

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) A.Q. Docket No. 02-0006
)
Giuseppa Daddio Martinisi,)
)
Respondent) DECISION and ORDER
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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 pork and fruit from Italy into the United States (9 C.F.R. §§ 94.0 et seq. and 7 C.F.R. § 319.56 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 section 2 of the Act of February 2, 1903, as amended (21 U.S.C. § 111) and the Plant Protection Act (7 U.S.C. § 7701 et seq.) (Acts), and the regulations promulgated thereunder, by a complaint filed on April 25, 2002, by the Acting Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The complaint sought civil penalties as authorized by the Acts. This complaint specifically alleged that the respondent illegally imported approximately one kilogram of pork sausage and 36 fresh persimmon fruit from Italy into the United States at Detroit, Michigan.

The respondent failed to file an answer within the time 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 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 and Order 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. Giuseppa Daddio Martinisi, herein referred to as respondent, is an individual whose mailing address is 12170 Randee Road, New Port Richey, Florida 34654.

2. On or about October 15, 2000, respondent imported approximately one kilogram of pork sausage from Italy into the United States at Detroit, Michigan, in violation of 9 C.F.R. §§ 94.9(b)(1), 94.9(b)(3), 94.12(b)(1), and 94.12(b)(3) because the pork sausage was not verified as treated and/or was not accompanied by a certificate, as required.

3. On or about October 15, 2000, the respondent imported approximately 36 fresh persimmon fruit into the United States from Italy, at Detroit, Michigan, in violation of 7 C.F.R. §§ 319.56(c) and 319.56-2(e) because the persimmon fruit are prohibited unless imported under permit, as required.

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Acts and the regulations (9 C.F.R. §§ 94.0 et seq. and 7 C.F.R. § 319.56 et seq.) issued under the Acts. Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of **one thousand dollars (\$1,000.00)**. 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. 02-0006.

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 2nd day of July, 2004

Marc R. Hillson

CHIEF ADMINISTRATIVE LAW JUDGE