17.11(a), struck Respondent's answer to the complaint for failures to comply with a judicial order directing Respondent to appear at a prehearing conference and to defend its action and entered default judgment against Respondent, imposing a \$559 civil money penalty for three violations of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.* and its implementing regulations at 21 C.F.R. Part 1140 within a 24-month period.

We considered each of the contentions made by Respondent in its appeal and examined the record. Based on this review, we have determined that we need not render a separate decision. We therefore decline review of and summarily affirm the ALJ's initial decision. 21 C.F.R. §17.47(j). Thus, the initial decision becomes final and binding 30 days after this declination. *Id.*

_____/s/
Constance B. Tobias

_____/s/
Susan S. Yim

_____/s/
Sheila Ann Hegy
Presiding Board Member