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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P.Q. Docket No. 09-0022
)	
Home Depot U.S.A., Inc.)	
)	
)	
Respondent)	
)	CONSENT DECISION

This proceeding was instituted under the Plant Protection Act (7 U.S.C. §§ 7701 et seq.) and the regulations promulgated thereunder (7 C.F.R. §§ 330.200 et seq.) by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that the Respondent violated the Plant Protection Act. The Complainant and the Respondent have agreed that this proceeding should be terminated by entry of this Consent Decision. In addition, and in view of the provisions of this Consent Decision, Complainant undertakes not to bring any further proceeding against the Respondent before the Secretary of the United States Department of Agriculture under the Plant Protection Act based on any act or omission of the Respondent involving the importation of reed fencing from China that occurred prior to May 15, 2006. The Complainant and the Respondent 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 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. Home Depot U.S.A., Inc., hereinafter referred to as Respondent, has a mailing address of 2455 Paces Ferry Road, Atlanta, Georgia 30339.

2. On or about May 15, 2006, the Respondent moved containers containing reed fencing into the United States from China that were discovered by the United States Department of Agriculture to contain plant pests.

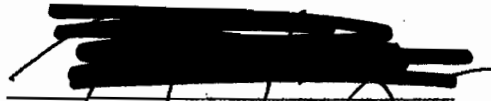
Conclusions


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, Home Depot U.S.A., Inc., is assessed a civil penalty of five thousand dollars (\$5,000). The Respondent shall send a certified check or money order for five thousand dollars (\$5,000), 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.


This Order shall become effective when served on the Respondent.


JOEL W. ROGERS
Attorney for Respondent


LAUREN C. AXLEY
Attorney for Complainant

Issued this 10th day of December, 2008

at Washington, D.C.


Administrative Law Judge