

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) E.S.A. Docket No. 04-0001  
)  
Bryce R. Augustine, d/b/a Monsoon )  
Flora Orchid Propagation Laboratory, )  
)  
Respondent ) Consent Decision

This proceeding was instituted under the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531 et seq.)(the Act), by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service alleging that the respondent violated the Act and regulations promulgated thereunder (7 C.F.R. § 355 et seq.). The complainant and the respondent have agreed that this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision only, the respondent specifically admits that the Secretary of the United States Department of Agriculture has jurisdiction in this matter, neither admits nor denies the remaining allegations in the complaint, and admits to the Findings of Fact set forth below.

Respondent waives:

- (a) Any further procedure;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;
- (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision; and
- (d) Any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the respondents in connection with this proceeding.

### Findings of Fact

1. Bryce R. Augustine, hereinafter referred to as the respondent, is an individual doing business as Monsoon Flora Orchid Propagation Laboratory, with a mailing address of 5393 Agana Drive, Santa Barbara, California 93111.

2. On or about August 9, 2001, approximately nine (9) CITES I regulated Paphiopedilum sp. orchid seed pods were incorrectly manifested as "tea herb" and mailed from Hong Kong to the respondent's place of business in Santa Barbara, California.

### Conclusions

The respondent has admitted the jurisdictional facts and has agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

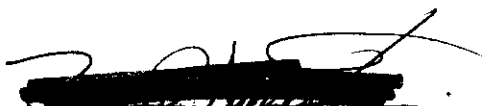
### Order

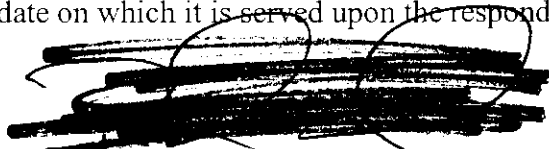
The respondent, Bryce R. Augustine d/b/a Monsoon Flora Orchid Propagation Laboratory, is assessed a civil penalty of four thousand five hundred dollars (\$4,500.00). The respondent shall make an initial payment of one thousand five hundred dollars (\$1,500.00) by certified check or money order, made payable to the Treasurer of the United States, within fifteen (15) days of the effective date of the Consent Decision. The certified check or money order shall indicate that payment is in reference to E.S.A. Docket No. 04-0001. In like manner, the respondent shall make three (3) additional monthly payments of one thousand dollars (\$1,000.00) each, the first payment being due on or before May 1, 2004, and each succeeding payment being due on or before the first day of each succeeding month, until the entire assessed civil penalty is paid. If the complainant does not receive any payment within five (5) days after the date that the payment is due, the respondent shall be in default. If the respondent defaults on any payment, the complainant shall have the right to declare the remainder of the civil penalty immediately due and payable. Waiver by the complainant of any default, by accepting a payment more than five (5) days after the date that it is due, shall not be deemed a waiver of any other default.

The initial payment and each monthly payment thereafter shall be forwarded to:

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

This Order shall become effective on the date on which it is served upon the respondent.

  
BRUCE R. AUGUSTINE  
d/b/a Monsoon Flora Orchid  
Propagation Laboratory  
Respondent

  
ROBERT B. LOCKE  
Attorney for Respondent

  
THOMAS N. BOLICK  
Attorney for Complainant

Issued this 30th day of March, 2004  
at Washington, D.C.

  
Administrative Law Judge