

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

Atu Karamchandani d/b/a Sunoco  
Docket No. A-16-46  
Decision No. 2711  
June 8, 2016

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

This case is before us on a notice of appeal filed by Atu Karamchandani d/b/a Sunoco (Respondent) from an Order issued by an Administrative Law Judge (ALJ), *Atu Karamchandani d/b/a Sunoco, Order Denying Motion to Reopen*, Civil Remedies Docket No. C-15-3275 (Jan. 6, 2016). The ALJ's Order denied Respondent's motion to reopen Decision No. CR4240 (Sept. 22, 2015), the ALJ's Initial Decision and Default Judgment assessing a \$2,000 civil money penalty (CMP) against Respondent for violating the Federal Food, Drug, and Cosmetic Act. The ALJ issued the initial decision pursuant to 21 C.F.R.

§ 17.11(a) after Respondent failed to file a timely answer to the Food and Drug Administration's complaint seeking to impose the CMP. Respondent requested reopening pursuant to 21 C.F.R. § 17.11(c), which permits the ALJ, upon a showing that "extraordinary circumstances" prevented a respondent from filing a timely answer, to withdraw an initial decision and permit the respondent to answer the complaint. In her Order, the ALJ concluded that the assertions in Respondent's motion did not constitute extraordinary circumstances.

A respondent may appeal an ALJ's "initial decision, including a decision not to withdraw a default judgment," to the "Departmental Appeals Board (DAB)," which consists of Board Members supported by the Appellate Division. 21 C.F.R. § 17.47(a). The DAB may "decline to review the case, affirm the initial decision," or "reverse the initial decision . . . , or increase, reduce, reverse, or remand any civil money penalty determined" by the ALJ. 21 C.F.R. § 17.47(j).

After reviewing the record, we have determined that we need not render a separate decision. We therefore decline review of and summarily affirm the

ALJ's initial decision. Thus, that decision becomes final and binding on the parties "30 days after the declination." 21 C.F.R. §17.47(j).

\_\_\_\_\_/s/  
Sheila Ann Hegy

\_\_\_\_\_/s/  
Leslie A. Sussan

\_\_\_\_\_/s/  
Christopher S. Randolph  
Presiding Board Member