

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	A.Q. Docket No. 07-0148
)	
Mary D. Kardor,)	
)	
Respondent)	
)	Default Decision
)	and Order

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the importation of ruminant meat from regions where rinderpest or foot-and-mouth disease exists (9 C.F.R. §§ 94.0 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 9 C.F.R. §§ 99.1 et seq.

This proceeding was instituted under the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.), and the regulations promulgated thereunder (9 C.F.R. §§ 94.0 et seq.), by a complaint filed on June 20, 2007 and amended on August 14, 2007, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The amended complaint was mailed by certified mail to the Respondent and was returned by the United States Postal Service marked “unclaimed.” Pursuant to Rule 1.127(c)(1) of the Rules of Practice, the complaint was remailed by ordinary mail on September 13, 2007. Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent 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. Since service of a complaint under these circumstances is

presumed by rule to be accomplished on the date of remailing, Respondent's answer thus was due no later than October 3, 2007, twenty days after service of the complaint (7 C.F.R. § 136(a)).

Respondent never filed an answer to the complaint and the Hearing Clerk's Office mailed Respondent a No Answer Letter on October 4, 2007. 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 admission of the allegations in the complaint 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. Mary D. Kardor is an individual with a mailing address of 3538 Brookdale Drive N., Minneapolis, MN 55543.
2. On or about October 3, 2003, the Respondent imported from Ghana approximately 10 kg bush meat consisting of small antelope, smoked rats, and some unidentifiable species in violation of 9 C.F.R. § 94.1(b).

Conclusion

By reason of the Findings of Fact set forth above, the Respondent has violated the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.), and the regulations issued under the Act. Therefore, the following Order is issued.

Order

The Respondent 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 shall indicate that payment is in reference to: A.Q. Docket No. 07-0148.

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 section 1.145 of the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.145.

Done at Washington, D.C.

this 10th day of December, 2007.

Marc R. Hillson
Chief Administrative Law Judge