

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P.Q. Docket No. 02-0012
)	A.Q. Docket No. 02-0007
Kelver Delgado,)	
)	
Respondent)	Default Decision and Order

This proceeding was instituted under the Plant Protection Act (7 U.S.C. § 7701 et seq.), the Act of February 2, 1903, as amended (21 U.S.C. § 111), and the regulations promulgated thereunder (7 C.F.R. § 319.56 et seq. and 9 C.F.R. § 94 et seq.), by a Complaint filed on July 22, 2002, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture.

The respondent, Kelver Delgado, was served on October 18, 2002, and failed to file an answer within the time prescribed in the Rules of Practice, 7 C.F.R. § 1.136(a). The Rules of Practice provide 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. 7 C.F.R. §1.136(c). 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 the Rules of Practice. 7 C.F.R. § 1.139. *See* 7 C.F.R. §1.130 et seq.; *see also* 7 C.F.R. §380.1 et seq.

Findings of Fact

I

Kelver Delgado, hereinafter referred to as respondent, is an individual with a mailing address of 664W 161 Street, Apt 4G, New York, New York 10032.

II

On or about March 18, 2001, the respondent violated 7 C.F.R. § 319.56 of the regulations by importing into the United States approximately one kilogram of prohibited mangoes from Ecuador to Houston, Texas.

III

On or about March 18, 2001, the respondent violated 9 C.F.R. § 94.10 of the regulations by importing into the United States approximately one kilogram of prohibited pork product from Ecuador, a region where hog cholera exists, to Houston, Texas.

IV

On or about March 18, 2001, the respondent violated 9 C.F.R. § 94.14 of the regulations by importing into the United States approximately one kilogram of prohibited pork product from Ecuador, a region where swine vesicular disease exists, to Houston, Texas.

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Plant Protection Act (7 U.S.C. § 7701 et seq.), the Act of February 2, 1903, as amended (21 U.S.C. § 111), and the regulations issued under those Acts, specifically 7 C.F.R. § 319.56 et seq., and 9 C.F.R. §§ 94.10 & 94.14. Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of five hundred dollars (\$500.00).

Respondent shall pay the \$500.00 by cashier's check or money order, made payable to the order of the "**Treasurer of the United States**" and 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 **P.Q. Docket No. 02-0012 and A.Q. Docket No. 02-0007.**

This Decision and 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 upon respondent, unless an appeal to the Judicial Officer is filed within thirty (30) days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see attached Appendix A).

Copies of this Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 19th day of February, 2004.

Jill S. Clifton
Administrative Law Judge

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