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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P.Q. Docket No. 07-0088
	)	A.Q. Docket No.07-0088
Ferries del Caribe, Inc., d.b.a.	)	
Marine Express, and	)	
Millennium Express,	)	
	)	
Respondent	)	CONSENT DECISION AND ORDER

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), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that the respondent violated the Act and regulations promulgated thereunder (9 C.F.R. §§ 94 et seq. and 7 C.F.R. § 330.400)(regulations). 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. Ferries del Caribe, Inc., hereinafter referred to as the respondent, is a corporation doing business as Marine Express, and Millennium Express, whose mailing address is Calle Concordia #249, Mayaguez, Puerto Rico 00680.

2. On or about April 17, 2002, the respondent failed to move regulated garbage on a means of conveyance from Santo Domingo, Dominican Republic, to Mayaquez, Puerto Rico, in rigid, covered, leakproof containers, as required by the regulations.

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, Ferries del Caribe, Inc., is assessed a civil penalty of six thousand dollars ($6,000.00). The respondent shall send a certified check or money order for three thousand, five hundred dollars ($3,500.00), 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. Payment of the remaining two thousand, five hundred dollars ($2,500.00) of the civil penalty shall be suspended for one (1) year so long as the conditions set forth below are met:

1. Respondent shall refrain from violating 7 C.F.R. § 330.400 et. seq. of the regulations under the Plant Protection Act (7 U.S.C. § 7701 et seq.).

2. Respondent shall refrain from violating 9 C.F.R. § 94.5 of the regulations under the Animal Health Protection Act (7 U.S.C. § 8301 et. seq.)

If the Respondent complies with the terms and provisions of paragraphs 1 and 2 of this Order for one (1) year after the entry of this Consent Decision and Order, the two thousand, five hundred dollar ($2,500.00) portion of the civil penalty previously held in suspension shall be canceled, and Respondent shall not be required to pay this additional portion of the six thousand dollar ($6,000.00) civil penalty.

If the terms and provisions listed in paragraphs 1 and 2 of this Order are not met, the Respondent shall become immediately liable for payment of the two thousand, five hundred dollar ($2,500.00) portion of the six thousand dollar ($6,000.00) civil penalty previously held in suspension, following notice of said violation, but without a requirement for hearing. Payment of the additional two thousand, five hundred dollar ($2,500.00) portion of the six thousand dollar

($6,000.00) civil penalty shall not preclude Complainant from filing for additional administrative remedies against Respondent for any future violations occurring after this Consent Decision and Order becomes effective.

All other terms and provisions of this Order shall remain in effect indefinitely beginning on the effective date of this Consent Decision and Order.

If any provision of this Order is declared to be invalid, such declaration shall not affect the validity of any other provision herein.

This Order shall become effective when served on the Respondent.

FERRIES DEL CARIBE, INC.
Respondent

MARGARET BURNS RATH
Attorney for Complainant

CARLOS E. BAYRON
Attorney for Respondent

Issued this 10th day of August, 2007

at Washington, D.C.

MARC R. HILLSON
Chief Administrative Law Judge