

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: )  
 ) P.Q. Docket No. 07-0118  
Stuart Leve, dba )  
Stuart Leve, Inc. )  
 )  
Respondent )  
 )  
 ) CONSENT DECISION

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.) by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that the Respondent violated the Acts and regulations promulgated thereunder (7 C.F.R. §§ 330.200 et seq.). The Complainant and the Respondent have agreed that this proceeding should be terminated by entry of this Consent Decision, and have agreed to the following stipulations:

1. For the purpose of this Consent Decision only, 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, admits to the Findings of Fact set forth below, and 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; and
  - (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision.
2. The Respondent also stipulates and agrees that the United States Department of Agriculture is the "prevailing party" in this proceeding and waives 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 Respondent in connection with this proceeding.

#### Findings of Fact

1. Stuart Leve, dba Stuart Leve, Inc., has a mailing address of 2570 Zam Parkway, Milford, Michigan 48381.
2. On or about April 2, 2003, the Respondent moved a plant pest, the Emerald Ash Borer, via a shipment of 57 Ash trees from Michigan to Maryland.
3. On or about April 3, 2003, the Respondent moved a plant pest, the Emerald Ash Borer, via a shipment of 64 Ash trees from Michigan to Maryland.

#### 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.

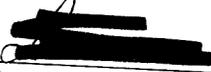
#### Order

The Respondent, Stuart Leve, dba Stuart Leve, Inc., is assessed a civil penalty of seventeen thousand dollars (\$17,000.00). The Respondent shall send a certified check or money order for five thousand dollars (\$5,000.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, Field Servicing Office, Accounting Section, P.O. Box 3334, Minneapolis, Minnesota 55403, within thirty (30) days from the effective date of this Order. The certified check or money order should include the docket number of this proceeding. The Respondent shall pay the remaining twelve thousand dollars (\$12,000.00) in twenty-four installments of five hundred dollars

(\$500.00) each. The first installment shall be due not later than January 1, 2008; the remaining installments shall be due not later than the first of the month for each subsequent month until the twelve thousand dollars (\$12,000.00) is paid in full. Each installment shall be paid by a certified check or money order made payable to the Treasurer of the United States at the mailing address listed above. Each certified check or money order should include the docket number of this proceeding. In the event that the payments are not made by the Respondent in compliance with this Order, the entire balance outstanding shall be due and payable immediately.

This Order shall become effective when served on the Respondent.

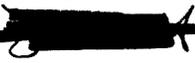
   
Mary T. Keating  
Attorney for Respondent

   
Lauren C. Axley  
Attorney for Complainant

  
Stuart Leve, dba Stuart Leve, Inc.  
Respondent

Issued this 14 day of NOV, 2007

at Washington, D.C.

   
Administrative Law Judge  
Jill S. Clifton