

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	A.Q. Docket No. 07-0041
	)	
Men Van Doan,	)	
	)	
Respondent.	)	
	)	
	)	Default Decision and Order

This is an administrative proceeding for the assessment of a civil penalty for violations of the Animal Health Protection Act (7 U.S.C. § 8301 et seq.) and regulations promulgated thereunder (9 C.F.R. § 94.1 et seq.), in accordance with the Rules of Practice (7 C.F.R. § 1.130 et seq.).

On December 13, 2006, the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, instituted this proceeding by filing an administrative complaint against Men Van Doan (hereinafter, “Respondent”). The complaint was mailed by certified mail to the Respondent on December 13, 2006 and was returned by the United States Postal Service marked “unclaimed.” Pursuant to Rule 1.127(c)(1) of the Rules of Practice, the complaint was remailed by ordinary mail on January 17, 2007. Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent was informed in the complaint and the letter accompanying the complaint that an answer should be filed with the Hearing Clerk within twenty (20) days after service of the complaint, and that failure to file an answer within twenty (20) days after service of the complaint constitutes an admission of the allegations in the complaint and waiver of a hearing. Since service of a complaint under these circumstances is presumed

by rule to be accomplished on the date of remailing, Respondent's answer thus was due no later than February 6, 2007, twenty days after service of the complaint (7 C.F.R. § 136(a)). Respondent never filed an answer to the complaint and the Hearing Clerk's Office mailed Respondent a No Answer Letter on May 15, 2007.

Therefore, Respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a) and failed to deny or otherwise respond to an allegation of the complaint. 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) or to deny or otherwise respond to an allegation of the complaint shall be deemed an admission of the allegations in the complaint. Furthermore, since the admission of the allegations in the complaint constitutes a waiver of hearing (7 C.F.R. § 1.139) and Respondent's failure to file an answer is deemed such an admission pursuant to the Rules of Practice, Respondent's failure to answer is likewise deemed a waiver of hearing. 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. Men Van Doan is an individual with a mailing address of 3900 Socastee Blvd., Myrtle Beach, South Carolina, 29588.
2. On or about November 3, 2003, the Respondent violated 9 C.F.R. § 94.1(b) by importing into the United States approximately 15 pounds of pork from Vietnam, a region of the world that has not been found to be free from rinderpest or foot-and-mouth disease pursuant to 9 C.F.R. § 94.1(a).

### Conclusion

By reason of the Findings of Fact set forth above, Respondent Men Van Doan violated the Animal Health Protection Act (7 U.S.C. § 8301 et seq.) and regulations promulgated thereunder (9 C.F.R. § 94.1 et seq.) Therefore, the following Order is issued.

### Order

Respondent, Men Van Doan, is hereby assessed a civil penalty of five hundred dollars (\$500.00). 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 Men Van Doan shall indicate that payment is in reference to P.Q. Docket No. 07-0011 and A.Q. Docket No. 07-0041.

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 Men Van Doan 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 24<sup>th</sup> day of October, 2007.

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Marc R. Hillson  
Chief Administrative Law Judge