

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P.Q. Docket No. 06-0017

In re: UILA LANGI,

Respondent

DEFAULT DECISION AND ORDER

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Plant Protection Act of June 20, 2000, as amended (7 U.S.C. § 7701 *et seq.*)(hereinafter the “Act”). The proceeding was initiated under the Act by the filing of a complaint filed on June 9, 2006, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. An amended complaint was filed on July 18, 2006, and served by certified mail on Respondent Uila Langi on July 22, 2006. Respondent Uila Langi was informed in the complaint and the letter accompanying the complaint that an answer 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 would constitute an admission of the allegations in the complaint and a waiver of a hearing. Respondent’s answer was due no later than August 14, 2006, twenty days after service of the complaint (7 C.F.R. § 1.136(a)). The Respondent never filed an answer to the complaint and the matter is before me upon the Complainant’s Motion for Adoption of Proposed Default Decision and Order.

The Respondent’s failure to file an answer within the time prescribed in 7 C.F.R. § 1.136(a) and failure to deny or otherwise respond to the allegations of the complaint is deemed an admission of the allegations in the complaint. 7 C.F.R. § 1.136(c). Since the admission of the allegations in the complaint also constitutes a waiver of hearing (7 C.F.R. § 1.139), the material allegations in the

complaint are adopted and set forth in this Default Decision and Order.

FINDINGS OF FACT

1. Respondent Uila Langi is an individual with a mailing address of 4230 Puaole Street, Lihue, HI 96766-1202.

2. On or about March 17, 2004, the Respondent, in violation of Section 412 (a) of the Act (7 U.S.C. § 7712 (a)) and Sections 318.13 and 330.200 of the Code of Federal Regulations (7 C.F.R. §§ 318.13 and 330.200), attempted to ship through the mail, from Hawaii to the Continental United States, one (1) pound of whole fresh betel leaves infested with live mealybugs.

3. On or about March 17, 2004, the Respondent, in violation of Section 412 (a) of the Act (7 U.S.C. § 7712 (a)) and Sections 318.13 and 330.200 of the Code of Federal Regulations (7 C.F.R. §§ 318.13 and 330.200), attempted to ship through the mail, from Hawaii to the Continental United States, 2.6 pounds of fresh noni leaves infested with live mealybugs, leafhoppers, aphids, and scale insects.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.

2. For the reasons set forth in the above Findings of Fact, the Respondent Uila Langi has violated the Act.

ORDER

1. Respondent Uila Langi is hereby assessed a civil penalty of five hundred dollars (\$500.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

Respondent Uila Langi shall indicate that payment is in reference to P.Q. Docket No. 06-0012.

2. This Order shall be final and effective thirty five (35) days after service upon Respondent Uila Langi unless appealed to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.145).

Done at Washington, D.C.
February 2, 2007

PETER M. DAVENPORT
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776