

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P.Q. Docket No. 03-0006
)
Rene Villalpando Lieras,)
)
Respondent) DECISION and ORDER
)
)

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 avocados from Mexico into the United States (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 the Plant Protection Act (7 U.S.C. §§ 7701-7772)(Act), by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service on November 7, 2002, alleging that the respondent violated the Act and regulations promulgated under the Acts (7 C.F.R. § 319.56 et seq.). The complaint sought civil penalties as authorized by section 424 of the Plant Protection Act (7 U.S.C. § 7734).

This complaint specifically alleged that on three different occasions respondent illegally imported over one half ton of fresh Hass avocados from Mexico into the United States.

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 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. Rene Villalpando Lieras, hereinafter referred to as the respondent, is an individual whose mailing address is 113 N. Lindsay Street, Lake Elsinore, California 92530.
2. On or about January 5, 1999, at San Ysidro, California, the respondent imported approximately 1,100 pounds of fresh Hass avocados from Mexico into the United States, in violation of 7 C.F.R. §§ 319.56(c) and 319.56-2ff, because importation of such avocados into the United States is prohibited except under specific conditions.
3. On or about January 6, 1999, at San Luis, Arizona, the respondent imported approximately 1,100 pounds of fresh Hass avocados from Mexico into the United States, in

violation of 7 C.F.R. §§ 319.56(c) and 319.56-2ff, because importation of such avocados into the United States is prohibited except under specific conditions.

4. On or about January 6, 1999, at Calexico, California, the respondent imported approximately 1,100 pounds of fresh Hass avocados from Mexico into the United States, in violation of 7 C.F.R. §§ 319.56(c) and 319.56-2ff, because importation of such avocados into the United States is prohibited except under specific conditions.

Conclusion

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

Order

The respondent, Rene Villalpando Lieras, is assessed a civil penalty of three thousand dollars (\$3,000.00). The respondent shall pay three thousand dollars (\$3,000.00) as a civil penalty. This civil 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 on the certified check or money order that payment is in reference to P.Q. Docket No. 03-0006

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 7 C.F.R. § 1.145 of the Rules of Practice.

Done at Washington, D.C.

This 4th day of May, 2004

Marc Hillson
Administrative Law Judge