

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P.Q. Docket No. 06-0011
)
Cynthia E. Laidley,)
)
Respondent.)
) Proposed 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.)(the Act), 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 Act by a complaint filed on December 12, 2005, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture and served by certified mail on respondent Cynthia E. Laidley on December 15, 2005. Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), respondent Cynthia E. Laidley 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 constitutes an admission of the allegations in the complaint and waiver of a hearing. Respondent's answer thus was due no later than January 4, 2006, twenty days after service of the complaint (7 C.F.R. § 1.136(a)). Respondent Cynthia E. Laidley never filed an answer to the complaint and the Hearing Clerk's Office mailed her a No Answer Letter on

January 11, 2006.

Thereafter, on January 26, 2006, Complainant filed a Motion for Adoption of Proposed Default Decision and Order together with the Proposed Default Decision and Order. Subsequently, on February 6, 2006, Ms. Laidley filed with the Hearing Clerk's Office a letter along with a check for one hundred dollars (\$100.00). The letter did not clearly admit, deny, or explain the specific allegations of the complaint, as required section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).

Therefore, respondent Cynthia E. Laidley failed to file an answer as prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer denying or otherwise responding to the allegations of the complaint shall be deemed an admission of the allegations in the complaint. Furthermore, since the admission of the allegations in the complaint constitutes a waiver of hearing (7 C.F.R. § 1.139) and respondent's failure to file an answer is deemed such an admission pursuant to the Rules of Practice, respondent's failure to answer is likewise deemed a waiver of hearing. 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. Cynthia E. Laidley, herein referred to as respondent, is an individual with an address of 4025 Murdock Avenue, Bronx, NY 10466.
2. On or about August 1, 2002, the respondent, in violation of Section 412 (a) of the Act (7 U.S.C. § 7712 (a)) and Section 319.56 of the Code of Federal Regulations (7

C.F.R. § 319.56), imported twelve (12) mangoes, ten (10) sweet sop, and two (2) bags of fresh thyme from Jamaica.

Conclusion

By reason of the Findings of Fact set forth above, Cynthia E. Laidley has violated the Act. Therefore, the following Order is issued.

Order

Respondent Cynthia E. Laidley is hereby assessed a civil penalty of one hundred dollars (\$100.00). 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 Cynthia E. Laidley unless there is an appeal 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.
This 11th day of May, 2006.

Marc R. Hillson
Marc R. Hillson
Chief Administrative Law Judge