

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P.Q. Docket No. 04-0015
)	
John M. Bruce, d.b.a St. John Group,)	
)	
Respondent)	DECISION and ORDER
)	
)	

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the prohibition of the importation of fresh limes into the United States (7 C.F.R. § 319.56 et seq. and § 330.105 et seq.) hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 et seq. and 380.1 et seq.

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701-7772)(Act), by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service on September 17, 2004, alleging that the respondent violated the Act and regulations promulgated under the Acts (7 C.F.R. § 319.56 et seq. and § 330.105 et seq.).

The complaint sought civil penalties as authorized by section 424 of the Plant Protection Act

(7 U.S.C. § 7734). This complaint specifically alleged that the respondent imported a truck load (approximately 37,000 lbs) of fresh limes from Mexico into the United States at Laredo, Texas, and upon arrival at the port of first arrival failed to notify USDA of the permit for the shipment of fresh limes and other required information regarding the shipment; failed to offer the shipment of fresh limes for entry into the United States; failed to have the shipment of fresh limes inspected at the port of first arrival; failed to have the shipment properly release by a USDA inspector; and removed the shipment of fresh limes from the port of first arrival before the shipment had been inspected and released for movement by a USDA inspector.

The respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). In fact, the respondent has not filed any answer whatsoever. Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the failure to file an answer constitutes a waiver of hearing. (7 C.F.R. § 1.139). Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.139).

Findings of Fact

1. John M. Bruce, d.b.a St. John Group, hereinafter referred to as the respondent, is an individual whose mailing address is 711 Timber Lane, Laredo, Texas, 78045.

2. On or about June 30, 2000, the respondent imported a truck load (approximately 37,000 lbs) of fresh limes from Mexico into the United States at Laredo, Texas, and upon arrival at the port of first arrival (Laredo, TX) failed to notify USDA of the permit for the shipment of fresh limes (U.S. Customs entry # AY1-0001746-8) and other required information regarding the shipment in violation of 7 C.F.R. § 319.56-5(a); and failed to offer the shipment of fresh limes for entry into the United States in violation of 7 C.F.R. § 319.56-6(b).

3. On or about June 30, 2000, the respondent imported a truck load (approximately 37,000 lbs) of fresh limes from Mexico into the United States at Laredo, Texas, without having the shipment of fresh limes inspected at the port of first arrival in violation of 7 C.F.R. § 319.56-6(a); and failed to have the shipment properly release by a USDA inspector at the port of first arrival in violation of 7 C.F.R. § 330.105(a).

4. On or about June 30, 2000, the respondent imported a truck load (approximately 37,000 lbs) of fresh limes from Mexico into the United States at Laredo, Texas, and removed the shipment of fresh limes from the port of first arrival before the shipment had been inspected and released for movement by a USDA inspector in violation of 7 C.F.R. § 319.56-6(d).

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Act and the regulations issued under the Act (7 C.F.R. § 319.56 et seq.).

Therefore, the following Order is issued.

Order

The respondent, John M. Bruce, d.b.a St. John Group, is assessed a civil penalty of three thousand dollars (\$3,000.00). The respondent shall pay three thousand dollars (\$3,000.00) as a civil penalty. This civil 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 shall indicate on the certified check or money order that payment is in reference to P.Q. Docket No. 04-0015

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision

and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to 7 C.F.R. § 1.145 of the Rules of Practice.

Done at Washington, D.C.

this 17th day of April, 2006

Peter M. Davenport
Administrative Law Judge